

Dear Senators HAMMOND, Brackett, Werk, and
Representatives PALMER, Ellsworth, Ringo:

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

IDAPA 39.02.61 - Rules Pertaining To The Rules Governing License Plates for Governmental
Agencies and Taxing Districts (Docket No. 39-0261-1201);

IDAPA 39.02.71 - Rules Pertaining To The Rules Governing Driver's License Violation Point System
(Docket No. 39-0271-1201).

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 11/01/2012. 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 11/30/2012.

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 334-4845, or send a written request to the address on the
memorandum attached below.



Jeff Youtz
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: Principal Legislative Research Analyst - Eric Milstead

DATE: October 15, 2012

SUBJECT: Idaho Transportation Department

IDAPA 39.02.61 - Rules Pertaining To The Rules Governing License Plates for Governmental Agencies and Taxing Districts (Docket No. 39-0261-1201)

IDAPA 39.02.71 - Rules Pertaining To The Rules Governing Driver's License Violation Point System (Docket No. 39-0271-1201)

1. The Idaho Department of Transportation has submitted proposed rulemaking at IDAPA 39.02.61 - Rules Pertaining To The Rules Governing License Plates for Governmental Agencies and Taxing Districts (Docket No. 39-0261-1201). The substantive change reflected in the proposed rule concerns the issuance of undercover license plates and brings that program into line with how other exempt vehicle registrations are handled. Currently, the undercover license plate program is the lone program exempt from paying for administrative costs. The proposed rule changes this situation and provides that undercover license plates be assessed the administrative costs associated with the program. The proposed rule will make the application process and registration cost consistent for all exempt plates. The Department notes that it is currently absorbing the costs of the undercover plates program which are estimated to be about \$48,300 annually.

The Department notes that the proposed rule, if approved, shall take effect July 1, 2013. The Department states that negotiated rulemaking was not conducted because the rulemaking will place the "responsibility and accountability for costs associated with their respective vehicles with the various state and federal agencies and local jurisdictions. The Department specifically notes that the proposed rule will make the undercover plates program consistent with all other exempt plate programs, which includes the payment of administrative costs only.

It appears that the proposed rule is authorized pursuant to Sections 49-201 and 49-443B, Idaho Code.

2. The Idaho Department of Transportation has submitted proposed rulemaking at IDAPA 39.02.71 - Rules Pertaining To The Rules Governing Driver's License Violation Point System (Docket No. 39-0271-1201). The proposed rule updates the Department's violation point count system relating to various moving traffic infractions. The proposed rule reflects violations in various sections of Idaho Code, and also establishes provisions which acknowledge Idaho Code sections which provide for point exemptions, for example the new "texting" statute, Section 49-1401A, Idaho Code. (Rules 100.02 and 200).

Mike Nugent Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

It appears the proposed rule is authorized pursuant to Sections 49-201 and 49-326, Idaho Code.

cc: Idaho Transportation Department

Linda L. Emry, Rules Coordinator; Ed Pemble & Christine Fisher

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.61 - RULES GOVERNING LICENSE PLATES FOR GOVERNMENTAL AGENCIES AND TAXING DISTRICTS

DOCKET NO. 39-0261-1201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking procedures. The action is authorized pursuant to Section(s) 49-201 and 49-443B, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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:

This rule is needed to create equity for those agencies eligible for exempt vehicle registration. One program is currently exempt from any payment, with all costs subsidized by the Department. This rulemaking will make the application process and registration cost consistent for all exempt plates. It adds provisions specific to the undercover plate program. It also adds standard language required by the Office of Administrative Rules, Sections 002 through 006. In order to provide sufficient time for implementation and budget considerations, if the pending rule is approved as a final rule after legislative review, the requested effective date will July 1, 2013.

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:

Currently, the Department is absorbing the costs for undercover plates which has grown to 2,100 requests processed annually. At \$23 per transaction, the Department is subsidizing these programs at approximately \$48,300 per year. State agencies receive 353 plates (\$8,110), Cities and Counties receive 1,022 plates (\$23,506), and the remaining plates are obtained by federal agencies and surrounding states for law enforcement/investigative purposes. To accommodate budget planning, should the pending rule be approved as final, the requested effective date is July 1, 2013.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because in keeping with legislative direction that administrative costs be borne by the user, this rulemaking will place the responsibility and accountability for costs associated with their respective vehicles with the various state and federal agencies and local jurisdictions. Unlike all other exempt plates, undercover plates do not pay any portion of associated administrative costs. This rulemaking will formalize the process, making it consistent with all other exempt plate programs, which includes the payment of administrative costs only.

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: No materials are being incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Christine Fisher, 334-8679.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 17th day of August, 2012.

Linda L. Emry
Office of Governmental Affairs
Idaho Transportation Department
3311 W State Street
PO Box 7129, Boise ID 83707-1129
Phone – 208-334-8810
FAX – 208-332-4107
linda.emry@itd.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0261-1201

000. LEGAL AUTHORITY.

This rule, establishing the policies used to administer Idaho's exempt and undercover license plate programs is adopted under authority of Sections 49-201 and 49-443B, Idaho Code. ~~(1-2-93)~~()

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.02.61, Rules Governing License Plates for Governmental Agencies and Taxing Districts. ()

02. Scope. This rule establishes the *criteria* provisions for administering the exempt and under cover license plate programs, not otherwise detailed in Title 49, Chapter 4, Idaho Code, Motor Vehicle Registration. ~~(1-2-93)~~()

002. WRITTEN INTERPRETATIONS.

This agency does not rely on written interpretations for these rules. ()

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of IDAPA 04.11.01. "Idaho Rules of Administrative Procedure of the Attorney General." ()

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. ()

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129. ()

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. Mountain Time Zone except Saturday, Sunday and state holidays. ()

03. Telephone and FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8649 or by fax at 208-334-8542. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Exempt License Plate. Standard license plate issued to the entities described in Section 49-426(1), Idaho Code, which are exempt from payment of vehicle operating fees. (1-2-93)

02. Exempt Personalized License Plate. An exempt plate which specifically identifies the agency by a unique identifier specified by the agency that does not conform to the standard exempt identifier listed in Section 100; a plate wherein the serial number portion represents inventory control numbers, badge numbers, radio call signs, or other unique lettering or numbering schemes developed by the requesting agency; plates that are lettered and/or numbered to indicate a person's position in the hierarchy of an agency. (1-2-93)

03. Undercover License Plate. A standard license plate issued upon application to the Department from an exempt agency with law enforcement authority. Undercover license plates shall be randomly issued by the Department, and appear as a standard county plate. ()

(BREAK IN CONTINUITY OF SECTIONS)

200. ISSUING AGENCY.

All exempt and undercover license plates will be issued by the Idaho Transportation Department upon receipt of a request from an authorized agency. (~~1-2-93~~)()

201. -- 299. (RESERVED)

300. INFORMATION TO BE PROVIDED BY AN AUTHORIZED AGENCY.

A request for exempt or undercover plates must contain: (~~1-2-93~~)()

01. Actual Name and Address. The name and address of the requesting agency. (~~1-2-93~~)()

02. Vehicle Description. The description of the vehicle(s) to be registered, including the year, the make, model, type, vehicle identification (VIN), color and title number, and truck weight if eight thousand one pounds (8,001 lbs.) or more. (1-2-93)

03. Fictitious Name and Address. The name and address of the registrant to appear on the undercover plate registration, and title records of the Department. ()

034. Authorized Official. The request must be signed by an authorized official of the authorized agency. (1-2-93)

301. -- 399. (RESERVED)

400. VEHICLE TITLING.

01. For Exempt Registration and License Plates. If the vehicle is not titled, the title transaction shall be completed at the local county assessor's office before requesting exempt plates. The control number from the title application may be used in lieu of the title number on the exempt plate request letter. (~~1-2-93~~)()

02. Undercover Vehicle Titling. The actual name and address of the requesting agency, along with the fictitious name and address of the registrant shall be provided directly to the Department on a completed application approved by the authorized official. ()

401. -- 499. (RESERVED)

500. EXEMPT AND UNDERCOVER PLATE FEES.

01. Department Reimbursement. State and federal agencies and taxing districts must reimburse the Department the cost of providing license plates. These costs shall be determined by the cost of manufacture and the cost to the Department of processing the transaction. (1-2-93)()

02. Adjusted Fees. Periodically, fees may be adjusted in accordance with changes in manufacturing costs, postage, employee costs and legislative mandate. (1-2-93)

(BREAK IN CONTINUITY OF SECTIONS)

601. UNDERCOVER PLATE DISPLAY.

Undercover license plates shall be displayed in accordance with Section 49-428, Idaho Code. A pressure-sensitive sticker displaying an expiration date matching the plate number shall be attached to the plate(s) in the space provided for this purpose. There shall be no discerning markings to indicate that the plate or registration record is in undercover use. ()

~~601~~2. -- 699. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

801. UNDERCOVER PLATE STATUS.

01. Expiration of Plates. Undercover license plates shall expire annually or biennially based upon the application of the authorized agency. Registration status shall appear as valid, until expiration date. Renewals must be made to the Department upon expiration of the undercover license plate. ()

02. Transfer of Plates. Undercover license plates may be transferred between vehicles. If an undercover license plate is transferred to another vehicle, a transfer request must be made to the Department's Vehicle Services Section/Special Plates Unit. ()

03. Reissue of Plates. Physical undercover plates will be reissued in accordance with Section 49-443(2), Idaho Code. ()

04. Emission Testing of Undercover Vehicles. Vehicles issued undercover license plates who list an address in a county or area of required emission testing will need to check with the emission authority to be exempted from the testing requirement, or test as a typical registered vehicle. ()

~~801~~2. -- 999. (RESERVED)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.71 - RULES GOVERNING DRIVER'S LICENSE VIOLATION POINT SYSTEM

DOCKET NO. 39-0271-1201

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking procedures. The action is authorized pursuant to Section(s) 49-201 and 49-326, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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: Section 49-326, Idaho Code, authorizes and directs the department to establish a violation point count system for various moving traffic violations and infractions. This rule implements the system and provides information and guidance to the public and those drivers impacted by violation points. This rulemaking updates the rule with standard required language in Sections 005 and 006, updates the Point Count List with specific violations and acknowledges the point exemption to certain violations, such as texting, in Section 49-1401A, Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee or charge imposed or increased in this rulemaking.

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: There is no fiscal impact on the state general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule is being updated to reflect violations in Sections 49-624, 49-650, and 49-658, Idaho Code, which identify Moving Traffic Violations and also acknowledge statutes which may provide a point exemption such as Section 49-1401A, Idaho Code, with regard to texting (Senate Bill 1274, 2012).

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: No materials are being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ed Pemble, Driver Services Manager, 332-7830.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 17th day of August, 2012.

Linda L. Emry
Office of Governmental Affairs
Idaho Transportation Department

linda.emry@itd.idaho.gov
Phone – 208-334-8810 / FAX – 208-332-4107
3311 W State St, PO Box 7129, Boise ID 83707-1129

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0271-1201

005. OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESS – PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street, with mailing address of PO Box 7129, Boise ID 83707-1129. ()

02. Office Hours. Daily office hours are 8:00 am to 5:00 pm, Mountain Time, except Saturday, Sunday and state holidays. ()

03. Telephone and FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-8739. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. ()

0057. -- 099. (RESERVED)

100. VIOLATION POINT COUNT SYSTEM.

01. Points for Moving Traffic Violations. The Idaho Code authorizes the Department to establish a violation point count system for drivers convicted of various moving traffic violations and infractions occurring either within the state of Idaho, or outside the state of Idaho. Therefore, a schedule of violation points for moving traffic violations and infractions has been established. Moving traffic violations and infractions are violations that occur while operating a motor vehicle. (7-1-97)

02. Violation Point Count List. The following violation point count list includes all moving violations and infractions in ~~the~~ Idaho Code, and the appropriate sections. Convictions of moving violations and infractions not herein listed which are violations of a state law or municipal ordinance will receive three (3) violation points, except those for which mandatory suspension/revocation is required by statute or the statute provides a point exemption. (7-1-97)()

03. Points Assessed. Each moving traffic conviction and infractions shall be assessed from one (1) point for less serious violations to a maximum of four (4) points for more serious violations. The degree of seriousness of moving traffic violations and infractions has been determined by considering the possibility of bodily injury or property damage resulting from such violation. (7-1-97)

04. Dual Violation. In cases where the driver is convicted of more than one (1) violation arising from one (1) occasion of arrest or citation, only one (1) conviction will be counted and assessed points against the driver's record. The conviction counted will be counted with the greater amount of points. (7-20-89)

05. Speeding Violation. Drivers convicted of traveling sixteen (16) miles per hour or more over the posted maximum speed limit or exceeding the speed limit in a construction danger zone will receive four (4) points. Driving convictions of ~~IDAPA 39.02.71~~ other speeding violations will receive three (3) points. (7-1-97)()

101. -- 199. (RESERVED)

200. LIST OF MOVING TRAFFIC CONVICTIONS AND/OR VIOLATIONS POINT COUNT.

Idaho Code	Convictions Reported by Court	Point Count
49-603	Starting Parked Vehicle	two (2)

Idaho Code	Convictions Reported by Court	Point Count
49-604	Limitations On Backing	one (1)
49-615	Drivers To Exercise Due Care	three (3)
49-616	Driving Through Safety Zone Prohibited	two (2)
<u>49.624</u>	<u>Duty Upon Approaching a Stationary Police Vehicle, or Emergency Vehicle Dis-playing Flashing Lights</u>	<u>three (3)</u>
49-625	Operation Of Vehicles On Approach Of Authorized Emergency Police Vehicles	three (3)
49-630	Drive On Right Side of Road - Exceptions	three (3)
49-631	Passing Vehicles Proceeding In Opposite Directions	two (2)
49-632	Overtaking A Vehicle On Left	three (3)
49-633	When Passing On The Right Is Permitted	two (2)
49-634	Limitations On Overtaking On The Left	three (3)
49-635	Further Limitations On Driving On Left Of Center Of Highway	three (3)
49-636	One-way Highways	one (1)
49-637	Driving On Highways Laned For Traffic	one (1)
49-638	Following Too Closely	three (3)
49-640	Vehicles Approaching Or Entering Unmarked Or Uncontrolled Intersection	three (3)
49-641	Vehicle Turning Left	three (3)
49-642	Vehicle Entering Highway	three (3)
49-644	Required Position And Method Of Turning	three (3)
49-645	Limitations On Turning Around	three (3)
49-648	Obedience To Signal Indicating Approach Of Train	four (4)
49-649	Compliance With Stopping Requirement At All Railroad Grade Crossing	four (4)
<u>49-650</u>	<u>Failure to Allow Sufficient Undercarriage Clearance at Railroad Grade Crossing</u>	<u>three (3)</u>
49-651	Emerging From Alley, Driveway Or Building	three (3)
49-654	Basic Rule And Maximum Speed Limits	three (3) four (4)
49-655	Minimum Speed Regulation	three (3)
49-656	Special Speed Limitations	three (3) four (4)
49-657	Construction Danger Zone Speed Limits	three (3)
<u>49-658</u>	<u>School Zone Speed Limit</u>	<u>three (3)</u>
49-702	Pedestrians' Right Of Way In Crosswalks	three (3)
49-801	Obedience To And Required Traffic Control Devices	three (3)
49-802	Traffic Control Signal Legend	three (3)
49-804	Flashing Signals	three (3)

Idaho Code	Convictions Reported by Court	Point Count
49-807(2)	Stop Signs	three (3)
49-807(3)	Failure To Yield – Signed Intersection	three (3)
49-808	Turning Movements And Required Signals	three (3)
49-1302	Duty To Give Information In Accident Involving Damage To A Vehicle	four (4)
49-1303	Duty Upon Striking Unattended Vehicle	four (4)
49-1304	Duty Upon Striking Fixtures Upon Or Adjacent To A Highway	four (4)
49-1401(3)	Inattentive Driving	three (3)
<u>49-1401A</u>	<u>Texting While Driving</u>	<u>Exempt</u>
49-1419	Obedience To Traffic Direction	two (2)
49-1421(1)	Driving On Divided Highways	one (1)
49-1421(2)	Restricted Access	one (1)
49-1422	Overtaking And Passing School Bus	four (4)
49-1424	Racing On Public Highways	four (4)

~~(3-30-01)~~()