

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

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

IDAPA 39.02.04 - Rules Governing Manufacturer and New Vehicle Dealer Hearing Fees (ZBR  
Chapter Repeal) - Proposed Rule (Docket No. 39-0204-2301);

IDAPA 39.02.42 - Rules Governing Conditional Vehicle Registration When Proof of Ownership is  
Insufficient (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0242-2301);

IDAPA 39.02.46 - Rules Governing Temporary Motor Vehicle Registration Permit (ZBR Chapter  
Rewrite) - Proposed Rule (Docket No. 39-0246-2301).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 12/08/2023. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 01/05/2024.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the  
memorandum attached below.



**Terri Kondeff**  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Transportation Committee and the House Transportation & Defense Committee

**FROM:** Division Manager - Matt Drake

**DATE:** November 13, 2023

**SUBJECT:** Idaho Transportation Department

IDAPA 39.02.04 - Rules Governing Manufacturer and New Vehicle Dealer Hearing Fees (ZBR Chapter Repeal) - Proposed Rule (Docket No. 39-0204-2301)

IDAPA 39.02.42 - Rules Governing Conditional Vehicle Registration When Proof of Ownership is Insufficient (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0242-2301)

IDAPA 39.02.46 - Rules Governing Temporary Motor Vehicle Registration Permit (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0246-2301)

**IDAPA 39.02.04 - Rules Governing Manufacturer and New Vehicle Dealer Hearing Fees (ZBR Chapter Repeal) - Proposed Rule (Docket No. 39-0204-2301)**

#### **Summary and Stated Reasons for the Rule**

The Idaho Transportation Department submits Notice of Rulemaking via Docket No. 39-0204-2301. The Department states that the proposed rulemaking repeals IDAPA 39.02.04 in its entirety due to the passage of House Bill 128 of 2023. That bill added sections 49-1617 and 49-1617A, Idaho Code, which provide details on protests, hearings, and mediation for dealers and manufacturers. It appears that these new code provisions render the original rule obsolete.

#### **Negotiated Rulemaking / Fiscal Impact**

The Department states that negotiated rulemaking was conducted. There is no anticipated fiscal impact associated with this rulemaking.

#### **Statutory Authority**

This rulemaking appears to be within the statutory authority granted to the Department in Sections 40-312 and 49-201, Idaho Code.

**IDAPA 39.02.42 - Rules Governing Conditional Vehicle Registration When Proof of Ownership is Insufficient (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 39-0242-2301)**

Paul Headlee, Deputy Director Legislative Services Office	Matt Drake, Manager Research & Legislation	Keith Bybee, Manager Budget & Policy Analysis	April Renfro, Manager Legislative Audits	Norma Clark, Manager Information Technology
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Statehouse, P.O. Box 83720  
Boise, Idaho 83720-0054

Tel: 208-334-2475  
legislature.idaho.gov

### **Summary and Stated Reasons for the Rule**

The Idaho Transportation Department submits Notice of Rulemaking via Docket No. 39-0242-2301. The Department states that the rulemaking combines IDAPA 39.02.04 with IDAPA 39.02.46 (repealed in the following docket). In addition, the rulemaking clarifies when county offices and vehicle dealers may issue temporary registration. The rulemaking also removes language that was deemed unnecessary.

### **Negotiated Rulemaking / Fiscal Impact**

The Department states that negotiated rulemaking was conducted. There is no anticipated fiscal impact associated with this rulemaking.

### **Statutory Authority**

This rulemaking appears to be within the statutory authority granted to the Department in Sections 40-312 and 49-201, Idaho Code.

### **IDAPA 39.02.46 - Rules Governing Temporary Motor Vehicle Registration Permit (ZBR Chapter Repeal) - Proposed Rule (Docket No. 39-0246-2301)**

### **Summary and Stated Reasons for the Rule**

The Idaho Transportation Department submits Notice of Rulemaking via Docket No. 39-0246-2301. The rulemaking repeals IDAPA 39.02.46 because it has been combined into IDAPA 39.02.42 in the previously described docket.

### **Negotiated Rulemaking / Fiscal Impact**

The Department states that negotiated rulemaking was conducted. There is no anticipated fiscal impact associated with this rulemaking.

### **Statutory Authority**

This rulemaking appears to be within the statutory authority granted to the Department in Sections 40-312 and 49-201, Idaho Code.

cc: Idaho Transportation Department  
Brendan Floyd

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

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

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.02.04 – RULES GOVERNING MANUFACTURER AND NEW VEHICLE DEALER HEARING FEES

#### DOCKET NO. 39-0204-2301 (ZBR CHAPTER REPEAL)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2023.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The department is seeking to repeal this rule due to the passage of House Bill 128 in 2023. This rule prescribes the fees and refunds for department hearings concerning disputes between vehicle dealers and manufacturers. House Bill 128 changes the hearing process, rendering this Rule obsolete.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: This rule requires a vehicle dealer requesting a hearing to deposit a \$2,000 dollar filing fee with the department.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 3, 2023, Idaho Administrative Bulletin, Vol. 23-5, pages 174-175.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2023.

DATED this 1st Day of September 2023.

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

**IDAPA 39.02.04 IS BEING REPEALED IN ITS ENTIRETY**

**IDAHA 39 – IDAHO TRANSPORTATION DEPARTMENT**  
**39.02.42 – RULES GOVERNING CONDITIONAL VEHICLE REGISTRATION**  
**WHEN PROOF OF OWNERSHIP IS INSUFFICIENT**  
**DOCKET NO. 39-0242-2301 (ZBR CHAPTER REWRITE)**  
**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2023.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

39.02.42 addresses allowances for the department to issue temporary registration when ownership of a vehicle is unclear. The intent is to remove unnecessary language and combine the rule with conceptual similar rule - 39.02.46.

39.02.46 clarifies conditions when county offices and vehicle dealers may issue a temporary registration. The intent is to remove unnecessary language and combine the rule with a conceptually similar rule - 39.02.42.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 3, 2023, Idaho Administrative Bulletin, [Vol. 23-5, pages 174-175](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2023.

DATED this 1st Day of September 2023.

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Policy Specialist  
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[Brendan.floyd@itd.idaho.gov](mailto:Brendan.floyd@itd.idaho.gov)

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0242-2301  
(ZBR Chapter Rewrite)

**39.02.42 – RULES GOVERNING CONDITIONAL VEHICLE REGISTRATION  
WHEN PROOF OF OWNERSHIP IS INSUFFICIENT AND TEMPORARY REGISTRATION**

**000. LEGAL AUTHORITY.**

This rule is adopted under the authority of Sections 49-201, 49-444, 49-501, 49-507 and 49-523, Idaho Code.

(3-31-22)( )

**001. TITLE AND SCOPE PURPOSE.**

**01. Title.** This rule is cited as IDAPA 39.02.42, “Rules Governing Conditional Vehicle Registration When Proof of Ownership is Insufficient” and issuance of thirty (30)-day temporary motor vehicle permits. (3-31-22)( )

**02. Scope.** The purpose of this rule establishes conditional vehicle registration when the applicant does not have sufficient proof of ownership. This rule provides operating privileges for a specific time period and does not apply to Idaho licensed dealers, non residents of Idaho; or owners and/or operators of non Idaho based commercial vehicles operated in interstate commerce under the various proportional registration plans or agreements with other states of which Idaho is a participant. (3-31-22)

**002. ADMINISTRATIVE APPEALS.**

Administrative appeals under this chapter are governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (3-31-22)

**003. -- 099. (RESERVED)**

**100. GENERAL PROVISIONS FOR INSUFFICIENT PROOF OF OWNERSHIP INCLUDES CONDITIONAL REGISTRATION.**

**01. Vehicle Record.** The vehicle for which record of ownership is unavailable; (3-31-22)

**02. Title.** The applicant does not have the title from the previous owner; (3-31-22)

**03. Release of Interest.** The previous owner of record has not released interest in the title; (3-31-22)

**04. Bill of Sale.** The possessor has the unreleased title but does not have a bill of sale to support transfer of ownership; (3-31-22)

**05. Vehicle Identification Number.** The title vehicle identification number (VIN) and the VIN on the vehicle do not match (except for obvious typographical errors); or (3-31-22)

**06. Documentation for Component Part.** Component parts of a homemade, reconstructed or specially constructed vehicle cannot be documented. (3-31-22)

**01. Issuance of Conditional Registration.** When all titling requirements cannot be completed but reasonable proof of ownership has been provided, conditional registration may be issued, for a one (1) year period without benefit of title or for up to a two (2) year period if purchased from a licensed Idaho vehicle dealer, by Idaho residents. ( )

**02. Applicant Responsibility.** By the expiration of the conditional registration period, the applicant must complete the titling requirements for the vehicle issued a conditional registration. The conditional registration will not be extended and no further registration (permanent or temporary) will be issued, until all the title requirements have been met. ( )

**03. Issuance to Recreational Vehicles.** Conditional registrations issued to recreational vehicles will expire in accordance with Section 49-445, Idaho Code, and will require the purchase of the recreational vehicle annual license pursuant to Section 49-444, Idaho Code. ( )

**04. Ineligible Vehicles.** Vehicles with altered VINs, vehicles confirmed as stolen, salvage vehicles that have not been retitled as rebuilt, wheel mounted equipment, commercial vehicles over twenty six thousand (26,000) pounds, and noncommercial or farm vehicles over sixty thousand (60,000) pounds are not eligible to be issued a conditional registration. ( )

101. -- 199. (RESERVED)

200. **PROCEDURE**30-DAY TEMPORARY REGISTRATION.

**01. Conditional Registration.** ~~“Registration Only” (conditional registration until titling requirements are met) may be processed for a one (1) year period without benefit of title. “Registration Only” will not be issued on vehicles with altered VINs, vehicles confirmed as stolen or vehicles where there is a recorded and unpaid lien.~~ (3-31-22)

**02. Conditional Registration Procedure.** ~~“Registration Only” procedure is as follows:~~ (3-31-22)

**a.** ~~VIN Inspection: The vehicle must be inspected by an agent of the county assessor’s office or a city, county or state peace officer. The inspecting officer will verify the identification number and provide the applicant with a signed inspection form containing the vehicle description, other pertinent information and recommendations. If the VIN has been altered or is missing, the officer may ask for the assistance of a motor vehicle investigator before issuing the VIN inspection.~~ (3-31-22)

**b.** ~~Indemnifying Affidavit. The “Registration Only” applicant will complete an indemnifying affidavit explaining how and where the vehicle came into the applicant’s possession, and why proper documentation is not available. The indemnifying affidavit must be signed, and fully indemnify and save harmless the department.~~ (3-31-22)

**c.** ~~Registration of the Vehicle: The vehicle may be registered for one (1) year. The title block of the registration document will show “Reg-Only” in bold letters. The applicant must obtain adequate proof of ownership prior to the expiration of the registration period. The one (1) year “Registration Only” period will not be extended.~~ (3-31-22)

**d.** ~~The county will hold the VIN inspection and the indemnifying affidavit in file until the applicant complies with requirements in Subsection 200.04.~~ (3-31-22)

**03. Applicant Responsibility.** ~~By the expiration of the “Registration Only” period, the applicant must present a properly executed title and bill of sale for the vehicle or apply for a bonded or conditional title.~~ (3-31-22)

**04. Action by the County Assessor.** ~~When the applicant has complied with Subsection 200.03, the county assessor will pull the VIN inspection and indemnifying affidavit from their file; prepare an Application for Title; and submit the application form with the title, bill of sale, indemnifying affidavit and VIN inspection for title processing.~~ (3-31-22)

**05. Proof of Ownership.** ~~If the applicant cannot prove ownership within the one (1) year “Registration Only” period, no further registration (permanent or temporary) will be issued until after the title requirement is met.~~ (3-31-22)

**01. Issuance of 30 Day Temporary Registration.** County assessors, the Department, Licensed Idaho

vehicle dealers, or agents of the Department may issue one thirty (30) day temporary registration to out-of-state residents who purchased a vehicle in Idaho and are transporting their newly purchased vehicle to their state of residence. ( )

**02. Ineligible Vehicles.** Vehicles with altered VINs, vehicles confirmed as stolen, salvage vehicles that have not been retitled as rebuilt, wheel mounted equipment, and vehicles or vehicle combinations, except motorhomes, over twenty six thousand (26,000) pounds are not eligible to be issued a 30 day temporary registration. ( )

201. -- 999. (RESERVED)



## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.02.46 – RULES GOVERNING TEMPORARY MOTOR VEHICLE REGISTRATION PERMIT

#### DOCKET NO. 39-0246-2301 (ZBR CHAPTER REPEAL)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2023.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

39.02.46 clarifies conditions when county offices and vehicle dealers may issue a temporary registration. The intent is to remove unnecessary language and combine the rule with a conceptually similar rule, 39.02.42, thereby repealing 39.02.46.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 3, 2023, Idaho Administrative Bulletin, [Vol. 23-5, pages 174-175](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2023.

DATED this 1st Day of September 2023.

Brendan Floyd  
Policy Specialist  
Idaho Transportation Department  
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**IDAPA 39.02.46 IS BEING REPEALED IN ITS ENTIRETY**