

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 394

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO CONCEALED WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO RE-
VISE A CERTAIN EXCEPTION AND TO REMOVE SURPLUS VERBIAGE.

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 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 with-
out a license to carry concealed weapons, except:

1 (a) In the person's place of abode or fixed place of business;
 2 (b) On property in which the person has any ownership or leasehold in-
 3 terest;
 4 (c) On private property where the person has permission to carry con-
 5 cealed weapons from any person with an ownership or leasehold interest;
 6 (d) Outside the limits of or confines of any city, if the person is eigh-
 7 teen (18) years of age or older and is not otherwise disqualified from
 8 being issued a license under subsection (11) of this section.
 9 (4) Subsection (3) of this section shall not apply to restrict or pro-
 10 hibit the carrying or possession of:
 11 (a) Any deadly weapon located in plain view;
 12 (b) Any lawfully possessed shotgun or rifle;
 13 (c) Any deadly weapon concealed in a motor vehicle;
 14 (d) A firearm that is not loaded and is secured in a case;
 15 (e) A firearm that is disassembled or permanently altered such that it
 16 is not readily operable; and
 17 (f) Any deadly weapon concealed by a person who is:
 18 (i) Over eighteen (18) years of age;
 19 (ii) A legal resident of Idaho the United States or a current mem-
 20 ber of the armed forces of the United States; and
 21 (iii) Is not disqualified from being issued a license under para-
 22 graphs (b) through (n) of subsection (11) of this section. ~~(a)~~
 23 (5) The requirement to secure a license to carry concealed weapons un-
 24 der this section shall not apply to the following persons:
 25 (a) Officials of a city, county or the state of Idaho;
 26 (b) Any publicly elected Idaho official;
 27 (c) Members of the armed forces of the United States or of the national
 28 guard when in performance of official duties;
 29 (d) Criminal investigators of the attorney general's office and crim-
 30 inal investigators of a prosecuting attorney's office, prosecutors and
 31 their deputies;
 32 (e) Any peace officer as defined in section 19-5101(d), Idaho Code, in
 33 good standing;
 34 (f) Retired peace officers or detention deputies with at least ten (10)
 35 years of service with the state or a political subdivision as a peace of-
 36 ficer or detention deputy and who have been certified by the peace offi-
 37 cer standards and training council;
 38 (g) Any person who has physical possession of his valid license or per-
 39 mit authorizing him to carry concealed weapons from another state; and
 40 (h) Any person who has physical possession of a valid license or permit
 41 from a local law enforcement agency or court of the United States autho-
 42 rizing him to carry concealed weapons.
 43 (6) The sheriff of the county of the applicant's residence or, if the
 44 applicant has obtained a protection order pursuant to chapter 63, title 39,
 45 Idaho Code, the sheriff of a county where the applicant is temporarily resid-
 46 ing may issue a temporary emergency license for good cause pending review of
 47 an application made under subsection (7) of this section. Temporary emer-
 48 gency licenses must be easily distinguishable from regular licenses. A tem-
 49 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) A current license to carry concealed weapons pursuant to this sec-
2 tion, 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. 802;

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

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

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

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

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

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

48 (h) Has received a withheld judgment or suspended sentence for a crime
49 punishable by imprisonment for a term exceeding one (1) year, unless the
50 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;

(l) 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

1 additional fees necessary to cover the cost of processing fingerprints law-
2 fully required by any state or federal agency or department, and the actual
3 cost of materials for the license lawfully required by any state agency or
4 department, which costs must be paid to the state. The sheriff must provide
5 the applicant with a copy of the results of the fingerprint-based records
6 check upon request of the applicant.

7 (16) The fee for renewal of the license shall be fifteen dollars
8 (\$15.00), which the sheriff must retain for the purpose of performing the du-
9 ties required in this section. The sheriff may collect the actual cost of any
10 additional fees necessary to cover the processing costs lawfully required by
11 any state or federal agency or department, and the actual cost of materials
12 for the license lawfully required by any state agency or department, which
13 costs must be paid to the state.

14 (17) Every license that is not, as provided by law, suspended, revoked
15 or disqualified in this state shall be renewable at any time during the
16 ninety (90) day period before its expiration or within ninety (90) days after
17 the expiration date. The sheriff must mail renewal notices ninety (90) days
18 prior to the expiration date of the license. The sheriff shall require the
19 licensee applying for renewal to complete an application. The sheriff must
20 submit the application to the Idaho state police for a records check of state
21 and national databases. The Idaho state police must conduct the records
22 check and return the results to the sheriff within thirty (30) days. The
23 sheriff shall not issue a renewal before receiving the results of the records
24 check and must deny a license if the applicant is disqualified under any of
25 the criteria provided in this section. A renewal license shall be valid for
26 a period of five (5) years. A license so renewed shall take effect on the ex-
27 piration date of the prior license. A licensee renewing ninety-one (91) days
28 to one hundred eighty (180) days after the expiration date of the license
29 must pay a late renewal penalty of ten dollars (\$10.00) in addition to the
30 renewal fee unless waived by the sheriff, except that any licensee serving
31 on active duty in the armed forces of the United States during the renewal
32 period shall not be required to pay a late renewal penalty upon renewing
33 ninety-one (91) days to one hundred eighty (180) days after the expiration
34 date of the license. After one hundred eighty-one (181) days, the licensee
35 must submit an initial application for a license and pay the fees prescribed
36 in subsection (15) of this section. The renewal fee and any penalty shall
37 be paid to the sheriff for the purpose of enforcing the provisions of this
38 chapter. Upon renewing a license under the provisions of this section, the
39 sheriff must notify the Idaho state police within five (5) days on a form or
40 in a manner prescribed by the Idaho state police.

41 (18) No city, county or other political subdivision of this state shall
42 modify or add to the requirements of this section, nor shall a city, county
43 or political subdivision ask the applicant to voluntarily submit any infor-
44 mation not required in this section. A civil action may be brought to enjoin
45 a wrongful refusal to issue a license or a wrongful modification of the re-
46 quirements of this section. The civil action may be brought in the county in
47 which the application was made or in Ada county at the discretion of the peti-
48 tioner. Any person who prevails against a public agency in any action in the
49 courts for a violation of this section must be awarded costs, including rea-
50 sonable attorney's fees incurred in connection with the legal action.

1 (19) A county sheriff, deputy sheriff or county employee who issues a
2 license to carry a concealed weapon under this section shall not incur any
3 civil or criminal liability as the result of the performance of his duties in
4 compliance with this section.

5 (20) The sheriff of a county shall issue a license to carry a con-
6 cealed weapon to those individuals between the ages of eighteen (18) and
7 twenty-one (21) years who, except for the age requirement contained in sec-
8 tion 18-3302K(4), Idaho Code, would otherwise meet the requirements for
9 issuance of a license under section 18-3302K, Idaho Code. Licenses issued
10 to individuals between the ages of eighteen (18) and twenty-one (21) years
11 under this subsection shall be easily distinguishable from licenses issued
12 pursuant to subsection (7) of this section. A license issued pursuant to
13 this subsection after July 1, 2016, shall expire on the twenty-first birth-
14 day of the licensee. A licensee, upon attaining the age of twenty-one (21)
15 years, shall be allowed to renew the license under the procedure contained in
16 section 18-3302K(9), Idaho Code. Such renewal license shall be issued as an
17 enhanced license pursuant to the provisions of section 18-3302K, Idaho Code.

18 (21) A person carrying a concealed weapon in violation of the provisions
19 of this section shall be guilty of a misdemeanor.

20 (22) The sheriff of the county where the license was issued or the sher-
21 iff of the county where the person resides shall have the power to revoke a
22 license subsequent to a hearing in accordance with the provisions of chapter
23 52, title 67, Idaho Code, for any of the following reasons:

24 (a) Fraud or intentional misrepresentation in the obtaining of a li-
25 cense;

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

29 (c) The doing of an act or existence of a condition that would have been
30 grounds for the denial of the license by the sheriff;

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

32 (e) The applicant is adjudicated guilty of or receives a withheld judg-
33 ment for a crime that would have disqualified him from initially receiv-
34 ing a license.

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

41 (24) The attorney general must contact the appropriate officials in
42 other states for the purpose of establishing, to the extent possible, recog-
43 nition and reciprocity of the license to carry concealed weapons by other
44 states, whether by formal agreement or otherwise. The Idaho state police
45 must keep a copy and maintain a record of all such agreements and reciprocity
46 recognitions, which must be made available to the public.

47 (25) Nothing in subsection (3) or (4) of this section shall be construed
48 to limit the existing rights of a private property owner, private tenant,
49 private employer or private business entity.

1 (26) The provisions of this section are hereby declared to be severable
2 and if any provision of this section or the application of such provision to
3 any person or circumstance is declared invalid for any reason, such declara-
4 tion shall not affect the validity of remaining portions of this section.