

Dear Senators BRACKETT, Nonini, Buckner-Webb, and  
Representatives PALMER, Shepherd, King:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of  
the Idaho Transportation Department:

IDAPA 39.02.02 - Rules Governing Vehicle and Vessel Dealer License Requirements – Motor  
Vehicles - Temporary and Proposed Rule (Docket No. 39-0202-1701);

IDAPA 39.02.71 - Rules Governing Driver's License Violation Point System - Temporary and  
Proposed Rule (Docket No. 39-0271-1701).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 10/13/2017. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/13/2017.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Transportation Committee and the House Transportation & Defense Committee

**FROM:** Senior Legislative Research Analyst - Elizabeth Bowen

**DATE:** September 25, 2017

**SUBJECT:** Idaho Transportation Department

IDAPA 39.02.02 - Rules Governing Vehicle and Vessel Dealer License Requirements -- Motor Vehicles - Temporary and Proposed Rule (Docket No. 39-0202-1701)

IDAPA 39.02.71 - Rules Governing Driver's License Violation Point System - Temporary and Proposed Rule (Docket No. 39-0271-1701)

The Idaho Transportation Department submits notice of proposed rulemaking at IDAPA 39.02.02 and 39.02.71.

#### 39.02.02

This rule, also a temporary rule, eliminates language relating to penalties for violations of dealer rules, as penalties were added to the Idaho Code by House Bill 131 (2017). Negotiated rulemaking was not conducted due to the nature of the rule change, and there is no anticipated negative fiscal impact on the state general fund. The Governor finds that the temporary rule is justified due to the need to align the rule with the Idaho Code. The Department states that this rulemaking is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

#### 39.02.71

Senate Bill 1019 (2017) created a new traffic infraction for failure to obey school safety patrols. This rule, also a temporary rule, incorporates the new infraction into a chart of moving traffic violations and assesses a point count of three (3) for each violation.

Negotiated rulemaking was not conducted due to the nature of the rule change, and there is no anticipated negative fiscal impact on the state general fund. The Governor finds that the temporary rule is justified due to the need to align the rule with the Idaho Code. The Department states that this rulemaking is authorized pursuant to Sections 40-312 and 40-201, Idaho Code.

cc: Idaho Transportation Department  
Ramon Hobdey-Sanchez

Mike Nugent, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

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**IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT**

**39.02.02 – RULES GOVERNING VEHICLE AND VESSEL DEALER  
LICENSE REQUIREMENTS - MOTOR VEHICLES**

**DOCKET NO. 39-0202-1701**

**NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 21, 2017.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2017.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule change is being initiated based on the passage of House Bill 131a (2017) which amended Section 49-1602, Idaho Code. The change being made eliminates section 400 of IDAPA 39.02.02, which addresses penalties for violation of dealer rules or Idaho Code. Section 49-1602, Idaho Code, now provides and defines the penalties and length of dealer and salesman license denials and suspensions.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The rule change is needed to align IDAPA rule with Idaho Code, due to the passage of House Bill 131a (2017) which went into effect July 1, 2017.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There are no fees being imposed or increased with this rulemaking.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no impact to the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule change is simple in nature.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Brian Goeke, Dealer Licensing/Investigations Program Supervisor, at (208) 334-8684.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2017.

DATED this 25th day of July 2017.

Ramon S. Hobdey-Sanchez  
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3311 W. State Street  
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THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 39-0202-1701  
(Only Those Sections With Amendments Are Shown.)

302. -- ~~399~~. (RESERVED)

~~400. PENALTIES.~~

~~01. License Suspension. Any person who violates this rule is subject to a license suspension or the non-issuance of a license for a period of not less than thirty (30) days and no more than six (6) months. (9-14-92)~~

~~02. Hearing Requests. Prior to a license suspension or the non-issuance of a license, persons may request a hearing as provided for by Section 49-1618, Idaho Code. (9-14-92)~~

~~03. Unlicensed Person. Any unlicensed person who violates this rule is subject to penalty under Chapter 16, Title 49, Idaho Code. (12-26-90)~~

~~401. --- 999. (RESERVED)~~

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.02.71 – RULES GOVERNING DRIVER'S LICENSE VIOLATION POINT SYSTEM

DOCKET NO. 39-0271-1701

#### NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 21, 2017.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2017.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule change is being initiated based on the passage of Senate Bill 1019 (2017) that established a new traffic infraction and created a new section to Idaho Code, Section 49-652. The change being made adds a new traffic infraction to the list of moving traffic convictions or violations point count table, or both, for failure to obey a school safety patrol.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The rule change is needed to align IDAPA rule with Idaho Code, due to the passage of Senate Bill 1019 (2017) which went into effect July 1, 2017.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There are no fees being imposed or increased with this rulemaking.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no impact to the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule change is simple in nature.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact David Metcalf, Driver License Program Supervisor, at (208) 334-8709.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2017.

DATED this 25th day of July, 2017.

Ramon S. Hobdey-Sanchez  
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 39-0217-1701  
(Only Those Sections With Amendments Are Shown.)**

**200. LIST OF MOVING TRAFFIC CONVICTIONS AND/OR VIOLATIONS POINT COUNT.**

<b>Idaho Code</b>	<b>Convictions Reported by Court</b>	<b>Point Count</b>
49-603	Starting Parked Vehicle	two (2)
49-604	Limitations On Backing	one (1)
49-605	Driving Upon Sidewalk	three (3)
49-606	Coasting Prohibited	two (2)
49-612	Obstruction To Driver's View Or Driving Mechanism	three (3)
49-614	Stopping When Traffic Obstructed	one (1)
49-615	Drivers To Exercise Due Care	three (3)
49-616	Driving Through Safety Zone Prohibited	two (2)
49-619	Slow Moving Vehicles	two (2)
49-623(4)	Authorized Emergency Or Police Vehicles	three (3)
49-624	Duty Upon Approaching A Stationary Police Vehicle Or An Emergency Vehicle Displaying Flashing Lights	three (3)
49-625	Operation Of Vehicles On Approach Of Authorized Emergency Or Police Vehicles	three (3)
49-626	Following Fire Apparatus Prohibited	three (3)
49-627	Crossing Fire Hose	one(1)
49-630	Drive On Right Side Of Roadway - Exceptions	three (3)
49-631	Passing Vehicles Proceeding In Opposite Directions	two (2)
49-632	Overtaking A Vehicle On Left	three (3)
49-633	When Passing On The Right Is Permitted	two (2)
49-634	Limitations On Overtaking On The Left	three (3)
49-635	Further Limitations On Driving On Left Of Center Of Highway	three (3)
49-636	One-way Highways	one (1)
49-637	Driving On Highways Laned For Traffic	one (1)
49-638	Following Too Closely	three (3)
49-639	Turning Out Of Slow Moving Vehicles	two (2)
49-640	Vehicles Approaching Or Entering Unmarked Or Uncontrolled Intersection	three (3)
49-641	Vehicle Turning Left	three (3)

<b>Idaho Code</b>	<b>Convictions Reported by Court</b>	<b>Point Count</b>
49-642	Vehicle Entering Highway	three (3)
49-643	Highway Construction And Maintenance	three (3)
49-644	Required Position And Method Of Turning	three (3)
49-645	Limitations On Turning Around	three (3)
49-648	Obedience To Signal Indicating Approach Of Train	four (4)
49-649	Compliance With Stopping Requirement At All Railroad Grade Crossings	four (4)
49-650	Moving Heavy Equipment At Railroad Grade Crossings	three (3)
49-651	Emerging From Alley, Driveway Or Building	three (3)
<u>49-652</u>	<u>School Safety Patrols – Failure to Obey Unlawful</u>	<u>three (3)</u>
49-654	Basic Rule And Maximum Speed Limits	three (3) four (4)
49-655	Minimum Speed Regulation	three (3)
49-656	Special Speed Limitations	three (3) four (4)
49-657	Work Zone Speed Limits	four (4)
49-658	School Zone Speed Limit	three (3)
49-663	Restricted Use Of Neighborhood Electric Vehicles On Highways	two (2)
49-673(3)&(4)	Safety Restraint Use	Exempt
49-702	Pedestrians' Right Of Way In Crosswalks	three (3)
49-706	Blind And/Or Hearing Impaired Pedestrian Has Right-of-Way	three (3)
49-707	Pedestrians' Right-of-Way On Sidewalks	three (3)
49-801	Obedience To And Required Traffic Control Devices	three (3)
49-802	Traffic Control Signal Legend	three (3)
49-804	Flashing Signals	three (3)
49-806	Lane Use Control Signals	three (3)
49-807(2)	Stop Signs	three (3)
49-807(3)	Failure To Yield – Signed Intersection	three (3)
49-808	Turning Movements And Required Signals	three (3)
49-1302	Duty To Give Information In Accident Involving Damage To A Vehicle	four (4)
49-1303	Duty Upon Striking Unattended Vehicle	four (4)
49-1304	Duty Upon Striking Fixtures Upon Or Adjacent To A Highway	four (4)
49-1401(3)	Inattentive Driving	three (3)
49-1401A	Texting While Driving	Exempt
49-1419	Obedience To Traffic Direction	two (2)
49-1421(1)	Driving On Divided Highways	one (1)

<b>Idaho Code</b>	<b>Convictions Reported by Court</b>	<b>Point Count</b>
49-1421(2)	Restricted Access	one (1)
49-1422	Overtaking And Passing School Bus	four (4)
49-1424	Racing On Public Highways	four (4)

~~(1-1-14)~~(7-21-17)T