

In the Supreme Court of the State of Idaho

IN RE: AMENDMENT OF IDAHO)
INFRACTION RULES)
_____)

ORDER

The Court has reviewed HB 599 of the 2018 legislative session that was signed into law effective July 1, 2018, and the resulting recommendation to amend the Infraction Rules and the Penalty Schedule. Having fully considered the recommendation,

NOW, THEREFORE, IT IS HEREBY ORDERED that Idaho Infraction Rules, as they appear in the volume published by the Idaho Code Commission, are amended as follows:

1. Rule 8(c) is amended as follows:

Rule 8. Failure to appear – Default judgment – Notice of judgment.

(a) Failure to Appear on Citation.

(c) Notice of Default Judgment. If a default judgment is entered against a defendant for an infraction under this rule, the clerk shall mail a notice of judgment to the defendant at the address stated in the citation advising the defendant that the defendant must pay the judgment by a date certain which shall be not less than 14 days after the date of the notice. ~~The notice shall state that failure to pay the judgment will result in suspension of his driver's license.~~ The notice shall state that the balance owing may be sent to a collection agency and that the defendant's Idaho State Income Tax Return may be intercepted by the county and applied to the debt.

(d) Form of Notice of Default Judgment. The form of the notice of default judgment shall be in substantially the following form:

[Court Heading]

STATE OF IDAHO) Case No. _____
) Citation No. _____
Plaintiff,) DEFAULT JUDGMENT AND NOTICE OF NONCOMPLIANCE
) (~~DUTY TO PAY OR SUSPENSION OF DRIVER'S LICENSE~~)
vs.)

_____)
_____)
Defendant. _____)

NOTICE IS HEREBY GIVEN to the above defendant that JUDGMENT BY DEFAULT was entered against you on _____, _____, for the infraction of _____ issued on _____, _____, for the penalty of \$ _____.

NOTICE IS FURTHER GIVEN that if you do not pay this penalty by mail or in person by _____, _____, your driver's license may be suspended by the Idaho Department of Transportation or your home state pursuant to the interstate Nonresident Violator Compact. Driving with a suspended license is a criminal misdemeanor which carries a JAIL PENALTY in the State of Idaho.

NOTICE IS FURTHER GIVEN that the balance owing may be sent to a collection agency and that the collection agency can charge a collection fee up to an additional 33% of the balance owed. Idaho Code § 67-2358 1(b), and/or your Idaho State Income Tax return may be intercepted by the county and applied to this debt, Idaho Code § 1-1624(2).

You may pay the penalty in person or by mail at the following address:

Magistrate Division

Or you may pay online at Idaho Court Pay.

You have the right to appear before the clerk BEFORE the payment date and request a court hearing to show cause why your license should not be suspended for failure to pay the penalty. _____ Mailed to the defendant this date.

Dated _____

_____)
Clerk of the District Court

By _____
Deputy Clerk

2. Rule 9(b) is repealed in its entirety and a NEW Rule 9(b) adopted to read as follows:

Rule 9. Judgment – Fixed penalty plus court costs for infractions-- Withheld judgment and suspended penalties prohibited—Deferred payment agreements.

(b) **Fixed Penalty and Costs for Infraction.** The entry of a judgment for an infraction under this rule shall order the defendant to pay a dollar amount for a fixed penalty and court costs in the following amounts:

<u>INFRACTION OFFENSE</u>	<u>TOTAL AMOUNT</u> <u>(Fixed Penalty Plus Court costs)</u>
(1)(a) Failure to fasten safety restraint, operator/occupant age 18 or older, Section 49-673(3), Idaho Code. (Fixed penalty \$10.00, \$5.00 of which is to be sent to State's Catastrophic Health Care Fund).	\$10.00
(b) Failure to fasten safety restraint, operator 18 years or older with occupant(s) under 18 years of age failing to wear safety restraint. Section 49-673(3), Idaho Code. (Fixed penalty \$10.00, \$5.00 of which is to be sent to State's Catastrophic Health Care Fund).	\$10.00
(c) Failure to fasten safety restraint, operator under 18 years of age or operator under 18 who has occupant(s) under 18 years of age failing to wear safety restraint-single citation only, Section 49-673(4), Idaho Code. (Fixed penalty \$10.00, \$5.00 of which is to be sent to State's Catastrophic Health Care Fund, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$66.50
(2) Failure to restrain child in car safety seat. Section 49-672, Idaho Code. (Fixed penalty \$27.50, court costs \$16.50, I.C., § 31-3201A(c), county justice fund fee \$5.00 I.C. § 31-3201(3), and, peace officers training fee \$15.00 I.C. § 31-3201B, court technology fund fee \$10.00 I.C. § 31-3201(5), and emergency surcharge fee \$10.00).	\$84.00
(3) Pedestrian and bicycle infractions. (Fixed penalty \$5.00, court costs \$16.50, county	

justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$61.50
(4) Speeding traffic infractions.	
(a) 1 to 15 miles per hour above speed limit. (Fixed penalty \$33.50, Court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$90.00
(b) 16 or more miles per hour above speed limit. (Fixed penalty \$98.50, Court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$155.00
(5) Other moving traffic infractions. (Fixed penalty \$33.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$90.00
(6) Speeding in a construction zone. I.C. § 49-657 (Fixed penalty \$50.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$106.50
(7) Speeding in a school zone. I.C. § 49-658 (Fixed penalty \$100.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$156.50
(8) Permitting unauthorized child under age 18 to operate vehicle. Section 49-333(1), Idaho Code. (Fixed penalty \$54.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$111.00
(9) Permitting any unauthorized person to operate vehicle. Section 49-333(2), Idaho Code. (Fixed penalty \$54.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$111.00

- (10) Renting vehicle to unauthorized driver or failing to inspect license. Section 49-334, Idaho Code. (Fixed penalty \$54.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$111.00
- (11) Expired license. Section 49-319, Idaho Code. (Fixed penalty \$44.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$101.00
- (12) No license or invalid license (Class D license). 49-301 Idaho Code.
 First Offense
 (Fixed penalty \$150.00, court costs \$17.50, county justice fund fee \$10.00, peace officers training fee \$15.00, court technology fund fee \$10.00, emergency surcharge fee \$50.00, victim notification fee \$15.00, peace officer disability fund \$3.00, reimbursement fund \$37.00) \$307.50
 Second Offense within 5 years
 (Fixed penalty \$300.00,, court costs \$17.50, county justice fund fee \$10.00, peace officers training fee \$15.00, court technology fund fee \$10.00, emergency surcharge fee \$50.00, victim notification fee \$15.00, peace officer disability fund \$3.00, reimbursement fund \$37.00) \$457.50
- (13) Violating restricted license. Section 49-317, Idaho Code. (Fixed penalty \$44.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$101.00
- (14) Driving without privileges (suspension pursuant to 18-1502, 49-326(1)(g), 49-1204, 49-1207), Section 18-8001 Idaho Code, (Fixed penalty \$150.00, court costs \$17.50, county justice fund fee \$10.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$50.00) victim notification fee \$15.00, peace officer disability fund \$3.00, reimbursement fund \$37.00.) \$307.50
- (15) Operating vehicle under out of state license while suspended. Section 49-329, Idaho Code. (Fixed penalty \$100.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$156.50
- (16) Failure to carry registration in vehicle (dismissed if registration is shown). Section 49-427, Idaho Code. (Fixed penalty \$10.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00). \$67.00

<p>(17) Failure to display license plate. Section 49-428, Idaho Code. (Fixed penalty \$10.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	\$67.00
<p>(18) Operating vehicle without registration. Section 49-456(1), Idaho Code. (Fixed penalty \$44.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology Fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	\$101.00
<p>(19) Fictitious display of license plates. Section 49-456(3), Idaho Code. (Fixed penalty \$58.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology Fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	\$115.00
<p>(20) Lending or permitting another to use registration or license plate. Section 49-456(4), Idaho Code. (Fixed penalty \$58.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	\$115.00
<p>(21) Failing to surrender registration and license plate upon revocation or suspension. Section 49-456(5), Idaho Code. (Fixed penalty \$44.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00), and emergency surcharge fee \$10.00)</p>	\$101.00
<p>(22) Use of false or fictitious name in application for registration or concealing material facts. Section 49-456(6), Idaho Code. (Fixed penalty \$100.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	\$156.50
<p>(23) Failure to redeem an abandoned vehicle. Section 49-1802, Idaho Code. (Fixed penalty \$10.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology Fund fee \$10.00, abandoned vehicle fee \$150.00, and emergency surcharge fee \$10.00).</p>	\$217.00
<p>(24) Texting while driving. Section 49-1401A, Idaho Code. (Fixed penalty \$25.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	\$81.50

- (25) Non-moving traffic infractions.
(Fixed penalty \$10.50, court costs \$16.50,
county justice fund fee \$5.00, peace officers
training fee \$15.00, court technology fund fee
\$10.00, and emergency surcharge fee \$10.00). \$67.00
- (26) Special parking infractions. Recreational
parking. Section 67-7115, Idaho Code. and illegal
parking in state park, Section 67-4237 Idaho Code,
(Fixed penalty \$25.00, court costs \$16.50, county
justice fund fee \$5.00, court technology
fund fee \$10.00, and emergency surcharge
fee \$10.00 -- No peace officers training fee). \$66.50
- (27) Disability parking violations. Unauthorized
disability parking, Section 49-213, Idaho Code,
and unauthorized use of disability plate or
placard, Section 49-410, Idaho Code. (Fixed
penalty \$100.00, court costs \$16.50, county justice
fund fee \$5.00, court technology fund fee
\$10.00, and emergency surcharge fee \$10.00--
No peace officers training fee). \$141.50
- (28) Other parking infractions and failure to pay parking
infractions unless otherwise provided by statute
or ordinance. (Fixed penalty \$5.00, court costs \$16.50,
county justice fund fee \$5.00, court technology
fund fee \$10.00, and emergency surcharge fee
\$10.00 -- No peace officers training fee). \$46.50
- (29) Operating a motor vehicle without insurance.
Sections 49-1229 and 49-1428, Idaho Code and
failure to have certificate of insurance, Section
49-1232, Idaho Code. (First offense only, second
or subsequent offense is a misdemeanor.) (Fixed
penalty \$75.00, court costs \$16.50, county justice
fund fee \$5.00, peace officers training fee \$15.00,
court technology fund fee \$10.00, and emergency
surcharge fee \$10.00). \$131.50
- (30) Trucking overweight. Section 49-438, Idaho
Code, and Sections 49-1001, 49-1002, 49-1004,
49-1005, Idaho Code.
1-1000 pounds overweight (Fixed penalty \$5.00,
court costs \$16.50, county justice fund fee \$5.00,
peace officers training fee \$15.00, court
technology fund fee \$10.00, and emergency
surcharge fee \$10.00.) \$61.50
1001-2000 pounds overweight (Fixed penalty
\$15.00, court costs \$16.50, county justice fund fee
\$5.00, peace officers training fee \$15.00,
court technology fund fee \$10.00, and
emergency surcharge fee \$10.00.) \$71.50
2001-4000 pounds overweight (Fixed penalty
\$25.00, court costs \$16.50, county justice fund fee
\$5.00, peace officer's training fee \$15.00,

<p>court technology fund fee \$10.00, and emergency surcharge fee \$10.00.)</p>	\$81.50
<p>For multiple infractions see I.C. § 49-1013(4).</p>	
<p>(31) Fish and game violations made infractions by Section 36-1401, Idaho Code. (Fixed penalty \$15.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	\$72.00
<p>(32) Fish and game offenses in Sections 36-1401(a)1. (K) through (L) or (a)2. (S) through (Y), Idaho Code. (Fixed penalty \$250.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	\$306.50
<p>(33) All-terrain vehicle and snowmobile infractions. Driving on highway. Section 67-7109, Idaho Code. (Fixed penalty \$100.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	\$156.50
<p>(34) Parks and recreation violations made infractions by Section 67-4223, Idaho Code. (Fixed penalty \$15.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	\$72.00
<p>(35) All other all-terrain vehicle and snowmobile infractions. Sections 67-7102 through 67-7112, 67-7122, 67-7125, Idaho Code. (Fixed penalty \$25.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	\$81.50
<p>(36) Renting a watercraft without safety devices and safety decal. Section 67-7078 (Fixed penalty \$25.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	\$81.50
<p>(37) Failure to carry required equipment in watercraft. (IDAPA 26.01.30 Parks and Recreation) Sections 67-7002 and 67-7015, Idaho Code. (Fixed penalty \$42.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	\$99.00
<p>(38) Improper waterskiing. Section 67-7024, Idaho Code. (Fixed penalty \$42.50, ourt costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee</p>	

<p>\$10.00, and emergency surcharge fee \$10.00).</p> <p>(39) Permitting smoking in public building or office. Section 39-5506, Idaho Code. (Fixed penalty \$67.50, court costs \$16.50, county justice fund fee \$5.00, peace officer training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	<p>\$99.00</p>
<p>(40) Refusing to extinguish tobacco product in public building or office. Section 39-5507, Idaho Code. (Fixed penalty \$17.50, court costs \$16.50, county justice fund fee \$5.00, peace officer training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	<p>\$124.00</p>
<p>(41) Littering from vehicle. (First or second offense). Section 18-3906, Idaho Code. (Fixed penalty \$150.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	<p>\$74.00</p>
<p>(42) Placing debris on public or private property (First offense). Section 18-7031, Idaho Code. (Fixed penalty \$150.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	<p>\$206.50</p>
<p>(43) Flooding a highway. (First offense). Section 18-3908, Idaho Code. (Fixed penalty \$50.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	<p>\$206.50</p>
<p>(44) Curfew violation by a minor. Section 20-549 Idaho Code. (Fixed penalty \$150.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	<p>\$106.50</p>
<p>(45) Tobacco or electronic cigarettes, possession, use or purchase by minor. Section 39-5703(1), Idaho Code. (Fixed penalty \$17.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	<p>\$206.50</p>
<p>(46) Tobacco or electronic cigarettes, minor selling, distributing or providing false identification to obtain. Sections 39-5703(2) or (3), Idaho Code. (Fixed penalty \$200.00, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).</p>	<p>\$74.00</p>
<p>(47) Alter fireworks, or sell, use at time not permitted. Sections 39-2609(1) or (3), Idaho Code. (Fixed penalty \$100.00 court costs \$16.50, county justice fund fee \$5.00, peace officers</p>	<p>\$256.50</p>

training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$156.50
(48) Minor in possession of alcohol. I.C. § 23-604. (Fixed penalty \$300.00, court costs \$17.50, county justice fund fee \$10.00, peace officers training fee \$15.00, court technology fund fee \$10.00, emergency surcharge fee \$50.00, victim notification fee \$15.00, peace officer disability fund \$3.00, reimbursement fund \$37.00, domestic violence fund fee \$30.00)	\$487.50
(49) Minor selling, serving or dispensing alcohol. I.C. § 23-949. (Fixed penalty \$300.00, court costs \$17.50, county justice fund fee \$10.00, peace officers training fee \$15.00, court technology fund fee \$10.00, emergency surcharge fee \$50.00, victim notification fee \$15.00, peace officer disability fund \$3.00, reimbursement fund \$37.00, domestic violence fund fee \$30.00)	\$487.50
(50) Alcohol beverage- consume or possess open container by passenger. I.C. § 23-505. (Fixed penalty \$15.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, emergency surcharge fee \$10.00, domestic violence fund fee \$30.00).	\$102.00
(51) Other infractions. (Fixed penalty \$15.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$15.00, court technology fund fee \$10.00, and emergency surcharge fee \$10.00).	\$72.00

3. Rule 9 is further amended as follows:

Rule 9. Judgment – Fixed penalty plus court costs for infractions-- Withheld judgment and suspended penalties prohibited—Deferred payment agreements.

(e) **Deferred Payment Agreement.** After the entry of a judgment for an infraction, the court, or the clerk within the guidelines set by the court, may enter into an agreement with the defendant for the deferred payment of the fixed penalty plus court costs. Such agreement shall be signed by the defendant and the court, or the clerk on behalf of the court, ~~and shall state in bold letters that failure of the defendant to make the payments when agreed will result in the suspension of the defendant's driver's license as provided in Rule 10.~~ Subsequent extensions of time to pay a fixed penalty plus court costs may be granted by the execution of a new agreement by the defendant and the court or the clerk.

(f) **Form of Agreement.** A deferred payment agreement under this rule shall be substantially the following form:

[Court Heading]

STATE OF IDAHO)	
Plaintiff,)	
)	DEFERRED PAYMENT AGREEMENT
vs.)	
)	
_____)	
Defendant.)	

DOB: _____
 DL OR SSN: _____ (State) _____

JUDGMENT HAVING BEEN ENTERED for the charge against the above named defendant and for the penalty or fine and court costs of \$ _____ and the defendant having shown good cause for a deferred payment;

IT IS HEREBY AGREED that the defendant is granted a Deferred Payment Agreement as follows:

You are further advised that an additional statutory \$2.00 handling fee will be assessed for EACH partial payment.

~~[] THIS CHARGE IS AN INFRACTION-YOU ARE HEREBY NOTIFIED THAT IF YOU DO NOT PAY THE TOTAL AMOUNT DUE WITHIN THE TIME AGREED, IN PERSON OR BY MAIL TO THE COURT, YOUR DRIVER'S LICENSE WILL BE SUSPENDED BY THE IDAHO DEPARTMENT OF TRANSPORTATION OR BY YOUR HOME STATE PURSUANT TO THE INTERSTATE NONRESIDENT VIOLATOR COMPACT IF THIS IS A TRAFFIC INFRACTION. IF YOU DO NOT MAKE THE PAYMENT WHEN AGREED YOU HAVE THE RIGHT TO APPEAR BEFORE THE COURT ON THE ____ DAY OF _____ 20__ AT ____ O'CLOCK __.M. TO SHOW CAUSE WHY YOUR LICENSE SHOULD NOT BE SUSPENDED FOR FAILURE TO PAY THE TOTAL AMOUNT DUE.~~

[] THIS IS A MISDEMEANOR CHARGE--YOU ARE HEREBY NOTIFIED that if you do not pay the fine within the time agreed a warrant may issue for your arrest without further notice.

Dated _____

 Clerk or Judge

RECEIPT

I acknowledge receipt of this Agreement and state that I have read and agree to the terms of

this Agreement and acknowledge that ~~I REALIZE THAT MY DRIVER'S LICENSE WILL BE SUSPENDED OR~~, A WARRANT MAY ISSUE FOR MY ARREST IF I FAIL TO MAKE THE PAYMENTS AS AGREED, IF THIS IS A MISDEMEANOR OFFENSE.

Defendant

4. Rule 10 is amended as follows:

Rule 10. Failure to Pay Infraction - ~~Suspension of Driver's License - Notice of Nonpayment - Late Payment - Receipt and Notice of Payment - Other Sanctions.~~

~~(a) **Suspension of License.** If a defendant fails to pay a traffic infraction, (1) within the time allowed by a Notice of Default Judgment under Rule 8(d), or (2) within the time allowed by Deferred Payment Agreement under Rule 9(f), or (3) within such further time as allowed by order of the court; then, unless the court makes a finding under Rule 11 that the defendant has shown that the defendant has complete and continuing financial inability to pay, the court shall sign a notice of nonpayment and send it to the Department of Transportation for suspension of defendant's driver's license as provided by law.~~

~~(b) **Form of Notice of Nonpayment.** A notice of nonpayment to be sent to the Department of Transportation shall be in substantially the following form:~~

DELETE FORM

~~(ae) **Late Payment.** Late payment of an infraction shall be accepted by the court or clerk of the court at any time.~~

~~(d) **Receipt and Notice of Payment.** If a defendant pays an infraction after a notice of nonpayment has been sent to the Department of Transportation under this rule, the court or the clerk shall issue a receipt and notice of payment to the defendant and transmit a copy to the Department of Transportation for use in applying to the Department of Transportation for reinstatement of defendant's license.~~

~~(be) **Other Sanctions.** Nothing in this rule shall limit the inherent powers of the court to enforce its judgments and orders by execution or by other means and sanctions authorized by law.~~

~~(c) **Cancellation.** If the penalty is not paid within a three (3) year period, the clerk shall then cancel the delinquent penalty and close the file.~~

5. Rule 11 is amended as follows:

Rule 11. Reserved. ~~Driver's License Suspension Hearing - Finding by the Court - Effect of Suspension.~~

~~(a) **Show Cause Hearing.** A show cause hearing as to whether a defendant's driver's license should be suspended for nonpayment of a penalty shall be held by the court, (1) if a defendant appears in court at the time indicated in a Deferred Payment Agreement made~~

~~under Rule 9(f), or (2) if the defendant requests a hearing before the payment date for a penalty as authorized under a Notice of Default Judgment issued under Rule 8(d), or (3) at any other time in the discretion of the court. The show cause hearing shall be an evidentiary hearing to determine if the defendant has the complete and continuing financial inability to pay the penalty. The defendant shall testify under oath and be subject to cross examination.~~

~~(b) **Finding of Court.** After a hearing under this rule, if the court finds that the defendant has a complete and continuing financial inability to pay the penalty, no notice of nonpayment shall be sent to the Department of Transportation but the court may enter appropriate orders regarding the judgment which may include the cancellation of the penalty. If the court finds that the defendant does not have a complete and continuing financial inability to pay the penalty but has not paid the penalty, it may sign a notice of nonpayment of penalty and send it to the Department of Transportation for the suspension of defendant's driver's license and may enter other appropriate orders to enforce payment of the penalty. The court shall not be required to make written findings other than to issue a notice of nonpayment or enter other appropriate orders.~~

~~(c) **Effect of Suspension of Driver's License.** If a defendant's driver's license is suspended for nonpayment of a penalty, upon the expiration of such ninety (90) day suspension the clerk of the court will continue to maintain the citation on which the penalty was imposed for a period of three (3) years. If the penalty is not paid within such three (3) year period, the clerk shall then cancel the delinquent penalty and close the file.~~

IT IS FURTHER ORDERED, that this order and these amendments shall be effective the 1st day of July, 2018.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Infraction Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 25 day of April, 2018.

By Order of the Supreme Court

R. Burdick
Roger S. Burdick, Chief Justice

ATTEST:

Karel A. Lehrman
Clerk

I, Karel A. Lehrman, Clerk of the Supreme Court/
Court of Appeals of the State of Idaho, do hereby
certify that the above is a true and correct copy of the
Order entered in the above entitled
cause and now on record in my office. WITNESS my
hand and the Seal of this Court Apr. 25, 2018

Karel A. Lehrman, Clerk

Deputy

By July 2018