## IN THE SENATE

## SENATE BILL NO. 1121, As Amended

## BY STATE AFFAIRS COMMITTEE

AN ACT
RELATING TO THE PUBLIC EMPLOYEE RETIREMENT SYSTEM; AMENDING SECTION
59-1303, IDAHO CODE, TO REVISE PROVISIONS REGARDING POLICE OFFICER MEMBER STATUS AND TO DEFINE TERMS; AMENDING SECTION 19-5101, IDAHO CODE,
TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
9-203, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-3302, IDAHO CODE, TO PROVIDE A
CORRECT CODE REFERENCE; AMENDING SECTION 19-5109, IDAHO CODE, TO REMOVE CODE REFERENCES; AMENDING SECTION 22-1910A, IDAHO CODE, TO DEFINE
A TERM AND TO REMOVE A CODE REFERENCE; AMENDING SECTION 49-117, IDAHO
CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND DECLARING AN EMERGENCY
AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 59-1303, Idaho Code, be, and the same is hereby amended to read as follows:

- 59-1303. POLICE OFFICER MEMBER STATUS. (1) As used in this chapter, each of the terms used in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.
- (2) Police officer membership status for retirement purposes may be fixed only by law and shall only be as provided for in subsection (3) of this section. After July 1, 2023, police officer member status may only be considered for additional categories or classes of employees engaged in hazardous duty and engaged in jobs where the employee becomes superannuated due to the arduous physical requirements of the job. For the purposes of this section, "hazardous duty" means duties performed under circumstances that may result in serious injury or death and that involve physical hardship. Stress alone is not a sufficient hardship for police officer member status. For any legislative proposal or bill that would add additional classes of employees to subsection (3) of this section or otherwise increase police officer member status, the board shall provide a recommendation to any legislative committee considering such legislative proposal or bill.
- (3) <u>Members Only members</u> holding or filling the following positions or offices are designated by law as having police officer member status for retirement purposes during the time of their appointment to that position or during their term of office:
  - (a) Idaho state police:
    - (i) The director and deputy director of the Idaho state police;
    - (ii) Commissioned and sworn troopers, specialists (detectives), and POST training coordinators;
    - (iii) Commissioned and sworn personnel in a supervisory capacity as major, captain, lieutenant, or sergeant;

1		(iv) The commissioned state brand inspector, deputy brand inspec-
1		(iv) The commissioned state brand inspector, deputy brand inspec-
2		tors, and brand inspector supervisors; and
3		(v) "Emergency communications officers <del>pursuant to section</del>
4		<del>19-5119</del> " as defined in section 19-5101, Idaho Code; and
5		(vi) Supervisory "emergency communications officers" as defined
6		in section 19-5101, Idaho Code;
7	(b) C	ounty law enforcement:
8		(i) County sheriffs;
9		(ii) "Peace officers," "county juvenile detention officers,"
10		"emergency communications officers," and "county detention of-
11		ficers" as each term is defined in <del>chapter 51, title 19</del> section
12		19-5101, Idaho Code;
13		(iii) Supervisory "peace officers," "county juvenile detention
14		officers," "emergency communications officers," and "county de-
15		tention officers" as each term is defined in <del>chapter 51, title 19</del>
16		section 19-5101, Idaho Code;
17		(iv) Juvenile detention officers;
18		(v) (iv) Juvenile probation officers and supervisors; and
19		(vi) (v) Adult misdemeanor probation officers and supervisors;
20		and
21		(iv) Emergency communications officers pursuant to section
22		19-5119, Idaho Code;
23	(c) C	ity law enforcement:
24		(i) City police chiefs;
25		(ii) "Peace officers" and "emergency communications officers" as
26		each term is defined in chapter 51, title 19 section 19-5101, Idaho
27		Code; and
28		(iii) Supervisory "peace officers" and "emergency communications
29		officers" as defined in <del>chapter 51, title 19</del> section 19-5101,
30		Idaho Code; and
31	,	(iv) Emergency communications officers pursuant to section
32		19-5119 , Idaho Code;
33		Conservation officers, the enforcement assistant chief, and en-
34		ment bureau chief of the department of fish and game;
35		epartment of correction:
36	( - / -	(i) The director and deputy director of the department of cor-
37		rection, the division chief and deputy division chief for pro-
38		bation and parole, the division chief and deputy division chief
39		for prisons, and the wardens and deputy wardens of institutions
40		correctional facilities;
41		(ii) Correctional officers, presentence investigators, cor-
		rectional officers in the supervisory capacity of lieutenant,
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43		sergeant, corporal, correctional specialist, correctional spe-
44		cialist supervisor, and correctional managers;
45		(iii) Probation and parole supervisors, probation and parole in-
46		vestigators, and probation and parole officers; and
47		(iv) Correctional peace officer training instructors;
48	(f) I	Employees of the adjutant general and military division of the

state where military membership is a condition of employment;

- (g) Magistrates of the district court; justices of the supreme court, judges of the court of appeals, and district judges who have made an election under section 1-2011, Idaho Code; and court employees designated by court order to have primary responsibility for court security or transportation of prisoners;
- (h) Employees whose primary function requires that they are certified by the Idaho department of health and welfare as an emergency medical technician-basic, an advanced emergency medical technician-ambulance, an emergency medical technician-intermediate, or an emergency medical technician-paramedic;
- (i) Criminal investigators of the attorney general's office and criminal investigators of a prosecuting attorney's office; and
- (j) The director of security and the criminal investigators of the Idaho state lottery-:
- (k) Direct care staff at the department of juvenile corrections, including rehabilitation technicians, rehabilitation supervisors, and rehabilitation specialists; and
- (1) "Emergency communications officers" and supervisory "emergency communications officers" as defined in section 19-5101, Idaho Code, at the department of health and welfare.
- (4) On and after July 1, 1985, no active member shall be classified as a police officer for retirement purposes unless the employer shall have certified to the board, on a form provided by the board, that such member is an employee whose primary position with the employer is one designated as such within the meaning of this chapter, and the board shall have accepted such certification. Acceptance by the board of an employer's certification shall in no way limit the board's right to review and reclassify the position for retirement purposes based upon an audit or other relevant information presented to the board. The board may carry out such acts as are necessary to enforce the provisions of this chapter.
- (5) A member classified as a police officer for retirement purposes whose position is reclassified to that of a general member for retirement purposes as a result of a determination that the position does not meet the requirements of this chapter for police officer member status for retirement purposes shall become a general member. Excess employer and employee contributions shall be refunded to the employer by offsetting future contributions and the member's record shall be corrected. It shall be the employer's responsibility to refund employee contributions directly to the employee.
- SECTION 2. That Section 19-5101, Idaho Code, be, and the same is hereby amended to read as follows:
  - 19-5101. DEFINITIONS. As used in this act:
- (a) "Council" means the Idaho peace officer standards and training council.
- (b) "County detention officer" means an employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates.
- (c) "County juvenile detention officer" means an employee in a county juvenile detention center who is responsible for the safety, care, protection, and monitoring of juvenile offenders.

(d) "Emergency communications officer" means any emergency call taker or dispatcher whose primary responsibility is to receive or dispatch calls for emergency services in the state of Idaho.

- (e) "Law enforcement" means any and all activities pertaining to crime prevention or reduction and law enforcement, including police, courts, prosecution, corrections, probation, rehabilitation, and juvenile delinquency.
- (d) (f) "Peace officer" means any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho.
  - (e) (g) "Political subdivision" means any city or county.
- (f) "Emergency communications officer" means any emergency call taker or dispatcher whose primary responsibility is to receive or dispatch calls for emergency services in the state of Idaho.
- SECTION 3. That Section 9-203, Idaho Code, be, and the same is hereby amended to read as follows:
- 9-203. CONFIDENTIAL RELATIONS AND COMMUNICATIONS. There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person cannot be examined as a witness in the following cases:
- (1) A husband cannot be examined for or against his wife, without her consent, nor a wife for or against her husband, without his consent; nor can either, during the marriage or afterwards, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other nor to a criminal action or proceeding for a crime committed by violence of one against the person of the other, nor does this exception apply to any case of physical injury to a child where the injury has been caused as a result of physical abuse or neglect by one or both of the parents, nor does this exception apply to any case of lewd and lascivious conduct or attempted lewd and lascivious conduct where either party would otherwise be protected by this privilege.
- (2) An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him, or his advice given thereon, in the course of professional employment. The word client used herein shall be deemed to include a person, a corporation or an association.
- (3) A clergyman or priest cannot, without the consent of the person making the confession, be examined as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs.
- (4) A physician or surgeon cannot, without the consent of his patient, be examined in a civil action as to any information acquired in attending

the patient which was necessary to enable him to prescribe or act for the patient, provided, however, that:

- (a) Nothing herein contained shall be deemed to preclude physicians from reporting of and testifying at all cases of physical injury to children, where it appears the injury has been caused as a result of physical abuse or neglect by a parent, guardian or legal custodian of the child.
- (b) Nothing herein contained shall be deemed to preclude physicians from testifying at all cases of physical injury to a person where it appears the injury has been caused as a result of domestic violence.
- (c) After the death of a patient, in any action involving the validity of any will or other instrument executed, or claimed to have been executed, by him, conveying or transferring any real or personal property or incurring any financial obligation, such physician or surgeon may testify to the mental or physical condition of such patient and in so testifying may disclose information acquired by him concerning such patient which was necessary to enable him to prescribe or act for such deceased.
- (d) Where any person or his heirs or representatives brings an action to recover damages for personal injuries or death, such action shall be deemed to constitute a consent by the person bringing such action that any physician who has prescribed for or treated said injured or deceased person and whose testimony is material in the action may testify.
- (e) If the patient be dead and during his lifetime had not given such consent, the bringing of an action by a beneficiary, assignee or payee or by the legal representative of the insured, to recover on any life, health or accident insurance policy, shall constitute a consent by such beneficiary, assignee, payee or legal representative to the testimony of any physician who attended the deceased.
- (5) A public officer cannot be examined as to communications made to him in official confidence when the public interests would suffer by disclosure.
- (6) Any certificated counselor, psychologist or psychological examiner, duly appointed, regularly employed and designated in such capacity by any public or private school in this state for the purpose of counseling students shall be immune from disclosing, without the consent of the student, any communication made by any student so counseled or examined in any civil or criminal action to which such student is a party. Such matters so communicated shall be privileged and protected against disclosure.
- (7) Any parent, guardian or legal custodian shall not be forced to disclose any communication made by their minor child or ward to them concerning matters in any civil or criminal action to which such child or ward is a party. Such matters so communicated shall be privileged and protected against disclosure; excepting, this section does not apply to a civil action or proceeding by one against the other nor to a criminal action or proceeding for a crime committed by violence of one against the person of the other, nor does this section apply to any case of physical injury to a minor child where the injury has been caused as a result of physical abuse or neglect by one or both of the parents, guardians or legal custodians.
  - (8) (a) As used in this subsection:
    - (i) "First responder" means:

- 1. A peace officer as defined in section 19-5101(d), Idaho Code, when employed by a city, county, or the Idaho state police:
- 2. A firefighter as defined in section 59-1302(16), Idaho Code;
- 3. A volunteer emergency responder as defined in section 72-102(31), Idaho Code;
- 4. An emergency medical service (EMS) provider certified by the department of health and welfare pursuant to sections 56-1011 through 56-1018B, Idaho Code, and an ambulance-based clinician as defined in the rules governing emergency medical services as adopted by the department of health and welfare; and
- 5. An emergency communications officer as defined in section  $19-5101\frac{(f)}{f}$ , Idaho Code.
- (ii) "Peer support counseling session" means a meeting conducted by a peer support specialist, which meeting is held in response to a critical incident, traumatic event, or other personal or professional wellness issue.
- (iii) "Peer support specialist" means a person designated by a public agency employing first responders to lead, moderate, or assist in a peer support counseling session.
- (b) Any peer support specialist or participant in a peer support counseling session cannot disclose and shall not be forced to disclose a communication made during or arising out of a peer support counseling session without the consent of the person who made the communication or about whom the communication was made, unless the communication:
  - (i) Involves a threat of suicide or a threat to commit a criminal act;
  - (ii) Involves information required by law to be reported; or
  - (iii) Is an admission of criminal conduct.
- (c) Any disclosure permitted by paragraph (b) of this subsection that is made during or as part of court proceedings is subject to the rules of the Idaho supreme court.
- 8. (9) A person employed by or volunteering at a nongovernmental domestic or sexual violence program shall not, without the written and signed consent of the recipient of services, be required to or compelled to disclose any communication made between the person in the course of employment or volunteer services for the domestic or sexual violence program and a recipient of the program's services or to disclose information or records about a recipient of the services of a domestic or sexual violence program, provided that disclosure of communications during or as part of court proceedings is subject to the rules of the Idaho supreme court. The provisions of this subsection shall not apply to communications made to a provider or employee during medical services, medical procedures, medical exams, medical evaluations, or forensic interviews.
  - 9. (10) For purposes of this section:
  - (A) (a) "Recipient" means any individual who has received or inquired about receiving services or assistance from a domestic or sexual vio-

lence program, including shelter, advocacy, counseling, or other services offered by a domestic or sexual violence program.

(B) (b) "Domestic or sexual violence program" means any nonprofit organization, nongovernmental organization, private entity, or tribe or tribal organization that has as its primary purpose the operation of shelters or supportive services for victims of domestic or sexual violence and their dependents or counseling, advocacy, or self-help services to victims of domestic or sexual violence.

SECTION 4. 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 six (6) 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.
- (3) No person shall carry concealed weapons on or about his person without a license to carry concealed weapons, except:
  - (a) In the person's place of abode or fixed place of business;
  - (b) On property in which the person has any ownership or leasehold interest;

- (c) On private property where the person has permission to carry concealed weapons from any person with an ownership or leasehold interest;
- (d) Outside the limits of or confines of any city, if the person is eighteen (18) years of age or older and is not otherwise disqualified from being issued a license under subsection (11) of this section.
- (4) Subsection (3) of this section shall not apply to restrict or prohibit the carrying or possession of:
  - (a) Any deadly weapon located in plain view;

- (b) Any lawfully possessed shotgun or rifle;
- (c) Any deadly weapon concealed in a motor vehicle;
- (d) A firearm that is not loaded and is secured in a case;
- (e) A firearm that is disassembled or permanently altered such that it is not readily operable; and
- (f) Any deadly weapon concealed by a person who is:
  - (i) Over eighteen (18) years of age;
  - (ii) A citizen of the United States or a current member of the armed forces of the United States; and
  - (iii) Is not disqualified from being issued a license under paragraphs (b) through (n) of subsection (11) of this section.
- (5) The requirement to secure a license to carry concealed weapons under this section shall not apply to the following persons:
  - (a) Officials of a city, county or the state of Idaho;
  - (b) Any publicly elected Idaho official;
  - (c) Members of the armed forces of the United States or of the national guard when in performance of official duties;
  - (d) Criminal investigators of the attorney general's office and criminal investigators of a prosecuting attorney's office, prosecutors and their deputies;
  - (e) Any peace officer as defined in section 19-5101(d), Idaho Code, in good standing;
  - (f) Retired peace officers or detention deputies with at least ten (10) years of service with the state or a political subdivision as a peace officer or detention deputy and who have been certified by the peace officer standards and training council;
  - (g) Any person who has physical possession of his valid license or permit authorizing him to carry concealed weapons from another state; and
  - (h) Any person who has physical possession of a valid license or permit from a local law enforcement agency or court of the United States authorizing him to carry concealed weapons.
- (6) The sheriff of the county of the applicant's residence or, if the applicant has obtained a protection order pursuant to chapter 63, title 39, Idaho Code, the sheriff of a county where the applicant is temporarily residing may issue a temporary emergency license for good cause pending review of an application made under subsection (7) of this section. Temporary emergency licenses must be easily distinguishable from regular licenses. A temporary emergency license shall be valid for not more than ninety (90) days.
- (7) The sheriff of a county, on behalf of the state of Idaho, must, within ninety (90) days after the filing of a license application by any person who is not disqualified as provided herein from possessing or receiving a firearm under state or federal law, issue a license to the person to carry

concealed weapons on his person within this state. Such license shall be valid for five (5) years from the date of issuance.

- (8) The sheriff must make license applications readily available at the office of the sheriff, at other public offices in his or her jurisdiction and on the website of the Idaho state police. The license application shall be in a form to be prescribed by the director of the Idaho state police and must meet the following requirements:
  - (a) The license application shall require the applicant's name, address, description, signature, date of birth, place of birth, military status, citizenship and the driver's license number or state identification card number if used for identification in applying for the license. Provided however, that if the applicant is not a United States citizen and is legally in the United States, the application must also require any alien or admission number issued to the applicant by United States immigration and customs enforcement or any successor agency;
  - (b) The license application may ask the applicant to disclose his social security number but must indicate that disclosure of the applicant's social security number is optional; and
  - (c) The license application must contain a warning that substantially reads as follows:

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

- (9) The sheriff may require the applicant to demonstrate familiarity with a firearm and must accept any one (1) of the following as evidence of the applicant's familiarity with a firearm:
  - (a) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state;
  - (b) Completion of any national rifle association firearms safety or training course or any national rifle association hunter education course or any equivalent course;
  - (c) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the Idaho state police;
  - (d) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or offered for any division or subdivision of a law enforcement agency or security enforcement agency;
  - (e) Evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;
  - (f) A current license to carry concealed weapons pursuant to this section, unless the license has been revoked for cause;

- (g) Completion of any firearms training or safety course or class conducted by a state-certified or national rifle association-certified firearms instructor; or
- (h) Other training that the sheriff deems appropriate.
- (10) Any person applying for original issuance of a license to carry concealed weapons must submit his fingerprints with the completed license application. Within five (5) days after the filing of an application, the sheriff must forward the applicant's completed license application and fingerprints to the Idaho state police. The Idaho state police must conduct a national fingerprint-based records check, an inquiry through the national instant criminal background check system and a check of any applicable state database, including a check for any mental health records for conditions or commitments that would disqualify a person from possessing a firearm under state or federal law, and return the results to the sheriff within sixty (60) days. If the applicant is not a United States citizen, an immigration alien query must also be conducted through United States immigration and customs enforcement or any successor agency. The sheriff shall not issue a license before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in subsection (11) of this section. The sheriff may deny a license to carry concealed weapons to an alien if background information is not attainable or verifiable.
- (11) A license to carry concealed weapons shall not be issued to any person who:
  - (a) Is under twenty-one (21) years of age, except as otherwise provided in this section;
  - (b) Is formally charged with a crime punishable by imprisonment for a term exceeding one (1) year;
  - (c) Has been adjudicated guilty in any court of a crime punishable by imprisonment for a term exceeding one (1) year;
  - (d) Is a fugitive from justice;

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- (e) Is an unlawful user of marijuana or any depressant, stimulant or narcotic drug, or any controlled substance as defined in 21 U.S.C. 802;
- (f) Is currently suffering from or has been adjudicated as having suffered from any of the following conditions, based on substantial evidence:
  - (i) Lacking mental capacity as defined in section 18-210, Idaho Code;
  - (ii) Mentally ill as defined in section 66-317, Idaho Code;
  - (iii) Gravely disabled as defined in section 66-317, Idaho Code; or
  - (iv) An incapacitated person as defined in section 15-5-101, Idaho Code;
- (g) Has been discharged from the armed forces under dishonorable conditions;
- (h) Has received a withheld judgment or suspended sentence for a crime punishable by imprisonment for a term exceeding one (1) year, unless the person has successfully completed probation;
- (i) Has received a period of probation after having been adjudicated guilty of, or received a withheld judgment for, a misdemeanor offense

that has as an element the intentional use, attempted use or threatened use of physical force against the person or property of another, unless the person has successfully completed probation;

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

- (k) Is a person who having been a citizen of the United States has renounced his or her citizenship;
- (1) Is free on bond or personal recognizance pending trial, appeal or sentencing for a crime that would disqualify him from obtaining a concealed weapons license;
- (m) Is subject to a protection order issued under chapter 63, title 39, Idaho Code, that restrains the person from harassing, stalking or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; or
- (n) Is for any other reason ineligible to own, possess or receive a firearm under the provisions of Idaho or federal law.
- (12) In making a determination in relation to an applicant's eligibility under subsection (11) of this section, the sheriff shall not consider:
  - (a) A conviction, guilty plea or adjudication that has been nullified by expungement, pardon, setting aside or other comparable procedure by the jurisdiction where the conviction, guilty plea or adjudication occurred or in respect of which conviction, guilty plea or adjudication the applicant's civil right to bear arms either specifically or in combination with other civil rights has been restored under operation of law or legal process; or
  - (b) Except as provided for in subsection (11)(f) of this section, an adjudication of mental defect, incapacity or illness or an involuntary commitment to a mental institution if the applicant's civil right to bear arms has been restored under operation of law or legal process.
- (13) A license to carry concealed weapons must be in a form substantially similar to that of the Idaho driver's license and must meet the following specifications:
  - (a) The license must provide the licensee's name, address, date of birth and the driver's license number or state identification card number if used for identification in applying for the license;
  - (b) The license must bear the licensee's signature and picture; and
  - (c) The license must provide the date of issuance and the date on which the license expires.
- (14) Upon issuing a license under the provisions of this section, the sheriff must notify the Idaho state police within three (3) business days on a form or in a manner prescribed by the Idaho state police. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section 74-105, Idaho Code.
- (15) The fee for original issuance of a license shall be twenty dollars (\$20.00), which the sheriff must retain for the purpose of performing the duties required in this section. The sheriff may collect the actual cost of any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department, and the actual

cost of materials for the license lawfully required by any state agency or department, which costs must be paid to the state. The sheriff must provide the applicant with a copy of the results of the fingerprint-based records check upon request of the applicant.

- (16) The fee for renewal of the license shall be fifteen dollars (\$15.00), which the sheriff must retain for the purpose of performing the duties required in this section. The sheriff may collect the actual cost of any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and the actual cost of materials for the license lawfully required by any state agency or department, which costs must be paid to the state.
- (17) Every license that is not, as provided by law, suspended, revoked or disqualified in this state shall be renewable at any time during the ninety (90) day period before its expiration or within ninety (90) days after the expiration date. The sheriff must mail renewal notices ninety (90) days prior to the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete an application. The sheriff must submit the application to the Idaho state police for a records check of state and national databases. The Idaho state police must conduct the records check and return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria provided in this section. A renewal license shall be valid for a period of five (5) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license must pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee unless waived by the sheriff, except that any licensee serving on active duty in the armed forces of the United States during the renewal period shall not be required to pay a late renewal penalty upon renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license. After one hundred eighty-one (181) days, the licensee must submit an initial application for a license and pay the fees prescribed in subsection (15) of this section. The renewal fee and any penalty shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter. Upon renewing a license under the provisions of this section, the sheriff must notify the Idaho state police within five (5) days on a form or in a manner prescribed by the Idaho state police.
- (18) No city, county or other political subdivision of this state shall modify or add to the requirements of this section, nor shall a city, county or political subdivision ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this section must be awarded costs, including reasonable attorney's fees incurred in connection with the legal action.
- (19) A county sheriff, deputy sheriff or county employee who issues a license to carry a concealed weapon under this section shall not incur any

civil or criminal liability as the result of the performance of his duties in compliance with this section.

- (20) The sheriff of a county shall issue a license to carry a concealed weapon to those individuals between the ages of eighteen (18) and twenty-one (21) years who, except for the age requirement contained in section 18-3302K(4), Idaho Code, would otherwise meet the requirements for issuance of a license under section 18-3302K, Idaho Code. Licenses issued to individuals between the ages of eighteen (18) and twenty-one (21) years under this subsection shall be easily distinguishable from licenses issued pursuant to subsection (7) of this section. A license issued pursuant to this subsection after July 1, 2016, shall expire on the twenty-first birth-day of the licensee. A licensee, upon attaining the age of twenty-one (21) years, shall be allowed to renew the license under the procedure contained in section 18-3302K(9), Idaho Code. Such renewal license shall be issued as an enhanced license pursuant to the provisions of section 18-3302K, Idaho Code.
- (21) A person carrying a concealed weapon in violation of the provisions of this section shall be guilty of a misdemeanor.
- (22) The sheriff of the county where the license was issued or the sheriff of the county where the person resides shall have the power to revoke a license subsequent to a hearing in accordance with the provisions of chapter 52, title 67, Idaho Code, for any of the following reasons:
  - (a) Fraud or intentional misrepresentation in the obtaining of a license;
  - (b) Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;
  - (c) The doing of an act or existence of a condition that would have been grounds for the denial of the license by the sheriff;
  - (d) The violation of any of the terms of this section; or
  - (e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime that would have disqualified him from initially receiving a license.
- (23) A person twenty-one (21) years of age or older who presents a valid license to carry concealed weapons is exempt from any requirement to undergo a records check at the time of purchase or transfer of a firearm from a federally licensed firearms dealer. Provided however, a temporary emergency license issued pursuant to subsection (6) of this section shall not exempt the holder of the license from any records check requirement.
- (24) The attorney general must contact the appropriate officials in other states for the purpose of establishing, to the extent possible, recognition and reciprocity of the license to carry concealed weapons by other states, whether by formal agreement or otherwise. The Idaho state police must keep a copy and maintain a record of all such agreements and reciprocity recognitions, which must be made available to the public.
- (25) Nothing in subsection (3) or (4) of this section shall be construed to limit the existing rights of a private property owner, private tenant, private employer or private business entity.
- (26) The provisions of this section are hereby declared to be severable and if any provision of this section or the application of such provision to

any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this section.

 SECTION 5. That Section 19-5109, Idaho Code, be, and the same is hereby amended to read as follows:

- 19-5109. POWERS OF THE COUNCIL -- STANDARDS OF TRAINING, EDUCATION AND EMPLOYMENT OF PEACE OFFICERS -- CERTIFICATION -- PENALTIES. (1) It shall be the duty of and the council shall have the power:
  - (a) To establish the requirements of minimum basic training that peace officers shall complete in order to be eligible for permanent employment as peace officers and the time within which such basic training must be completed. One (1) component of minimum basic training shall be a course in the investigation and collection of evidence in cases involving an allegation of sexual assault or battery;
  - (b) To establish the requirements of minimum education and training standards for employment as a peace officer in probationary, temporary, part-time, and/or emergency positions;
  - (c) To establish the length of time a peace officer may serve in a probationary, temporary, and/or emergency position;
  - (d) To approve, deny approval or revoke the approval of any institution or school established by the state or any political subdivision or any other party for the training of peace officers;
  - (e) To establish the minimum requirements of courses of study, attendance, equipment, and facilities of all approved schools and the scholastic requirement, experience, and training of instructors at all approved schools;
  - (f) To establish such other requirements for employment, retention and promotion of peace officers, including minimum age, physical and mental standards, citizenship, moral character, experience and such other matters as relate to the competence and reliability of peace officers;
  - (g) To certify peace officers as having completed all requirements established by the council in order to be eligible for permanent employment as peace officers in this state;
  - (h) To receive and file for record copies of merit regulations or local ordinances passed by any political subdivision;
  - (i) To maintain permanent files and transcripts for all peace officers certified by the council to include any additional courses or advanced courses of instruction successfully completed by such peace officers while employed in this state and to include the law enforcement employment history by agency and dates of service of the officer. Such information shall be made available to any law enforcement agency upon request when a person applies for employment at the requesting law enforcement agency; and
  - (j) To allow a peace officer of a federally recognized Indian tribe within the boundaries of this state to attend the peace officer standards and training academy if said peace officer meets minimum physical and educational requirements of the academy. The Indian tribal law enforcement agency shall reimburse the peace officer standards and training academy for the officer's training. Upon satisfactory completion of the peace officer standards and training academy, the tribal

peace officer shall receive a certificate of satisfactorily completing the academy.

- After January 1, 1974, any peace officer as defined in section 19-5101(d), Idaho Code, employed after January 1, 1974, except any elected official or deputy serving civil process, the deputy director of the Idaho state police, or any person serving under a temporary commission with any law enforcement agency in times of natural or man-caused disaster declared to be an emergency by the board of county commissioners or by the governor of the state of Idaho, or those peace officers whose primary duties involve motor vehicle parking and animal control pursuant to city or county ordinance, or any peace officer acting under a special deputy commission from the Idaho state police, shall be certified by the council within one (1) year of employment; provided, however, that the council may establish criteria different than that required of other peace officers for certification of city police chiefs or administrators within state agencies having law enforcement powers who, because of the number of full-time peace officers they supervise, have duties that are primarily administrative. Any such chief of police or state agency administrator employed in such capacity prior to July 1, 1987, shall be exempt from certification.
- (3) The council is designated as a criminal justice agency as defined in section 67-3012(7)(A)(ii), Idaho Code, for the purposes of obtaining and retaining confidential criminal justice information by means of criminal justice services as defined in section 67-3012(8), Idaho Code. Such information shall be used to provide for the certification, suspension or revocation of certification of peace officers and public safety personnel subject to certification by the council. The council may not record or retain any confidential criminal justice information without complying with the provisions of chapter 30, title 67, Idaho Code.
- (4) No peace officer shall have or exercise any power granted by any statute of this state to peace officers unless such person shall have been certified by the council within one (1) year of the date on which such person commenced employment as a peace officer, except in cases where the council, for good cause and in writing, has granted additional time to complete such training. The council shall decertify any officer who is convicted of any felony or offense that would be a felony if committed in this state. The council may decertify any officer who:
  - (a) Is convicted of any misdemeanor;

- (b) Willfully or otherwise falsifies or omits any information to obtain any certified status; or
- (c) Violates any of the standards of conduct as established by the council's code of ethics, as adopted and amended by the council.
- All proceedings taken by the council shall be conducted in accordance with chapter 52, title 67, Idaho Code.
- (5) Any law enforcement agency as defined in section  $19-5101_{\text{(e)}}$ , Idaho Code, in which any peace officer shall resign as a result of any disciplinary action or in which a peace officer's employment is terminated as a result of any disciplinary action shall, within fifteen (15) days of such action, make a report to the council.
- (6) The council shall, pursuant to the requirements of this section, establish minimum basic training and certification standards for county de-

tention officers that can be completed within one (1) year of employment as a county detention officer.

- (7) The council may, upon recommendation of the juvenile training council and pursuant to the requirements of this section, implement minimum basic training and certification standards for juvenile detention officers, juvenile probation officers, and employees of the Idaho department of juvenile corrections who are engaged in the direct care and management of juveniles.
- (8) The council may, upon recommendation of the correction standards and training council and pursuant to the requirements of this section, establish minimum basic training and certification standards for state correction officers and for adult probation and parole officers.
- (9) The council may, upon recommendation from the misdemeanor probation training council and pursuant to the requirements of this section, establish minimum basic training, continuing education, and certification standards for misdemeanor probation officers, whether those officers are employees of, or by private sector contract with, a county.
- (10) The council may reject any applicant for certification who has been convicted of a misdemeanor, and the council shall reject an applicant for certification who has been convicted of a felony, the punishment for which could have been imprisonment in a federal or state penal institution.
- (11) As used in this section, "convicted" means a plea or finding of guilt, notwithstanding the form of judgment or withheld judgment, regardless of whether the sentence is imposed, suspended, deferred or withheld, and regardless of whether the plea or conviction is set aside or withdrawn or the case is dismissed or reduced under section 19-2604, Idaho Code, or any other comparable statute or procedure where the setting aside of the plea or conviction, or dismissal or reduction of the case or charge, is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the plea, finding of guilt or conviction.
- SECTION 6. That Section 22-1910A, Idaho Code, be, and the same is hereby amended to read as follows:
- 22-1910A. LAW ENFORCEMENT. (1) It shall be the duty of all peace officers within the state of Idaho, as defined by section 19-5101 (d), Idaho Code, to enforce the provisions of this chapter by making a complaint or citation as described in section 19-3901, Idaho Code.
- (2) Peace officers within the state of Idaho, upon reasonable suspicion that a conveyance is infested with quagga mussels or zebra mussels, may require a driver of a vehicle to stop and submit to an inspection of the exterior of any conveyance(s) in plain view.
- (3) If the peace officer has probable cause to believe that the conveyance(s) are contaminated with quagga mussels or zebra mussels, or when a conveyance is found to be contaminated or otherwise carrying quagga mussels or zebra mussels, the peace officer shall detain the vehicle and conveyance(s) and immediately summon a tow truck to transport the conveyance(s) to the nearest available impound yard.
- (4) Upon impoundment, the director shall issue a hold order as provided in this chapter specifying the conditions for release.

(5) As used in this section, "peace officer" shall have the same meaning as provided in section 19-5101, Idaho Code.

SECTION 7. That Section 49-117, Idaho Code, be, and the same is hereby amended to read as follows:

- 49-117. DEFINITIONS -- P. (1) "Park" or "parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.
- (2) "Park model recreational vehicle" means a recreational vehicle that is designed to provide temporary accommodations for recreational, camping or seasonal use, is built on a single chassis, was originally mounted on wheels, has a gross trailer area not exceeding four hundred (400) square feet in the set-up mode and is certified by its manufacturer as complying with the American National Standards Institute (ANSI) Al19.5 Standard for Recreational Park Trailers, and includes park models, park trailers and recreational park trailers.
- (3) "Part-time salesman" means any person employed as a vehicle salesman on behalf of a dealer fewer than thirty (30) hours per week.
  - (4) "Peace officer." (See section 19-5101<del>(d)</del>, Idaho Code)
- (5) "Pedestrian" means any person afoot and any person operating a wheelchair or a motorized wheelchair or an electric personal assistive mobility device.
- (6) "Pedestrian path" means any path, sidewalk or way set aside and used exclusively by pedestrians.
  - (7) (a) "Person" means every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors, political subdivision, state or federal governmental department, agency, or instrumentality and, for the purposes of chapter 22, title 49, Idaho Code, shall include a private, common or contract carrier operating a vehicle on any highway of this state.
  - (b) "Person with a disability" means:

- (i) A person who is unable to walk two hundred (200) feet or more unassisted by another person;
- (ii) A person who is unable to walk two hundred (200) feet or more without the aid of a walker, cane, crutches, braces, prosthetic device or a wheelchair; or
- (iii) A person who is unable to walk two hundred (200) feet or more without great difficulty or discomfort due to the following impairments: neurological, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb.
- (iv) For the purposes of chapters 3 and 4, title 49, Idaho Code, a person with a permanent disability is one whose physician certifies that the person qualifies as a person with a disability pursuant to this paragraph and further certifies that there is no expectation for a fundamental or marked change in the person's condition at any time in the future.
- (8) "Personal delivery device" means an electrically powered device that is operated on sidewalks, crosswalks, and the sides or berms of high-

ways and is intended primarily to transport property; weighs less than five hundred fifty (550) pounds, excluding cargo; operates at a maximum speed of ten (10) miles per hour when on sidewalks; and is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person. A personal delivery device shall not be defined as a vehicle or motor vehicle in any section of the law, unless expressly so stated.

- (9) "Personal delivery device operator" means an entity or its agent that exercises direct physical control or monitoring over the navigation system and operation of a personal delivery device. For the purposes of this subsection, the term "agent" means a person charged by the entity with the responsibility of navigating, monitoring, or operating the personal delivery device. The term "personal delivery device operator" does not include an entity or person who requests the services of a personal delivery device for the purpose of transporting property or an entity, nor does it include a person who merely arranges for and dispatches the requested services of a personal delivery device.
- (10) "Personal information" means information that identifies an individual, including an individual's photograph or computerized image, social security number, driver identification number, name, address, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving or equipment-related violations, the five-digit zip code of the person's address, or status of the driver's license or motor vehicle registration.
  - (11) "Pneumatic tire." (See "tires," section 49-121, Idaho Code)
  - (12) "Pole trailer." (See "trailer," section 49-121, Idaho Code)
- (13) "Possessory lien" means a lien dependent upon possession for compensation to which a person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the towing, storage, repair, or safekeeping of any vehicle of a type subject to registration.
- (14) "Possessory lienholder" means any person claiming a lien, which lien claimed to have accrued on a basis of services rendered to the vehicle that is the subject of the lien.
- (15) "Preceding year" means, for the purposes of section 49-434, Idaho Code, a period of twelve (12) consecutive months fixed by the department, prior to July 1 of the year immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department in fixing the period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.
- (16) "Pressure regulator valve" means a device or system that governs the load distribution and controls the weight borne by a variable load suspension axle in accordance with a predetermined valve setting.
- (17) "Principal place of business" means an enclosed commercial structure located within the state, easily accessible and open to the public at all reasonable times, with an improved display area large enough to display five (5) or more vehicles of the type the dealer is licensed to sell, immediately adjoining the building, and at which the business of a dealership, including the display and repair of vehicles, may be lawfully carried on

in accordance with the terms of all applicable building codes, zoning and other land-use regulatory ordinances, and in which building the public shall be able to contact the dealer or his salesmen in person or by telephone at all reasonable times. The books, records and files necessary to conduct the business of the dealership must be kept or reproduced electronically at the dealership's licensed location(s). A dealership keeping its physical books, records and files at an off-site location must notify the department in writing of such location at least thirty (30) days in advance of moving such books, records and files off-site. Physical books, records and files must be made available to the department upon request within three (3) business days of such request. The principal place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event shall a room or rooms in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this title unless the entire ground floor of that hotel, apartment house, or rooming house building or dwelling house be devoted principally to and occupied for commercial purposes, and the office or offices of the dealer be located on the ground floor.

- (18) "Private property open to the public" means real property not owned by the federal government or the state of Idaho or any of its political subdivisions, but is available for vehicular traffic or parking by the general public with the permission of the owner or agent of the real property.
- (19) "Private road" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.
- (20) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars (\$25,000) because of bodily injury to or death of one (1) person in any one (1) accident and, subject to the limit for one (1) person, in the amount of fifty thousand dollars (\$50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of fifteen thousand dollars (\$15,000) because of injury to or destruction of property of others in any one (1) accident.
  - (21) "Proper authority" means a public highway agency.
- (22) "Public highway agency" means the state transportation department, any city, county, highway district or any other state agency that has jurisdiction over public highway systems and public rights-of-way.
- (23) "Public right-of-way" means a right-of-way open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain said right-of-way for vehicular traffic.
  - (24) "Public road jurisdiction" means a public highway agency.
- (25) "Purchase." (See "sell," "sold," and "buy," section 49-120, Idaho Code)

SECTION 8. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2023.