

IN THE SENATE

SENATE BILL NO. 1389

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO CONCEALED WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO REVISE PROVISIONS REGARDING CONCEALED WEAPONS AND TO PROVIDE CORRECT CODE REFERENCES; AND AMENDING SECTION 18-3302C, IDAHO CODE, TO REVISE PROVISIONS REGARDING PROHIBITED CONDUCT.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-3302, Idaho Code, be, and the same is hereby amended to read as follows:

18-3302. CONCEALED WEAPONS. (1) The legislature hereby finds that the people of Idaho have reserved for themselves the right to keep and bear arms while granting the legislature the authority to regulate the carrying of weapons concealed. The provisions of this chapter regulating the carrying of weapons must be strictly construed so as to give maximum scope to the rights retained by the people.

(2) As used in this chapter:

(a) "Concealed weapon" means any deadly weapon carried on or about the person in a manner not discernible by ordinary observation;

(b) "Deadly weapon" means:

(i) Any dirk, dirk knife, bowie knife, dagger or firearm;

(ii) Any other weapon, device, instrument, material or substance that is designed and manufactured to be readily capable of causing death or serious bodily injury; or

(iii) Any other weapon, device, instrument, material or substance that is intended by the person to be readily capable of causing death or serious bodily injury.

(c) The term "deadly weapon" does not include:

(i) Any knife, cleaver or other instrument that is intended by the person to be used in the processing, preparation or eating of food;

(ii) Any knife with a blade four (4) inches or less; or

(iii) Any taser, stun-gun, pepper spray or mace;

(d) "Firearm" means any weapon that will, is designed to, or may readily be converted to, expel a projectile by the action of an explosive;

(e) "Loaded" means:

(i) For a firearm capable of using fixed ammunition, that live ammunition is present in:

1. The chamber or chambers of the firearm;
2. Any internal magazine of the firearm; or
3. A detachable magazine inserted in the firearm;

(ii) For a firearm that is not capable of using fixed ammunition,

that the firearm contains:

1. A propellant charge; and
2. A priming cap or primer cap.

1 (3) No person shall carry concealed weapons on or about his person with-  
2 out a license to carry concealed weapons, except:

3 (a) In the person's place of abode or fixed place of business;

4 (b) On property in which the person has any ownership or leasehold in-  
5 terest;

6 (c) On private property where the person has permission to carry con-  
7 cealed weapons from any person with an ownership or leasehold interest;

8 (d) Outside the limits of or confines of any city, if the person is over  
9 eighteen (18) years of age and is not otherwise disqualified from being  
10 issued a license under subsection (11) of this section.

11 (4) Subsection (3) of this section shall not apply to restrict or pro-  
12 hibit the carrying or possession of:

13 (a) Any deadly weapon located in plain view;

14 (b) Any lawfully possessed shotgun or rifle;

15 (c) A firearm that is not loaded and is concealed in a motor vehicle;

16 (d) A firearm that is not loaded and is secured in a case; ~~and~~

17 (e) A firearm that is disassembled or permanently altered such that it  
18 is not readily operable; and

19 (f) A concealed handgun by a person who is:

20 (i) Over twenty-one (21) years of age;

21 (ii) A resident of Idaho; and

22 (iii) Is not disqualified from being issued a license under sub-  
23 section (11) of this section.

24 (5) The requirement to secure a license to carry concealed weapons un-  
25 der this section shall not apply to the following persons:

26 (a) Officials of a city, county or the state of Idaho;

27 (b) Any publicly elected Idaho official;

28 (c) Members of the armed forces of the United States or of the national  
29 guard when in performance of official duties;

30 (d) Criminal investigators of the attorney general's office and crim-  
31 inal investigators of a prosecuting attorney's office, prosecutors and  
32 their deputies;

33 (e) Any peace officer as defined in section 19-5101(d), Idaho Code, in  
34 good standing;

35 (f) Retired peace officers or detention deputies with at least ten (10)  
36 years of service with the state or a political subdivision as a peace of-  
37 ficer or detention deputy and who have been certified by the peace offi-  
38 cer standards and training council;

39 (g) Any person who has physical possession of his valid license or per-  
40 mit authorizing him to carry concealed weapons from another state; and

41 (h) Any person who has physical possession of a valid license or permit  
42 from a local law enforcement agency or court of the United States autho-  
43 rizing him to carry concealed weapons.

44 (6) The sheriff of the county of the applicant's residence or, if the  
45 applicant has obtained a protection order pursuant to chapter 63, title 39,  
46 Idaho Code, the sheriff of a county where the applicant is temporarily resid-  
47 ing may issue a temporary emergency license for good cause pending review of  
48 an application made under subsection (7) of this section. Temporary emer-  
49 gency licenses must be easily distinguishable from regular licenses. A tem-  
50 porary emergency license shall be valid for not more than ninety (90) days.

1 (7) The sheriff of a county, on behalf of the state of Idaho, must,  
2 within ninety (90) days after the filing of a license application by any per-  
3 son who is not disqualified as provided herein from possessing or receiving  
4 a firearm under state or federal law, issue a license to the person to carry  
5 concealed weapons on his person within this state. Such license shall be  
6 valid for five (5) years from the date of issuance.

7 (8) The sheriff must make license applications readily available at the  
8 office of the sheriff, at other public offices in his or her jurisdiction and  
9 on the website of the Idaho state police. The license application shall be  
10 in a form to be prescribed by the director of the Idaho state police and must  
11 meet the following requirements:

12 (a) The license application shall require the applicant's name, ad-  
13 dress, description, signature, date of birth, place of birth, military  
14 status, citizenship and the driver's license number or state identi-  
15 fication card number if used for identification in applying for the  
16 license. Provided however, that if the applicant is not a United States  
17 citizen and is legally in the United States, the application must also  
18 require any alien or admission number issued to the applicant by United  
19 States immigration and customs enforcement or any successor agency;

20 (b) The license application may ask the applicant to disclose his  
21 social security number but must indicate that disclosure of the appli-  
22 cant's social security number is optional; and

23 (c) The license application must contain a warning that substantially  
24 reads as follows:

25 CAUTION: Federal law and state law on the possession of weapons and  
26 firearms differ. If you are prohibited by federal law from possess-  
27 ing a weapon or a firearm, you may be prosecuted in federal court. A  
28 state permit is not a defense to a federal prosecution.

29 (9) The sheriff may require the applicant to demonstrate familiarity  
30 with a firearm and must accept any one (1) of the following as evidence of the  
31 applicant's familiarity with a firearm:

32 (a) Completion of any hunter education or hunter safety course approved  
33 by the department of fish and game or a similar agency of another state;

34 (b) Completion of any national rifle association firearms safety or  
35 training course or any national rifle association hunter education  
36 course or any equivalent course;

37 (c) Completion of any firearms safety or training course or class  
38 available to the general public offered by a law enforcement agency,  
39 community college, college, university or private or public institu-  
40 tion or organization or firearms training school, utilizing instruc-  
41 tors certified by the national rifle association or the Idaho state  
42 police;

43 (d) Completion of any law enforcement firearms safety or training  
44 course or class offered for security guards, investigators, special  
45 deputies, or offered for any division or subdivision of a law enforce-  
46 ment agency or security enforcement agency;

47 (e) Evidence of equivalent experience with a firearm through partici-  
48 pation in organized shooting competition or military service;

1 (f) Is currently licensed to carry concealed weapons pursuant to this  
2 section, unless the license has been revoked for cause;

3 (g) Completion of any firearms training or safety course or class con-  
4 ducted by a state certified or national rifle association certified  
5 firearms instructor; or

6 (h) Other training that the sheriff deems appropriate.

7 (10) Any person applying for original issuance of a license to carry  
8 concealed weapons must submit his fingerprints with the completed license  
9 application. Within five (5) days after the filing of an application, the  
10 sheriff must forward the applicant's completed license application and fin-  
11 gerprints to the Idaho state police. The Idaho state police must conduct a  
12 national fingerprint-based records check, an inquiry through the national  
13 instant criminal background check system and a check of any applicable state  
14 database, including a check for any mental health records for conditions or  
15 commitments that would disqualify a person from possessing a firearm under  
16 state or federal law, and return the results to the sheriff within sixty  
17 (60) days. If the applicant is not a United States citizen, an immigration  
18 alien query must also be conducted through United States immigration and  
19 customs enforcement or any successor agency. The sheriff shall not issue  
20 a license before receiving the results of the records check and must deny a  
21 license if the applicant is disqualified under any of the criteria listed  
22 in subsection (11) of this section. The sheriff may deny a license to carry  
23 concealed weapons to an alien if background information is not attainable or  
24 verifiable.

25 (11) A license to carry concealed weapons shall not be issued to any per-  
26 son who:

27 (a) Is under twenty-one (21) years of age, except as otherwise provided  
28 in this section;

29 (b) Is formally charged with a crime punishable by imprisonment for a  
30 term exceeding one (1) year;

31 (c) Has been adjudicated guilty in any court of a crime punishable by  
32 imprisonment for a term exceeding one (1) year;

33 (d) Is a fugitive from justice;

34 (e) Is an unlawful user of marijuana or any depressant, stimulant or  
35 narcotic drug, or any controlled substance as defined in 21 U.S.C. sec-  
36 tion 802;

37 (f) Is currently suffering from or has been adjudicated as having suf-  
38 fered from any of the following conditions, based on substantial evi-  
39 dence:

40 (i) Lacking mental capacity as defined in section 18-210, Idaho  
41 Code;

42 (ii) Mentally ill as defined in section 66-317, Idaho Code;

43 (iii) Gravely disabled as defined in section 66-317, Idaho Code;  
44 or

45 (iv) An incapacitated person as defined in section 15-5-101,  
46 Idaho Code.

47 (g) Has been discharged from the armed forces under dishonorable condi-  
48 tions;

49 (h) Has ~~been adjudicated guilty of or~~ received a withheld judgment or  
50 suspended sentence for a crime ~~of violence constituting a misdemeanor~~

1 ~~or a crime that would disqualify him from obtaining a concealed weapons~~  
 2 ~~license, unless three (3) years have elapsed since entry of judgment or~~  
 3 ~~successful completion of probation prior to the date on which the appli-~~  
 4 ~~cation is submitted punishable by imprisonment for a term exceeding one~~  
 5 ~~(1) year, unless the person has successfully completed probation;~~

6 (i) Has received a period of probation after having been adjudicated  
 7 guilty of, or received a withheld judgment for, a misdemeanor offense  
 8 that has as an element the intentional use, attempted use or threatened  
 9 use of physical force against the person or property of another, unless  
 10 the person has successfully completed probation;

11 (j) Is an alien illegally in the United States;

12 (j)k) Is a person who having been a citizen of the United States has re-  
 13 nounced his or her citizenship;

14 (k)l) Is free on bond or personal recognizance pending trial, appeal or  
 15 sentencing for a crime which would disqualify him from obtaining a con-  
 16 cealed weapons license;

17 (l)m) Is subject to a protection order issued under chapter 63, title  
 18 39, Idaho Code, that restrains the person from harassing, stalking or  
 19 threatening an intimate partner of the person or child of the intimate  
 20 partner or person, or engaging in other conduct that would place an  
 21 intimate partner in reasonable fear of bodily injury to the partner or  
 22 child; or

23 (n) Is for any other reason ineligible to own, possess or receive a  
 24 firearm under the provisions of Idaho or federal law.

25 (12) In making a determination in relation to an applicant's eligibil-  
 26 ity under this subsection (11) of this section, the sheriff shall not con-  
 27 sider:

28 (a) A conviction, guilty plea or adjudication that has been nullified  
 29 by expungement, pardon, setting aside or other comparable procedure by  
 30 the jurisdiction where the conviction, guilty plea or adjudication oc-  
 31 curred or in respect of which conviction, guilty plea or adjudication  
 32 the applicant's civil right to bear arms either specifically or in com-  
 33 bination with other civil rights has been restored under operation of  
 34 law or legal process; or

35 (b) Except as provided for in paragraph (f) of this subsection  
 36 (11) (f) of this section, an adjudication of mental defect, incapacity  
 37 or illness or an involuntary commitment to a mental institution if the  
 38 applicant's civil right to bear arms has been restored under operation  
 39 of law or legal process.

40 (123) A license to carry concealed weapons must be in a form substan-  
 41 tially similar to that of the Idaho driver's license and must meet the fol-  
 42 lowing specifications:

43 (a) The license must provide the licensee's name, address, date of  
 44 birth and the driver's license number or state identification card num-  
 45 ber if used for identification in applying for the license;

46 (b) The license must bear the licensee's signature and picture; and

47 (c) The license must provide the date of issuance and the date on which  
 48 the license expires.

49 (134) Upon issuing a license under the provisions of this section, the  
 50 sheriff must notify the Idaho state police within three (3) business days on

1 a form or in a manner prescribed by the Idaho state police. Information re-  
2 lating to an applicant or licensee received or maintained pursuant to this  
3 section by the sheriff or Idaho state police is confidential and exempt from  
4 disclosure under section ~~9-340B~~ 74-105, Idaho Code.

5 (145) The fee for original issuance of a license shall be twenty dollars  
6 (\$20.00), which the sheriff must retain for the purpose of performing the du-  
7 ties required in this section. The sheriff may collect the actual cost of any  
8 additional fees necessary to cover the cost of processing fingerprints law-  
9 fully required by any state or federal agency or department, and the actual  
10 cost of materials for the license lawfully required by any state agency or  
11 department, which costs must be paid to the state. The sheriff must provide  
12 the applicant with a copy of the results of the fingerprint-based records  
13 check upon request of the applicant.

14 (156) The fee for renewal of the license shall be fifteen dollars  
15 (\$15.00), which the sheriff must retain for the purpose of performing the du-  
16 ties required in this section. The sheriff may collect the actual cost of any  
17 additional fees necessary to cover the processing costs lawfully required by  
18 any state or federal agency or department, and the actual cost of materials  
19 for the license lawfully required by any state agency or department, which  
20 costs must be paid to the state.

21 (167) Every license that is not, as provided by law, suspended, re-  
22 voked or disqualified in this state shall be renewable at any time during the  
23 ninety (90) day period before its expiration or within ninety (90) days after  
24 the expiration date. The sheriff must mail renewal notices ninety (90) days  
25 prior to the expiration date of the license. The sheriff shall require the  
26 licensee applying for renewal to complete an application. The sheriff must  
27 submit the application to the Idaho state police for a records check of state  
28 and national databases. The Idaho state police must conduct the records  
29 check and return the results to the sheriff within thirty (30) days. The  
30 sheriff shall not issue a renewal before receiving the results of the records  
31 check and must deny a license if the applicant is disqualified under any of  
32 the criteria provided in this section. A renewal license shall be valid for  
33 a period of five (5) years. A license so renewed shall take effect on the ex-  
34 piration date of the prior license. A licensee renewing ninety-one (91) days  
35 to one hundred eighty (180) days after the expiration date of the license  
36 must pay a late renewal penalty of ten dollars (\$10.00) in addition to the  
37 renewal fee unless waived by the sheriff, except that any licensee serving  
38 on active duty in the armed forces of the United States during the renewal  
39 period shall not be required to pay a late renewal penalty upon renewing  
40 ninety-one (91) days to one hundred eighty (180) days after the expiration  
41 date of the license. After one hundred eighty-one (181) days, the licensee  
42 must submit an initial application for a license and pay the fees prescribed  
43 in subsection (145) of this section. The renewal fee and any penalty shall  
44 be paid to the sheriff for the purpose of enforcing the provisions of this  
45 chapter. Upon renewing a license under the provisions of this section, the  
46 sheriff must notify the Idaho state police within five (5) days on a form or  
47 in a manner prescribed by the Idaho state police.

48 (178) No city, county or other political subdivision of this state  
49 shall modify or add to the requirements of this section, nor shall a city,  
50 county or political subdivision ask the applicant to voluntarily submit any

1 information not required in this section. A civil action may be brought to  
2 enjoin a wrongful refusal to issue a license or a wrongful modification of  
3 the requirements of this section. The civil action may be brought in the  
4 county in which the application was made or in Ada county at the discretion  
5 of the petitioner. Any person who prevails against a public agency in any  
6 action in the courts for a violation of this section must be awarded costs,  
7 including reasonable attorney's fees incurred in connection with the legal  
8 action.

9 (189) A county sheriff, deputy sheriff or county employee who issues a  
10 license to carry a concealed weapon under this section shall not incur any  
11 civil or criminal liability as the result of the performance of his duties in  
12 compliance with this section.

13 (1920) The sheriff of a county ~~may~~ shall issue a license to carry a con-  
14 cealed weapon to those individuals between the ages of eighteen (18) and  
15 twenty-one (21) years who ~~in the judgment of the sheriff warrant the is-~~  
16 ~~suance of the license, except for the age requirement contained in section~~  
17 18-3302K(4), Idaho Code, would otherwise meet the requirements for issuance  
18 of a license under section 18-3302K, Idaho Code. Such issuance shall be sub-  
19 ject to limitations which the issuing authority deems appropriate. Licenses  
20 issued to individuals between the ages of eighteen (18) and twenty-one (21)  
21 years under this subsection shall be easily distinguishable from licenses  
22 issued pursuant to subsection (7) of this section. A license issued pur-  
23 suant to this subsection after July 1, 2016, shall expire on the twenty-first  
24 birthday of the licensee. A licensee, upon attaining the age of twenty-one  
25 (21), shall be allowed to renew the license under the procedure contained in  
26 section 18-3302K(9), Idaho Code. Such renewal license shall be issued as an  
27 enhanced license pursuant to the provisions of section 18-3302K, Idaho Code.

28 (201) A person carrying a concealed weapon in violation of the provi-  
29 sions of this section shall be guilty of a misdemeanor.

30 (212) The sheriff of the county where the license was issued or the sher-  
31 iff of the county where the person resides shall have the power to revoke a  
32 license subsequent to a hearing in accordance with the provisions of chapter  
33 52, title 67, Idaho Code, for any of the following reasons:

34 (a) Fraud or intentional misrepresentation in the obtaining of a li-  
35 cense;

36 (b) Misuse of a license, including lending or giving a license to an-  
37 other person, duplicating a license or using a license with the intent  
38 to unlawfully cause harm to a person or property;

39 (c) The doing of an act or existence of a condition which would have been  
40 grounds for the denial of the license by the sheriff;

41 (d) The violation of any of the terms of this section; or

42 (e) The applicant is adjudicated guilty of or receives a withheld judg-  
43 ment for a crime which would have disqualified him from initially re-  
44 ceiving a license.

45 (223) A person twenty-one (21) years of age or older who presents a valid  
46 license to carry concealed weapons is exempt from any requirement to undergo  
47 a records check at the time of purchase or transfer of a firearm from a feder-  
48 ally licensed firearms dealer. Provided however, a temporary emergency li-  
49 cense issued pursuant to subsection (6) of this section shall not exempt the  
50 holder of the license from any records check requirement.

1           (234) The attorney general must contact the appropriate officials in  
 2 other states for the purpose of establishing, to the extent possible, recog-  
 3 nition and reciprocity of the license to carry concealed weapons by other  
 4 states, whether by formal agreement or otherwise. The Idaho state police  
 5 must keep a copy and maintain a record of all such agreements and reciprocity  
 6 recognitions, which must be made available to the public.

7           (245) Nothing in subsection (3) or (4) of this section shall be con-  
 8 strued to limit the existing rights of a private property owner, private  
 9 tenant, private employer or private business entity.

10          (256) The provisions of this section are hereby declared to be severable  
 11 and if any provision of this section or the application of such provision to  
 12 any person or circumstance is declared invalid for any reason, such declara-  
 13 tion shall not affect the validity of remaining portions of this section.

14          SECTION 2. That Section 18-3302C, Idaho Code, be, and the same is hereby  
 15 amended to read as follows:

16          18-3302C. PROHIBITED CONDUCT. Any person obtaining a license under  
 17 the provisions of section 18-3302, Idaho Code, or carrying a concealed  
 18 deadly weapon pursuant to the provisions of section 18-3302(4)(f), Idaho  
 19 Code, shall not:

20          (1) Carry a concealed weapon in a courthouse~~;~~ juvenile detention fa-  
 21 cility or jail~~;~~ public or private school, except as provided in subsection  
 22 (4)(f) of section 18-3302D, Idaho Code; provided that, this subsection shall  
 23 not apply to:

24           (a) Peace officers while acting within the scope of their employment;

25           (b) Security personnel while actually engaged in their employment; or

26           (c) Any person who is authorized to carry a weapon by a person, board or  
 27 other entity having authority over the building or facility; or

28          (2) Provide information on the application for a permit to carry a con-  
 29 cealed weapon knowing the same to be untrue.

30 Any person violating the provisions of this section shall be guilty of a mis-  
 31 demeanor.