

IN RE: AMENDMENT OF IDAHO)	
MISDEMEANOR CRIMINAL RULE 5	)	ORDER AMENDING
and INFRACTION RULES 2, 5, 6, 9,	)	RULES
10 and 14)	
_____)	

The report of the annual meeting of the Misdemeanor/Infraction Rules Advisory Committee having been submitted to the Court recommending changes in the content and substance of the Misdemeanor Rules and Infraction Rules and the Court having fully considered the same;

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

MISDEMEANOR CRIMINAL RULES

1. That Misdemeanor Rule 5 be, and the same is hereby, amended to read as follows:

Rule 5. Uniform citation - Issuance - Service - Form - Number - Distribution.

(f) **Form.** With the exception of electronically issued citations, All citations in the courts of Idaho shall be processed on the Idaho Uniform Citation which shall be of the size of 5 1/2 inches wide by 8 1/2 inches long which shall be printed in black, and shall have black NCR copies, with at least four copies which shall be in the following form:

(g) **Color and Distribution.** With the exception of electronically issued citations, The first copy of the citation shall be white and deposited with and retained by the court; the second copy shall have pink borders at the top and bottom and be delivered to the defendant; the third copy shall have yellow borders at the top and bottom and be delivered by the police officer initially to the court and thereafter forwarded by the court to the appropriate department upon disposition of the citation. Additional copies of the citation may be prepared with additional information required by the issuing governmental department, agency or unit for its internal use.

(h) **Electronic Citations.** Citations may be electronically issued. Electronic citations do not need to meet the formatting requirements set out in subsections (f) and (g) of this rule, but

must otherwise provide the same information that is required by subsections (f) and (i) of this rule.

(~~hi~~) **Failure to Appear.** The citation shall state and notify the defendant that in the event he fails to appear on the citation at the time indicated, a warrant may be issued for his arrest. In the event the defendant does not appear as required by the citation, action may be taken against him as provided in Rule 11.

IDAHO INRACTION RULES

2. That Infraction Rule 2 be, and the same is hereby, amended to read as follows:

Rule 2. Definitions.

(j) “Penalty” means the fixed penalty ~~which includes~~ exclusive of court costs assessed under these rules for an infraction violation.

3. That Infraction Rule 5 be, and the same is hereby, amended to read as follows:

Rule 5. Definitions. Uniform citation – Issuance – Service – Form – Number – Distribution.

(d) **Form.** ~~With the exception of electronically issued citations, a~~All citations in the courts of Idaho shall be processed on the Idaho Uniform Citation which shall be of the size of 5½ inches wide by 8½ inches long with at least three (3) copies which shall be in the form set forth in Rule 5 of the Misdemeanor Criminal Rules.

(e) **Color and Distribution.** ~~With the exception of electronically issued citations, t~~The first copy of the citation shall be white and deposited with and retained by the court; the second copy shall have pink borders at the top and bottom and be delivered to the defendant; the third copy shall have yellow borders at the top and bottom and be delivered by the police officer initially to the court and thereafter forwarded by the court to the appropriate department upon disposition of the citation. Additional copies of the citation may be prepared with additional information required by the issuing governmental department, agency or unit for its internal use.

(f) **Electronic Citations.** Citations may be electronically issued in accord with Rule 5 of the Misdemeanor Criminal Rules.

4. That Infraction Rule 6 be, and the same is hereby, amended to read as follows:

Rule 6. Appearance of defendant – Admission by ~~payment~~ of citation by mail – Answer of a defendant – Trial date notice or continuance notice.

(a) **Admission of Citation By Mailing ~~Penalty~~ Mail.** Any person charged with an infraction by a citation may enter an admission by paying the fixed penalty total amount due, which includes fixed penalty and court costs, by mail. Payment of the fixed penalty total amount by mail shall constitute an admission of the charge. The fixed penalty total amount must be mailed by the defendant so as to be received by the court on or before the appearance date set forth in the citation. If a personal check is dishonored and returned to the court for any reason, the defendant will be deemed not to have appeared on the citation and default judgment may be entered against the defendant under Rule 8; and in addition thereto, the maker of the check may be prosecuted for such other misdemeanor or felony for issuance of the check as may be provided by law.

(b) **Appearance of Defendant.** Unless the defendant mails the penalty total amount due to the court under subsection (a) of this rule, the defendant shall appear before the clerk to answer the charge set forth in a citation or complaint as provided in this rule. If the defendant denies the charge, no bail shall be required, and the defendant shall thereafter be present in court at the time of the trial set by the court or the clerk. If the defendant appears on a citation at the time stated in the citation and the citation has not been delivered to the court, the court may dismiss the citation.

(e) **Trial Date Notice or Continuance Notice.** Whenever a defendant is given a trial date setting or a continuance at or after the defendant's first appearance, such notice shall be given by a written notice delivered to the defendant in substantially the following form:

(1) **Trial Date Notice:**

		[Court Heading]
STATE OF IDAHO)	
)	
Plaintiff,)	
vs.	)	TRIAL DATE NOTICE
)	
_____)	
)	
Defendant.)	
DOB: _____)	
DL OR SSN: _____ (State) _____)	

NOTICE IS HEREBY GIVEN to the above Defendant that trial before the court has been set for the charge against you at _____ o'clock __.M. on the _____ day of _____ 1920 _____, in the courtroom of the above court.

THIS CHARGE IS AN INFRACTION - YOU ARE HEREBY NOTIFIED that if you do not appear in court at said time and place for trial, judgment will be entered against you for the

infraction violation ~~and the penalty~~ in the sum of \$ _____. In addition, a copy of the judgment will be forwarded to the Idaho Department of Transportation which may count as driver violation points against you, or be forwarded to your home state pursuant to the Interstate Nonresident Violator Compact. ~~IF YOU THEREAFTER FAIL TO PAY THE PENALTY~~ TOTAL AMOUNT DUE, YOUR DRIVER'S LICENSE MAY ALSO BE SUSPENDED IF THIS IS A TRAFFIC INFRACTION.

THIS CHARGE IS A MISDEMEANOR - YOU ARE HEREBY NOTIFIED that if you do not appear in court at said time and place for trial any bond posted may be forfeited by the court and a warrant may issue for your arrest without further notice.

Personally delivered to the defendant this date.

Mailed to the defendant this date.

Private Counsel: _____
Mailed _____ Hand Delivered _____

Prosecutor: _____
Mailed _____ Hand Delivered _____

Dated _____

Clerk or Judge

(2) Continuance Notice:

[Court Heading]
STATE OF IDAHO)
)
Plaintiff,)
vs.) CONTINUANCE NOTICE
)
_____,)
)
Defendant.)
DOB: _____)
DL OR SSN: _____ (State) _____)

NOTICE IS HEREBY GIVEN to the above Defendant that proceedings on the charge against you have been continued until _____ o'clock _____.m. on the _____ day of _____ 10____, in the courtroom of the above court.

THIS CHARGE IS AN INFRACTION - YOU ARE HEREBY NOTIFIED that if you do not appear in court at said time and place for trial, judgment will be entered against you for the infraction violation ~~and the penalty~~ in the sum of \$ _____. In addition, a copy of the judgment will be forwarded to the Idaho Department of Transportation which may count as driver violation points against you, or be forwarded to your home state pursuant to the Interstate Nonresident Violator Compact. IF YOU THEREAFTER FAIL TO PAY THE PENALTY TOTAL AMOUNT DUE, YOUR DRIVER'S LICENSE MAY ALSO BE SUSPENDED IF THIS IS A TRAFFIC INFRACTION.

THIS CHARGE IS A MISDEMEANOR - YOU ARE HEREBY NOTIFIED that if you do not appear in court at said time and place for trial any bond posted may be forfeited by the court and a warrant may issue for your arrest without further notice.

Personally delivered to the defendant this date.

Mailed to the defendant this date.

Private Counsel: _____

Mailed _____ Hand Delivered _____

Prosecutor: _____

Mailed _____ Hand Delivered _____

Dated _____

Clerk or Judge

5. That Infraction Rule 9 be, and the same is hereby, amended to read as follows:

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

(a) **Entry of Judgment.** Upon, (1) the entry of an admission to an infraction citation or complaint in person or by mail under Rule 6(a) or, (2) the payment of the ~~fixed penalty total amount,~~ which includes fixed penalty and court costs, by the defendant, or, (3) a finding by the court upon trial that the defendant committed the infraction offense, or, (4) a failure of the defendant to appear in court or before the clerk as provided in Rule 8, the court shall enter judgment against the

defendant for the infraction which shall order the defendant to pay the fixed penalty and court costs provided in this rule.

(b) **Fixed Penalty ~~Which Includes~~ 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:

INFRACTION OFFENSE

~~FIXED PENALTY~~
~~(Which Includes Court Costs)~~
TOTAL AMOUNT
(Fixed Penalty Plus Court Costs)

(4) Speeding traffic infractions.

(a) ~~1 but less than 20~~ to 15 miles per hour above speed Limit. (Fixed penalty ~~\$20.50~~ \$33.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, and ISTARS technology fund fee \$10.00).

~~\$62.00~~ \$75.00

(b) ~~20~~ 16 or more miles above speed limit. (Fixed penalty ~~\$75.50~~ \$98.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, and ISTARS technology fund fee \$10.00).

~~\$108.00~~ \$140.00

(5) Other moving traffic infractions.

(Fixed penalty ~~\$20.50~~ \$33.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, and ISTARS technology fund fee \$10.00).

~~\$53.00~~ \$75.00

(16) Fictitious display of license plates. Section 49-456(2), Idaho Code. (Fixed penalty ~~\$44.50~~ \$58.50, court costs \$16.50, county justice fund fee \$5.00, peace officers training fee \$10.00, and ISTARS Technology fund fee \$10.00).

~~\$86.00~~ \$100.00

(17) Lending or permitting another

to use registration or license plate.
 Section 49-456(3), Idaho Code.
 (Fixed penalty ~~\$44.50~~ \$58.50,
 court costs \$16.50, county justice
 fund \$5.00, peace officers
 training fee \$10.00, and ISTARs
 technology fund fee \$10.00).

~~\$86.00~~ \$100.00

(c) **Consolidation of Multiple Offenses in Assessing Court Costs.** ~~The fixed penalty under subsection (b) of this rule includes court costs as provided under Section 31-3201A(b) of Idaho Code.~~ The court may consolidate multiple non-moving or parking infractions into one offense for the purpose of assessing court costs under ~~that code section~~ I.C. § 31-3201A(c), together with the fixed penalty portion of the penalty for each infraction.

(d) **Withheld Judgments or Suspended Penalties Prohibited.** No court shall have the power to withhold judgment nor to suspend any part of a judgment for a fixed penalty and costs prescribed under this rule.

(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,)	
vs.	)	DEFERRED PAYMENT
	)	AGREEMENT
_____)	
)	
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 SAID PENALTY 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 _____ 19 20 AT ___ O'CLOCK __.M. TO SHOW CAUSE WHY YOUR LICENSE SHOULD NOT BE SUSPENDED FOR FAILURE TO PAY THE TOTAL AMOUNT DUE PENALTY.

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.

Defendant

(g) **Discharge of Judgment.** If, after entry of a judgment for the payment of a penalty, court costs or payment of money to any person or entity, the court determines that the unpaid portion of the judgment is not reasonably collectible for any reason, the court may enter an order discharging the judgment and close the file. A discharge of a judgment on a citation may be entered by endorsing the word "discharged" on the face of the citation together with the date and the signature of the

court. Such discharge may be signed and entered by the clerk at the direction of the court. The entry of a discharge of judgment shall not affect the judgment other than to satisfy the duty to pay the balance of the penalty, court costs and the payment of money to any person or entity; provided, such discharge does not satisfy the duty of the defendant to pay victim's restitution ordered pursuant to Chapter 53 of Title 19, Idaho Code, nor prevent the victim from enforcing the order by execution pursuant to section 19-5305, Idaho Code.

Rule 9.1. Entry of judgment by clerk of court.

Notwithstanding any other provision in these rules, the court may authorize the clerk of the court to sign and enter a judgment against the defendant upon, (1) the entry of an admission to an infraction in person or by mail under Rule 6(a) or, (2) the payment of the total amount due, which includes fixed penalty and costs, a ~~fixed penalty~~ by the defendant, or (3) a failure of the defendant to appear in court or before the clerk as provided in Rule 8.

6. That Infraction Rule 10 be, and the same is hereby, amended to read as follows:

Rule 10. Failure to pay ~~penalty~~ 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 ~~penalty~~, (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 penalty~~, the court shall sign a notice of nonpayment of ~~penalty~~ 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:

		[Court Heading]
STATE OF IDAHO)	
	)	<u>Citation Case No.</u> _____
Plaintiff,)	
vs.	)	NOTICE OF
	)	NONPAYMENT/
_____	)	NONCOMPLIANCE OF
	)	INFRACTION PENALTY
Defendant.	)	<u>JUDGMENT</u>
DOB: _____ SEX: _____)	
DL OR SSN: _____ (State) _____)	
CDL _____)	
VEH LIC: _____)	

COMM VEH: ___ HAZ MTL: ___)

TO: THE DEPARTMENT OF TRANSPORTATION, STATE OF IDAHO

NOTICE IS HEREBY GIVEN that a traffic infraction judgment was entered against the above named defendant on _____, 19 20 __, in the above action for the infraction of _____ issued on _____, 20 19 __, for the penalty of \$ _____ and that said defendant was given until _____, 19 20 __, to pay the penalty total amount due, and that said defendant has failed and refused to pay ~~the penalty~~:

- After notice of judgment and opportunity for hearing.
- After hearing and finding by the court that the defendant does not have a complete and continuing financial inability to pay ~~the penalty~~.

YOU ARE THEREFORE REQUESTED to immediately suspend the driver's license of the defendant as provided by law or notify the Defendant's home state pursuant to the Interstate Nonresident Violator Compact.

Dated _____

Judge

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

(d) **Form of Receipt and Notice of Payment**. If a defendant pays an infraction ~~penalty~~ 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 which shall not be mailed to the Department of Transportation but shall be delivered or mailed to the defendant for use in applying to the Department of Transportation for reinstatement of defendant's license. The receipt and notice of payment shall be in substantially the following form:

[Court Heading]

STATE OF IDAHO)
)
Plaintiff,)
vs.	) RECEIPT AND NOTICE
	) OF
_____	) PAYMENT/COMPLIANCE
	) OF
Defendant.	) INFRACTION PENALTY
DOB: _____ SEX: _____	) <u>JUDGMENT</u>
DL OR SSN: _____ (State) _____)
CDL _____)
VEH LIC: _____)

COMM VEH: ___ HAZ MTL: ___)

TO: THE DEPARTMENT OF TRANSPORTATION, STATE OF IDAHO
RECEIPT IS HEREBY ACKNOWLEDGED, of the payment of \$ _____ by the defendant in the
above action in satisfaction of the traffic infraction judgment dated _____,
for the infraction of _____ issued on _____, 19-20

— YOU ARE THEREFORE REQUESTED to immediately reinstate the driver's license of the
defendant as provided by law upon payment of the required reinstatement fee or notify the
defendant's home state pursuant to the Interstate Nonresident Violator Compact.

Dated _____

Clerk or Judge

TO THE ABOVE NAMED DEFENDANT:

To reinstate your driver's license if suspended in the State of Idaho, you must provide a copy of
this notice and pay a reinstatement fee to the Department of Transportation, Driver's Services
Section, P.O. Box 34, Boise, ID., 83731-0034.

To reinstate your driver's license if suspended in another state, you must provide a copy of this
notice to your home state as proof of payment and notice of compliance.

Copies to: () Defendant _____ mailed _____ hand delivered
() DOT Idaho

(e) **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.

(f) **Signature of clerk.** Notwithstanding any other provision in this rule, the court may
authorize the clerk of the court to sign and send to the Department of Transportation a Notice of
Non-Payment of Infraction ~~Penalty~~ Judgment in the form provided in subsection (b) of this rule.

7. That Infraction Rule 14 be, and the same is hereby, amended to read as follows:

Rule 14. Reporting of proceedings.

All proceedings of the court with regard to an infraction citation or complaint, or a show cause
hearing as to whether a license should be suspended for failure to pay a the fixed penalty and court
costs, including all hearings, proceedings, and the trial, if any, shall be reported by a court reporter
or recorded by a mechanical means as directed by the court. The citation or complaint, the judgment,
and the reporter's notes or recording tape shall be preserved for the time prescribed by order or rule
of the Supreme Court.

IT IS FURTHER ORDERED, that this order and these amendments shall be effective the

first day of July, 2007.

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 Misdemeanor Rules and Infractions Rules.

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

DATED this 21st day of March, 2007.

By Order of the Supreme Court

_____/s/_____
Gerald F. Schroeder,
Chief Justice

ATTEST: _____/s/_____
Clerk