

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 444, As Amended

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 one (1) of the following applies. 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~~  
6           whichever of the following applies:

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

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

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

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

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

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27          a county or municipality, unless the license has been revoked for cause;  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

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

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

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

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

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

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

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

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

49          (16) A person twenty-one (21) years of age or older issued a license to  
50          carry a concealed weapon is exempt from any requirement to undergo a records

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

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

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