

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 444

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO FIREARMS, EXPLOSIVES AND OTHER DEADLY WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO REVISE APPLICATION REQUIREMENTS FOR A LICENSE TO CARRY CONCEALED WEAPONS AND TO MAKE TECHNICAL CORRECTIONS.

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. ISSUANCE OF LICENSES TO CARRY CONCEALED WEAPONS. (1) The sheriff of a county, on behalf of the state of Idaho, shall, within ninety (90) days after the filing of an application by any person who is not disqualified from possessing or receiving a firearm under state or federal law, issue a license to the person to carry a weapon concealed on his person within this state. For licenses issued before July 1, 2006, a license shall be valid for four (4) years from the date of issue. For licenses issued on or after July 1, 2006, a license shall be valid for five (5) years from the date of issue. The citizen's constitutional right to bear arms shall not be denied to him, unless he:

(a) Is ineligible to own, possess or receive a firearm under the provisions of state or federal law; ~~or~~

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

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

(d) Is a fugitive from justice; ~~or~~

(e) Is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance as defined in 21 U.S.C. 802; ~~or~~

(f) Is currently suffering or has been adjudicated as follows, based on substantial evidence:

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

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

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

(iv) An incapacitated person as defined in section 15-5-101(a), Idaho Code; ~~or~~.

(g) Is or has been discharged from the armed forces under dishonorable conditions; ~~or~~

(h) Is or has been adjudicated guilty of or received a withheld judgment or suspended sentence for one (1) or more crimes of violence constituting a misdemeanor, unless three (3) years ~~has~~ have elapsed

1 since disposition or pardon has occurred prior to the date on which the
2 application is submitted; ~~or~~

3 (i) Has had entry of a withheld judgment for a criminal offense which
4 would disqualify him from obtaining a concealed weapon license; ~~or~~

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

6 (k) Is a person who having been a citizen of the United States, has
7 renounced his or her citizenship; ~~or~~

8 (l) Is under twenty-one (21) years of age; ~~or~~

9 (m) Is free on bond or personal recognizance pending trial, appeal
10 or sentencing for a crime which would disqualify him from obtaining a
11 concealed weapon license; or

12 (n) Is subject to a protection order issued under chapter 63, title
13 39, Idaho Code, that restrains the person from harassing, stalking or
14 threatening an intimate partner of the person or child of the intimate
15 partner or person, or engaging in other conduct that would place an
16 intimate partner in reasonable fear of bodily injury to the partner or
17 child.

18 The license application shall be in ~~triplicate, in~~ a form to be
19 prescribed by the director of the Idaho state police, and shall ask
20 the name, address, description and signature of the licensee, date
21 of birth, place of birth, social security number, military status,
22 citizenship and the driver's license number or state identification
23 card number of the licensee if used for identification in applying
24 for the license. The application shall indicate that provision of the
25 social security number is optional. The license application shall
26 contain a warning substantially as follows:

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

31 The sheriff shall require any person who is applying for original
32 issuance of a license to submit his fingerprints in addition to the
33 other information required in this subsection. Within five (5) days
34 after the filing of an application, the sheriff shall forward the
35 application and fingerprints to the Idaho state police for a records
36 check of state and national files. The Idaho state police shall conduct
37 a national fingerprint-based records check and return the results
38 to the sheriff within seventy-five (75) days. The sheriff shall not
39 issue a license before receiving the results of the records check and
40 must deny a license if the applicant is disqualified under any of the
41 criteria listed in paragraphs (a) through (n) of this subsection ~~(1) of~~
42 ~~this section~~.

43 The license will be in a form substantially similar to that of the
44 Idaho driver's license. It will bear the signature, name, address, date
45 of birth, picture of the licensee, expiration date and the driver's
46 license number or state identification card number of the licensee if
47 used for identification in applying for the license. Upon issuing a
48 license under the provisions of this section, the sheriff will notify
49 the Idaho state police on a form or in a manner prescribed by the state
50 police. Information relating to an applicant or licensee received or

1 maintained pursuant to this section by the sheriff or Idaho state police
2 is confidential and exempt from disclosure under section 9-338, Idaho
3 Code.

4 (2) The fee for original issuance of a license shall be twenty dollars
5 (\$20.00) paid to the sheriff for the purpose of enforcing the provisions
6 of this chapter. The sheriff may collect any additional fees necessary to
7 cover the cost of processing fingerprints lawfully required by any state
8 or federal agency or department, and the cost of materials for the license
9 lawfully required by any state agency or department, which costs shall be
10 paid to the state.

11 (3) The fee for renewal of the license shall be fifteen dollars
12 (\$15.00). The sheriff may collect any additional fees necessary to cover
13 the processing costs lawfully required by any state or federal agency or
14 department, and the cost of materials for the license lawfully required by
15 any state agency or department, which costs shall be paid to the state. If
16 a licensee applying for renewal has not previously been required to submit
17 fingerprints, the sheriff shall require the licensee to do so and may collect
18 any additional fees necessary to cover the cost of processing fingerprints
19 lawfully required by any state or federal agency or department.

20 (4) Every license that is not, as provided by law, suspended, revoked
21 or disqualified in this state shall be renewable at any time during the
22 ninety (90) day period before its expiration or within ninety (90) days
23 after the expiration date. Renewal notices shall be mailed out ninety (90)
24 days prior to the expiration date of the license. The sheriff shall require
25 the licensee applying for renewal to complete an application. The sheriff
26 shall submit the application to the Idaho state police for a records check
27 of state and national databases. The Idaho state police shall conduct the
28 records check and return the results to the sheriff within thirty (30) days.
29 The sheriff shall not issue a renewal before receiving the results of the
30 records check and must deny a license if the applicant is disqualified under
31 any of the criteria listed in subsection (1), paragraphs (a) through (n)
32 of this section. A renewal license shall be valid for a period of five (5)
33 years. A license so renewed shall take effect on the expiration date of
34 the prior license. A licensee renewing ninety-one (91) days or more after
35 the expiration date of the license shall pay a late renewal penalty of ten
36 dollars (\$10.00) in addition to the renewal fee. The fee shall be paid to the
37 sheriff for the purpose of enforcing the provisions of this chapter.

38 (5) Notwithstanding the requirements of this section, the sheriff of
39 the county of the applicant's residence may issue a temporary emergency
40 license for good cause pending review under subsection (1) of this section.

41 (6) A city, county or other political subdivision of this state shall
42 not modify the requirements of this section, nor may a political subdivision
43 ask the applicant to voluntarily submit any information not required in this
44 section. A civil action may be brought to enjoin a wrongful refusal to issue
45 a license or a wrongful modification of the requirements of this section.
46 The civil action may be brought in the county in which the application was
47 made or in Ada county at the discretion of the petitioner. Any person who
48 prevails against a public agency in any action in the courts for a violation
49 of subsections (1) through (5) of this section, shall be awarded costs,

1 including reasonable attorney's fees incurred in connection with the legal
2 action.

3 (7) Except in the person's place of abode or fixed place of business,
4 or on property in which the person has any ownership or leasehold interest,
5 a person shall not carry a concealed weapon without a license to carry a
6 concealed weapon. For the purposes of this section, a concealed weapon means
7 any dirk, dirk knife, bowie knife, dagger, pistol, revolver, or any other
8 deadly or dangerous weapon. The provisions of this section shall not apply
9 to any lawfully possessed shotgun or rifle.

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

14 (9) While in any motor vehicle, inside the limits or confines of any
15 city, a person shall not carry a concealed weapon on or about his person
16 without a license to carry a concealed weapon. This shall not apply to any
17 firearm located in plain view whether it is loaded or unloaded. A firearm may
18 be concealed legally in a motor vehicle so long as the weapon is disassembled
19 or unloaded.

20 (10) In implementing the provisions of this section on behalf of the
21 state of Idaho, the sheriff shall make applications readily available at the
22 office of the sheriff or at other public offices in his jurisdiction.

23 (11) The sheriff of a county may issue a license to carry a concealed
24 weapon to those individuals between the ages of eighteen (18) and twenty-one
25 (21) years who in the judgment of the sheriff warrant the issuance of the
26 license to carry a concealed weapon. Such issuance shall be subject to
27 limitations which the issuing authority deems appropriate. Licenses issued
28 to individuals between the ages of eighteen (18) and twenty-one (21) years
29 shall be easily distinguishable from regular licenses.

30 (12) The requirement to secure a license to carry a concealed weapon
31 under this section shall not apply to the following persons:

32 (a) Officials of a county, city, state of Idaho, the United States,
33 peace officers, guards of any jail, court appointed attendants or any
34 officer of any express company on duty;

35 (b) Employees of the adjutant general and military division of the
36 state where military membership is a condition of employment when on
37 duty;

38 (c) Criminal investigators of the attorney general's office, criminal
39 investigators of a prosecuting attorney's office, prosecutors and
40 their deputies;

41 (d) Any person outside the limits of or confines of any city while
42 engaged in lawful hunting, fishing, trapping or other lawful outdoor
43 activity;

44 (e) Any publicly elected Idaho official;

45 (f) Retired peace officers or detention deputies with at least ten (10)
46 years of service with the state or a political subdivision as a peace
47 officer or detention deputy and who have been certified by the peace
48 officer standards and training council;

49 (g) Any person who has a valid permit from a state or local law
50 enforcement agency or court authorizing him to carry a concealed

1 weapon. A permit issued in another state will only be considered valid
2 if the permit is in the licensee's physical possession.

3 (13) When issuing a license pursuant to this section, the sheriff may
4 require the applicant to demonstrate familiarity with a firearm and shall
5 accept any of the following, provided the applicant may select which one (1):

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

8 ~~or~~

9 (b) Completion of any national rifle association firearms safety or
10 training course~~7~~ or any national rifle association hunter education
11 course; ~~or~~

12 (c) Completion of any firearms safety or training course or class
13 available to the general public offered by a law enforcement agency,
14 community college, college, university, or private or public
15 institution or organization or firearms training school, utilizing
16 instructors certified by the national rifle association or the Idaho
17 state police; ~~or~~

18 (d) Completion of any law enforcement firearms safety or training
19 course or class offered for security guards, investigators, special
20 deputies, or any division or subdivision of a law enforcement agency or
21 security enforcement agency; ~~or~~

22 (e) Presents evidence or equivalent experience with a firearm through
23 participation in organized shooting competition or military service;

24 ~~or~~

25 (f) Is licensed or has been licensed to carry a firearm in this state or
26 a county or municipality, unless the license has been revoked for cause;
27 or

28 (g) Completion of any firearms training or training or safety course
29 or class conducted by a state certified or national rifle association
30 certified firearms instructor.

31 (14) A person carrying a concealed weapon in violation of the provisions
32 of this section shall be guilty of a misdemeanor.

33 (15) The sheriff of the county where the license was issued or the
34 sheriff of the county where the person resides shall have the power to revoke
35 a license subsequent to a hearing in accordance with the provisions of
36 chapter 52, title 67, Idaho Code, for any of the following reasons:

37 (a) Fraud or intentional misrepresentation in the obtaining of a
38 license; ~~or~~

39 (b) Misuse of a license, including lending or giving a license to
40 another person, ~~or~~ duplicating a license~~7~~ or using a license with the
41 intent to unlawfully cause harm to a person or property; ~~or~~

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

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

45 (e) The applicant is adjudicated guilty of or receives a withheld
46 judgment for a crime which would have disqualified him from initially
47 receiving a license.

48 (16) A person twenty-one (21) years of age or older issued a license to
49 carry a concealed weapon is exempt from any requirement to undergo a records
50 check at the time of purchase or transfer of a firearm from a federally

1 licensed firearms dealer. However, a temporary emergency license issued
2 under subsection (5) of this section shall not exempt the holder of the
3 license from any records check requirement. Temporary emergency licenses
4 shall be easily distinguishable from regular licenses.

5 (17) The attorney general is authorized to negotiate reciprocal
6 agreements with other states related to the recognition of licenses to carry
7 concealed weapons. The Idaho state police shall keep a copy and maintain a
8 record of all such agreements, which shall be made available to the public.

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