

Dear Senators OKUNIEWICZ, Den Hartog, Rabe, and  
Representatives PALMER, Mitchell, Gannon:

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

IDAPA 39.02.76 - Rules Governing Driver's License and Identification Card Renewal-By-Mail and  
Electronic Renewal and Replacement Processes - Temporary and Proposed Rule (Docket  
No. 39-0276-2301).

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 07/27/2023. 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 08/24/2023.

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 334-4854, or send a written request to the address on the  
memorandum attached below.



**Terri Kondeff**  
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 Drafting Attorney - Matt Drake

**DATE:** July 07, 2023

**SUBJECT:** Idaho Transportation Department

IDAPA 39.02.76 - Rules Governing Driver's License and Identification Card Renewal-By-Mail and Electronic Renewal and Replacement Processes - Temporary and Proposed Rule (Docket No. 39-0276-2301)

#### Summary and Stated Reasons for the Rule

The Idaho Transportation Department submits notice of temporary and proposed rulemaking at IDAPA 39.02.76. This rulemaking relates to the Rules Governing Driver's License and Identification Card Renewal-By-Mail and Electronic Renewal and Replacement Processes. The rule implements House Bill 9 of 2023, which allows for commercial driver's license (CDL) holders to renew their licenses online. Accordingly, the rule is being updated to match the requirements of statute. The Department additionally states that unnecessary language has been removed from the rule in compliance with the Governor's Red Tape Reduction Act.

#### Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. There is no anticipated fiscal impact on the state general fund.

#### Statutory Authority

The proposed rule changes appear to be within the statutory authority of the Department pursuant to Sections 40-312 and 49-201, Idaho Code.

cc: Idaho Transportation Department  
Colby Cameron

#### \*\*\* PLEASE NOTE \*\*\*

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director    Kristin Ford, Manager    Keith Bybee, Manager    April Renfro, Manager    Glenn Harris, Manager  
Legislative Services Office    Research & Legislation    Budget & Policy Analysis    Legislative Audits    Information Technology

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## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.02.76 – RULES GOVERNING DRIVER'S LICENSE AND IDENTIFICATION CARD RENEWAL-BY-MAIL AND ELECTRONIC RENEWAL AND REPLACEMENT PROCESSES

DOCKET NO. 39-0276-2301

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

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2023.

**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 July 26, 2023.

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:

Proposed changes include allowing for commercial driver's license holders to renew their licenses online, the broadening of allowances to renew standard driver's license online, and eliminating unnecessary and overly-preceptive language.

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

The Idaho legislature passed H009 during the 2023 legislative session. This bill modified Section 49-319(10), Idaho Code, allowing for commercial driver's license (CDL) holders to renew their licenses online. In order to reflect this allowance in IDAPA 39.02.76, there is a need to establish a temporary rule to mirror the legislation's effective date (July 1, 2023). The broadening of overall online driver's license and identification card renewals confers a benefit to many Idahoans, and the proposed elimination of unnecessary language is in line with the Governor's Red Tape Reduction Act.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

Not applicable.

**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 fiscal impact associated with this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 3, 2023, Idaho Administrative Bulletin, [Volume 23-5, pages 172-173](#).

**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:

There are no documents being incorporated by reference.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Brendan Floyd – 208-334-8474.

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 July 26, 2023.

DATED this 19th day of May, 2023.

Brendan Floyd  
Policy Specialist  
Idaho Transportation Department  
11331 W. Chinden Blvd.  
Boise, ID 83714  
208-334-8474  
Brendan.floyd@itd.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 39-0276-2301  
(Only Those Sections With Amendments Are Shown.)**

**001. ~~TITLE AND SCOPE~~ PURPOSE.**

**01. ~~Title.~~ Title.** This rule is titled ~~IDAPA 39.02.76, "Rules Governing Driver's License and Identification Card Renewal by Mail and Electronic Renewal and Replacement Processes".~~ (3-31-22)

**02. ~~Scope.~~ Scope.** ~~The purpose of this rule is to establish standards by which driver's licenses and identification cards may be renewed or replaced by mail or electronically for those individuals whose Idaho credentials are about to expire or requires replacement due to loss or mutilation. The renewal by mail and electronic systems are designed to reduce the length of waiting lines at county driver's license offices.~~ (3-31-22) (7-1-23)T

**002. ~~WRITTEN INTERPRETATIONS.~~**

~~There are no written interpretations for this chapter.~~ (3-31-22)

**003. -- 009. (RESERVED)**

**010. ~~DEFINITIONS.~~**

**01. ~~CDL.~~ CDL.** Commercial Driver's License. (3-31-22)

**02. ~~Class D Driver's License.~~ Class D Driver's License.** A license issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in Section 49-123, Idaho Code. (3-31-22)

**03. ~~Credential.~~ Credential.** Any physical driver license or identification card issued by the department. (3-31-22)

**04. ~~Expiration Date.~~ Expiration Date.** The date a credential expires. (3-31-22)

**05. ~~Identification Card.~~ Identification Card.** A card issued in accordance with Section 49-2444, Idaho Code. (3-31-22)

**06. ~~Photo License.~~ Photo License.** A valid Idaho credential displaying a color photograph of the license holder. (3-31-22)

**002. -- 010. (RESERVED)**

**011. ELIGIBILITY FOR RENEWAL AND REPLACEMENT.**

**01. Eligibility.** ~~An applicant may renew a Class D driver's license or identification card by mail or electronically in lieu of renewing or replacing these credentials in person. Licenses or identification cards may be renewed by mail or electronically shall only be renewed once in an eight (8) year period, and have a four-year validity period; for four (4) or eight (8) years if an applicant meets the following criteria:~~ (3-31-22)(7-1-23)T

**a.** ~~The renewal expiration date does not exceed a period of sixteen (16) years from an applicant's most recent in-person renewal.~~ (7-1-23)T

**b.** ~~For driver's licenses only, the renewal expiration date does not extend beyond an applicant's seventieth (70<sup>th</sup>) birthday.~~ (7-1-23)T

**02. License and Identification Card Renewal.** Driver's licenses ~~and identification cards may not~~ be renewed by mail or electronically for persons who: (3-31-22)(7-1-23)T

~~**a.** Hold a driver's license with a "J" restriction (e.g. limited to a five (5) mile driving radius of residence, driving privileges limited to one (1) or two (2) counties, cannot drive without parent for a specified time period, etc.); (3-31-22)~~

~~**ba.** Hold a CDL hazardous materials endorsement, unless the person is able to pass a department-approved electronic version of the required knowledge test; (3-31-22)(7-1-23)T~~

~~**c.** Have changes in the information shown on their licenses, other than address changes; (3-31-22)~~

~~**d.** Have any changes in physical, mental, and/or emotional condition, including vision, which may impair the ability to safely operate a motor vehicle; (3-31-22)~~

~~**eb.** Have drivers' licenses or driving privileges which are suspended, revoked, canceled, denied, refused, or disqualified; (3-31-22)(7-1-23)T~~

~~**f.** Are operating on department or court restricted driving permits; (3-31-22)~~

~~**gc.** Are required Need to provide documentation proving lawful presence in the United States; (3-31-22)(7-1-23)T~~

~~**hd.** Are not lawfully present in the United States; (3-31-22)~~

~~**ie.** Have a driving record which has been marked for special handling (e.g., verification of identity or date of birth, possible fraud, etc.); (3-31-22)(7-1-23)T~~

~~**jf.** Already have an existing extension; (3-31-22)~~

~~**k.** Wish to add a motorcycle endorsement; (3-31-22)~~

~~**l.** Are under twenty-one (21) years of age for purposes of renewal; (3-31-22)~~

~~**m.** Are seventy (70) years of age or older for purposes of renewal; or (3-31-22)~~

~~**ng.** Have been expired more than one (1) year twenty-five (25) months. (3-31-22)(7-1-23)T~~

~~**03. Identification Card Renewal.** Identification cards may not be renewed by mail or electronically for persons who: (3-31-22)~~

~~**a.** Have changes in the information shown on their identification cards, other than address changes; (3-31-22)~~

~~**b.** Have not been expired more than one (1) year; (3-31-22)~~

- ~~c.~~ Are required to provide documentation proving lawful presence in the United States; (3-31-22)
- ~~d.~~ Are not lawfully present in the United States; or (3-31-22)
- ~~e.~~ Have a canceled or surrendered status. (3-31-22)

**04. License and Identification Card Replacement.** Any driver's license, ~~including a CDL,~~ or identification card may be replaced by mail or electronically as long as the credential is not expired, ~~and there are no information changes other than address changes~~ and the status is otherwise valid. (3-31-22)(7-1-23)T

**~~012. RENEWAL OR REPLACEMENT ELECTRONICALLY OR BY MAIL PROCEDURES.~~**

~~**01. Application Submission.** Credential renewal by mail or electronic renewal or replacement applications will be processed when received by mail or electronically. Eligible persons may mail or electronically submit their renewal or replacement application to the department or the driver's license office in their county of residence, or deliver their application in person together with the renewal fee for the same class of credential, pursuant to Sections 49-306, and 49-2444, Idaho Code. (3-31-22)~~

~~**02. Updating Individual Records.** The county driver's license office or the department will update individual records to reflect the new expiration year, if renewed, and the issue date of the new credential, within three (3) business days after receipt of the completed application form. (3-31-22)~~

~~**03. If Lost or Destroyed in Mail.** If an individual's credential is lost or destroyed in the mail, a written statement detailing the loss or destruction may be mailed or hand-delivered to the applicant's county of residence or completed electronically. Upon receipt of the letter, the county or the department can issue a no-charge replacement credential to the applicant. (3-31-22)~~

~~**04. Temporarily Residing Out of State.** Individuals temporarily residing out of state may apply for a renewal by mail, electronic renewal, or an extension, but not both, in an eight (8) year period. (3-31-22)~~

~~0132.~~ -- 999. (RESERVED)