



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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### MEMORANDUM

**TO:** Senators BRACKETT, Crabtree, Buckner-Webb and,  
Representatives PALMER, Shepherd, Wintrow

**FROM:** Matt Drake - Legislative Drafting Attorney

**DATE:** October 20, 2020

**SUBJECT:** Temporary Rule

IDAPA 39.00.00 - Notice of Omnibus Rulemaking - Amendment to Temporary Rule - Docket No.  
39-0000-2000F

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Matt Drake at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

Kristin Ford, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
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Glenn Harris, Manager  
Information Technology

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

DOCKET NO. 39-0000-2000F (FEE RULE)

### NOTICE OF OMNIBUS RULEMAKING – AMENDMENT TO TEMPORARY RULE

**EFFECTIVE DATE:** A temporary rule was adopted under docket number 39-0000-2000F in the April 15, 2020, Idaho Administrative Bulletin, [Vol. 20-4SE, pages 2200-2212](#). The effective date of the amendment to the temporary rule is January 1, 2021.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has amended a temporary rule. The action is authorized pursuant to Section 54-5206(1), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for amending the temporary rule and a statement of any change between the text of the temporary rule and text of the amended temporary rule with an explanation for any changes:

The amendments to this current temporary rule, specifically in IDAPA 39.02.60, “*Rules Governing License Plate Provisions*,” are based on the passage of [SB1349aaS-2020](#). The rule changes will address the modifications made by the Idaho Legislature to the Specialty License Plate Program. This rulemaking will ensure consistency between Idaho Code and the Idaho Administrative Procedures Act.

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

To reflect statutory changes made to Sections 49-402C and 49-402D, Idaho Code, during the 2nd Regular Session of the 65th Idaho Legislature (2020).

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

This rule does include several fees; however, the proposed amendments to this temporary rule do not impact, change or modify the existing fees.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the amendments to the temporary rule, please contact Chris Fisher, DMV Program Specialist, at (208) 334-8167.

Dated this 15th Day of September, 2020.

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The original text of the temporary rule was published in the Idaho Administrative Special Edition Bulletin, Volume 20-4SE, April 15, 2020, pages 2200 through 2212.

THE FOLLOWING IS THE TEXT OF THE AMENDED TEMPORARY RULE FOR  
OMNIBUS DOCKET NO. 39-0000-2000F, IDAPA 39.02.60 ONLY  
(Only those sections that have changed from the original  
text are printed in this Bulletin following this notice.)

155. PROVISIONS FOR SPECIAL LICENSE PLATE PROGRAM PREQUALIFICATION AND APPLICATION PROCEDURES.

01. **Special License Plate Prequalification.** ~~Anyone~~ After July 1, 2020, only those agencies authorized by Section 49-402C, Idaho Code, desiring legislation to establish a Special License Plate Program may make application to the Department on a Special Plate Program application form designed and provided by the Department. If all the prequalification requirements are met by the submission of other documentation, this will also be acceptable. A Special Plate Program Development Guide will also be provided to each applicant, detailing the procedures for the prequalification and application and providing information regarding the steps required to successfully accomplish a special plate program from prequalification through passage of the legislation, statutory requirements and standards for the plate color and license plate design. ~~(3-20-20)F(1-1-21)T~~

02. **Special License Plate Approved by the Legislature.** If a special license plate program is approved by the Idaho legislature, prior to production and sale of the special license plates, the sponsor will ~~be~~ meet the requirements outlined in Subsection 155.03 of this rule. ~~(3-20-20)F(1-1-21)T~~

03. **Special Plate Requirements:** (3-20-20)T

a. The individual responsible for representing ~~the~~ an agency meeting the requirements of Section 49-402C, Idaho Code, requesting the prequalification/application procedure will complete and sign a Special Plate Program application form that will contain a declaration of the responsible individual for certifying compliance with the requirements to the Department. ~~(3-20-20)F(1-1-21)T~~

b. ~~Responsible individual representing the agency will submit a financial plan detailing the use for the proceeds from the special plate sales~~ After July 1, 2020, the individual representing an eligible agency will acknowledge that all special plate sales proceeds will be deposited in the highway distribution account pursuant to Section 49-402D(a), Idaho Code. ~~(3-20-20)F(1-1-21)T~~

c. ~~On and before July 1, 2020,~~ for non-profit agencies, the responsible individual will provide evidence that the applicant has had 501 (c) Federal Income Tax status for at least two (2) years. ~~(3-20-20)F(1-1-21)T~~

04. **Special License Plate Program Application Approval:** (3-20-20)T

a. Upon approval of application by Department, applicant will, by September 1, deposit programming and administration fees determined by an estimate of projected programming hours required. One thousand dollars (\$1,000) of this fee will not be refundable. (3-20-20)T

b. Applicant will complete and submit a list of two hundred fifty (250) applicants, currently registered in Idaho, who intend to purchase the Specialty License Plates when available. The form may be delivered to the Department by mail or electronic means such as e-mail or facsimile. (3-20-20)T

05. **Submission to the Legislature.** (3-20-20)T

a. For those desiring legislation, when all requirements have been met, the Department will forward the completed application to the ~~chairmen of the Transportation and Defense Committees of the Senate and the~~

~~House of Representatives~~ chairman of the Senate Transportation Committee and the chairman of the House Transportation and Defense Committee of the Idaho State Legislature for consideration in the next Legislative Session. This submission will be on a form developed by the Department or other documentation that meets all the requirements listed in this rule. ~~(3-20-20)F~~(1-1-21)T

b. For those Special License Plate Programs with enacting legislation that fail to meet the requirements of this Section, the Department will report such finding to the ~~chairmen of the Transportation and Defense Committees of the Idaho State Senate and the House of Representatives~~ chairman of the Senate Transportation Committee and the chairman of the House Transportation and Defense Committee of the Idaho State Legislature, and will not proceed with production and sale of the special plates. ~~(3-20-20)F~~(1-1-21)T

**06. Annual Report.** An annual report form, designed and provided by the Department, will be made available to special license plate sponsors for all special license plate programs receiving revenue in existence or passed by the legislature on or prior to July 1, 2020. The report will require an accounting of revenues and expenditures associated with the funds collected for the special license plate program. (1-1-21)T

a. The report will be completed and submitted to the Department by ~~January~~ December 1 so that by January 15 of each year the Department has the necessary data compiled and the required information forwarded to the chairmen of the Senate Transportation Committee and the chairman of the House Transportation and Defense Committees of the Idaho State ~~Senate and the House of Representatives~~ Legislature. (1-1-21)T

i. All nonprofit agencies who have filed a 501(c)(3) federal income tax status will be required to submit an annual financial report. (1-1-21)T

ii. All government entities receiving any portion of revenue from the sale of specialty plates will be required to submit an annual financial report. (1-1-21)T

b. If the agency fails to provide the required report, the Department will ~~suspend~~ immediately discontinue the special license plate sales for that program ~~until the accounting is provided~~. (1-1-21)T

c. Military License Plate and Collegiate and University License Plate programs will not be included in this requirement. ~~(3-20-20)F~~(1-1-21)T

d. All government entities with special plate programs for which revenue is deposited in the highway distribution account from the sale of their special plate program will not be included in this requirement. (1-1-21)T

**07. Appeals.** The appeals process will allow the applicant for a special license plate program to appeal the Department's decision to deny the application (See Section 003 of this rule). The notice of the appeal will be sent in writing via mail, electronic mail or facsimile within twenty (20) days of the denial. (3-20-20)T

**08. Cancellation of Plate Programs.** The cancellation of a plate program will occur when a nonprofit agency (who has filed a 501 (c)(3) federal income tax status) plate program fails to meet any of the following criteria: (1-1-21)T

a. Fails to sell one-thousand (1000) plates, in the first year of availability. (1-1-21)T

b. Fails to sell one-thousand-five-hundred plates (1,500), in the second year of availability. (1-1-21)T

c. Fails to sell two-thousand (2,000) plates in the third and any subsequent years of availability. (1-1-21)T

d. The Department will notify the plate program sponsor ninety (90) days prior to cancellation informing the sponsor of the intent to cancel the program due to low plate sales volume. Sales volume is calculated by determining the number of current, valid registrations for the plate program on file with the department. (1-1-21)T

i. Upon the first year, second year, or third and subsequent year anniversary dates, if plate sales are below the mandatory volumes, provided in Section 49-402D, Idaho Code, the Department will notify the plate

program sponsor that the program has been canceled and the effective date of the cancellation. Such programs will no longer be available at the county offices or the department for new registrations. (1-1-21)T

ii. The Department will notify current registrants of the special plate program of the cancellation, and advise the registrant may retain and renew the registration with the additional program fees, and retain the plates until the physical plates are required to be replaced, however replacement plates will not be available, due to loss or damage. (1-1-21)T

iii. The portion of canceled special plate program fees no longer deposited with the nonprofit agency (who has filed a 501 (c)(3) federal income tax status) program sponsor will be deposited in the state highway account. (1-1-21)T

iv. Upon mandatory replacement of physical plates as required by statute, the customer may choose another plate program or standard county plates at the customer's preference. (1-1-21)T

v. The Department will include in its annual report to the chairman of the Senate Transportation Committee and the chairman of the House Transportation and Defense Committee of the Idaho State Legislature any special plate programs that have been canceled during the preceding year. (1-1-21)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**202. PROVISIONS FOR PERSONALIZED LICENSE PLATES.**

**01. Special Characters or Marks.** No special characters, or punctuation marks, may be used for personalized messages on license plates. (3-20-20)T

**a.** Up to seven (7) letters or any combination of seven (7) letters and numbers and spaces (no half spaces) may be used for personalized messages on eligible six inch by twelve inch (6" x 12") license plates. (3-20-20)T

**b.** Up to six (6) letters or any combination of six (6) letters and numbers and spaces (no half spaces) may be used for personalized messages on four inch by seven inch (4" x 7") motorcycle plates. (3-20-20)T

**c.** Up to six (6) letters or any combination of six (6) letters and numbers and spaces (no half spaces) may be used for personalized messages on specialty program license plates. (3-20-20)T

**d.** Disability six inch by twelve inch (6" x 12") plates will display the international disability symbol followed by up to five (5) letters, numbers, and spaces in the personalized message. Disability four inch by seven inch (4" x 7") motorcycle plates will display the international disability symbol followed by up to four (4) letters, numbers, and spaces (no half spaces) in the personalized message. (3-20-20)T

**02. Issue of Personalized Plates.** Personalized plates may be issued to vehicles if no specific wording is required on the plate to identify the purpose for which the vehicle is registered. Personalized plates will not be issued if such plates would jeopardize the integrity of unique plate identification requirements. Examples include but are not limited to: (3-20-20)T

**a.** Commercial vehicles registered under the International Registration Plan (IRP), because the designators PRP are required to be printed on the plate; (3-20-20)T

**b.** Vehicles for which the designators "PRP" are required to be printed on the plate to identify the use; (3-20-20)T  
and

**c.** Utility, horse, or enclosed car hauling trailers with RV facilities or boat trailers. (3-20-20)T

**03. Specific Requests.** Requests for specific plate letters and/or numbers will be issued on a first come,

first served basis. In the event of a request for the same plate by more than one (1) individual, the request with the earliest postmark, e-mail transmission time, or fax transmission time will prevail. If the postmarks are the same, the date stamped upon arrival at the Department will prevail. Applications submitted at county assessors' offices will be considered valid when date stamped in by the Department. Telephone requests will not be accepted. (3-20-20)T

**04. Lack of Current Plates.** When an applicant for personalized plates does not have current regular number plates: (3-20-20)T

**a.** The Department may issue a thirty (30) day temporary registration to allow time for the billing process for personalized plates. The fee for each thirty (30) day temporary registration will be as required by Section 49-523, Idaho Code. (3-20-20)T

**b.** The Department may, upon payment of all required fees, issue a proof of registration document as provided in Section 012 of these rules. (3-20-20)T

**05. Credits.** When personalized plates are issued before an applicant's current registration is expired, credit will be given for unexpired registration fees only. (3-20-20)T

**06. Renewing Plates.** The applicant will have the choice of renewing existing personalized plates with validation stickers or ordering a new set of plates at the time of renewal. If new plates are requested, the plate fee will be charged in addition to all other fees that are due. ~~New Personalized plates must will be purchased every seven (7) years as provided in~~ reissued in accordance with Section 49-443, Idaho Code. ~~(3-20-20)T(1-1-21)T~~

**07. Transfer of Plates.** When personalized plates are issued, the vehicle's regular number plates may be transferred to another vehicle belonging to the owner. If registration credit is given from the regular number plates to the personalized, the regular number plate registration is canceled. (3-20-20)T

**08. Acceptability of Plates Message.** Acceptability of the personalized license plate message and issuance, denial or cancellation will be determined by the Department based on the following criteria: (3-20-20)T

**a.** The combination of numbers and letters requested or combinations of same may not duplicate an existing combination in use, ~~with the following exception. A duplication is allowed only when the combination of numbers and letters requested is the same on a small (ie: motorcycle sized plate) and a large (ie: passenger car) sized plate pursuant to Idaho Code.~~ ~~(3-20-20)T(1-1-21)T~~

**b.** The message, in any language, may not carry a sexual connotation nor consist of a term that is considered to be one of obscenity, contempt, prejudice, hostility, insult, racial degradation, ethnic degradation, or profanity, or vulgarity, as defined in dictionaries of general use, including, but not limited to, Webster's Unabridged Dictionary and the Harper & Row New Dictionary of American Slang. (3-20-20)T

**i.** The message may not refer to any of the following: bodily functions, bodily fluids, or intimate body parts; sexual preference or orientation; acts of violence; illegal substances or the use thereof. (3-20-20)T

**ii.** The message may not represent a club, membership, or gang that is commonly known to promote violence, illegal substances or illegal acts. (3-20-20)T

**c.** The criteria in Paragraph 202.08.b. of these rules is not to be considered an exhaustive list. A compilation of offensive or obscene words, terms or letter/number combinations gathered from the experience of Idaho and other states may also be used as a guide. The Department may also rely on information obtained from law enforcement agencies within or outside of Idaho. (3-20-20)T

**d.** When a complaint is received from the public concerning an issued plate, the name of the complainant will not be recorded nor, if known, revealed. (3-20-20)T

**e.** Final determination regarding applications for questionable messages or cancellation of issued plates will be made by the Division of Motor Vehicles. The determination process will include a first review by technical staff, followed by a second review by supervisory and management staff. An applicant does, however, have

a right to a hearing on the decision. (3-20-20)T

**09. Message Preferences.** Applicants may submit three (3) message preferences including the specific meaning of each. The first choice that is available and acceptable will be issued. If none of the preferences are available or acceptable, the applicant will be notified by return mail or email. (3-20-20)T

**10. Recalled Plates.** Personalized plates may be recalled by the Department for the following reasons: (3-20-20)T

a. Error in manufacturing; or (3-20-20)T

b. Clerical error. (3-20-20)T

c. Unacceptable personalized messages as outlined in Paragraph 202.08.b. of these rules. (3-20-20)T

**11. Unexpired Fees.** If a set of personalized plates is recalled, the personalized plate program fee, unexpired portion of the registration fee, E.M.S. fee, plate fee, (if plates are returned to the Department), and all other applicable special plate fees, will be refunded or transferred to a new issue of personalized plates. (3-20-20)T

**12. Expired Plates.** Personalized plates that ~~are allowed to~~ have their registration expire will become immediately available for reissue to another applicant. There is no grace period. ~~(3-20-20)T~~ (1-1-21)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**204. SURRENDER OF PLATES.**

Registered owners desiring to surrender their license plate numbers may do so at any time. Upon surrender, license plate numbers shall immediately become available for use by another, upon application and payment of applicable plate, registration, and program fees. (1-1-21)T

~~204~~**5. -- 299. (RESERVED)**