

Dear Senators TIPPETS, Patrick, Schmidt, and  
Representatives HENDERSON, Thompson, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Bureau of Occupational Licenses - Idaho Driving Businesses Licensure Board:  
IDAPA 24.25.01 - Rules of the Idaho Driving Businesses Licensure Board (Docket No. 24-2501-1301).

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 07/26/2013. 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 08/23/2013.

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

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*Serving Idaho's Citizen Legislature*

## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee  
**FROM:** Senior Legislative Research Analyst - Ryan Bush  
**DATE:** July 9, 2013  
**SUBJECT:** Bureau of Occupational Licenses - Idaho Driving Businesses Licensure Board

IDAPA 24.25.01 - Rules of the Idaho Driving Businesses Licensure Board (Docket No. 24-2501-1301)

The Bureau of Occupational Licenses submits notice of temporary and proposed rulemaking at IDAPA 24.25.01 - Rules of the Idaho Driving Businesses Licensure Board. The Bureau states that this rule change is in response to House Bill 127 that passed in the 2013 legislative session and allows the Bureau to collect and pay such fees as required for fingerprint based criminal history background checks. The Bureau further states that it needs to be able to process the fee on behalf of the applicant.

The Bureau states that negotiated rulemaking was not conducted because the rules of the Board need to be amended to comply with the change in statute. There is no fiscal impact associated with this rulemaking.

The temporary and proposed rule appears to be within the statutory authority granted to the Bureau in Section 54-5403, Idaho Code, and House Bill 127.

cc: Bureau of Occupational Licenses - Idaho Driving Businesses Licensure Board  
Tana Cory  
Cherie Simpson

## **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

### **24.25.01 - RULES OF THE IDAHO DRIVING BUSINESSES LICENSURE BOARD**

**DOCKET NO. 24-2501-1301**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is May 3, 2013.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-5403, 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 July 17, 2013.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

House Bill 127 which passed in the 2013 legislative session allows the Bureau to collect and pay such fees as required for fingerprint based criminal history background checks. Idaho State Police will no longer collect fees from individuals. In order for applicants to meet the background check requirement the Bureau needs to be able to process the fee on behalf of the applicant.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

House Bill 127 which passed in the 2013 legislative session allows the Bureau to collect and pay such fees as required for fingerprint based criminal history background checks. The Rules of the Driving Businesses Licensure Board need to be amended to comply with the change in the statute regarding the collection and payment of the fees. The rule is also being amended to clarify the process for permitting apprentices in order to assure public protection.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because: The Rules of the Driving Businesses Licensure Board need to be amended to comply with the change in the statute regarding the collection and payment of the fees and to clarify the apprentice permit process.

**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 temporary and proposed rule, contact Cherie Simpson at 208 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2013.

DATED this 3rd day of June, 2013.

Tana Cory  
Bureau Chief  
Bureau of Occupational Licenses  
700 W State St.  
P O Box 700  
Boise, ID 83720-0063  
208 334-3233; 208 334-3945 fax

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**THE FOLLOWING IS THE TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE  
FOR DOCKET NO. 24-2501-1301**

**225. DRIVING BUSINESS LICENSE (RULE 225).**

A driving business license enables a licensee to operate a driver education business at one (1), principal classroom location as designated in the application. The licensee may also utilize secondary locations for classroom instruction, so long as the business does not conduct driver education at any given secondary location for more than sixty (60) days in a one-year period. A driving business license is not transferable. The business licensee must conspicuously display the license at the business's principal classroom location. Each applicant must apply as required by Rule 150. (4-7-11)

**01. Applicant Identity.** The applicant must provide such identifying information as may be requested by the Board including, without limitation, the following: (4-7-11)

**a.** The applicant's legal name (i.e., the name of the natural person or business entity to be issued the license) and assumed business name(s), if any. (4-7-11)

**b.** The applicant's social security number, if the applicant has no employees and is a natural person (including a sole proprietor acting under an assumed business name). If the applicant has employees or is not a natural person (e.g., is a general or limited partnership, corporation, limited liability partnership, or limited liability company), then the applicant must provide its employer identification number. (4-7-11)

**c.** The names and addresses of the applicant's officers and shareholders having a twenty-five percent (25%) or greater ownership interest (if a corporation), members and managers (if a limited liability company), and partners (if a partnership). (4-7-11)

**d.** The applicant's contact information, including its mailing address, physical address, and telephone number. (4-7-11)

**02. Criminal History Background Check.** The applicant, if a natural person, and all persons listed under Paragraph 225.01.c. and Subsection 225.05 of these rules, must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. Each applicant must ensure that such persons submit a full set of their fingerprints, and any relevant fees, ~~directly to the organization that conducts the criminal history check, and that the organization delivers the results directly~~ to the Bureau which will forward the fingerprints and fees to the organization that conducts the fingerprint based criminal history background check. The ~~Board application~~ will not be processed ~~the application~~ until the Bureau has received ~~all~~ the completed fingerprint-based criminal history background checks. ~~(4-7-11)~~(5-3-13)T

**03. Classroom Locations and Certificates of Occupancy.** Each applicant must list all principal and secondary classroom locations to be utilized by the business. The applicant must provide a certificate of occupancy issued to the building/room by the local fire marshal or the fire marshal's designated agent, for each classroom location other than a location in a public or private school building, government building, church, or synagogue.

(4-7-11)

**04. Certificate of Vehicle Insurance.** The certificate of vehicle insurance for each vehicle utilized by the driving business for driver education must accompany the application. The minimum coverage will include:

(4-7-11)

**a.** Medical Payment for each person - five thousand dollars (\$5,000); and either (4-7-11)

**b.** Limit of liability (Combined single limit) - five hundred thousand (\$500,000) to apply to bodily injury and/or property damage; or (4-7-11)

**c.** Limit of liability (Split limit). Bodily injury - two hundred-fifty thousand (\$250,000) per person/ five hundred thousand (\$500,000) each accident; Property damage - two hundred-fifty thousand (\$250,000) each accident. (4-7-11)

**05. List of Licensed Instructors.** Before beginning to offer driver education, and at all times while offering driver education, a driving business must employ or have contracted with one (1) or more licensed driving instructors to teach the classroom instruction phase and behind-the-wheel training phase of the driver education to be provided by the business. The driving business must submit to the Bureau a current list of such licensed instructors with the application, and keep such list current after licensure. (4-7-11)

**06. Vehicles.** An applicant for a driving business license must submit to the Bureau a list of the vehicles that the business will utilize when offering driver education. A business licensee may not utilize vehicles that do not appear on the list. Each vehicle must have dual control brake pedals, safety restraints for all passengers, a side view mirror on each side of the vehicle, and an additional rear view mirror or compatible viewing device for the exclusive use of the instructor. A driving business must ensure that students are not allowed in a listed vehicle unless the vehicle is in a safe and proper operating condition. (4-7-11)

**a.** Initial Inspection. An applicant may not include a vehicle on a business's vehicle list unless the vehicle has passed a vehicle inspection performed by an ASE mechanic or vehicle technician within the two (2) month period preceding the application. The inspection must be documented on the Board-approved inspection form included at Appendix A to these rules, or on such other similar forms as may be approved by the Board. The person who inspected the vehicle must sign the form, certifying that the vehicle generally is in a safe and proper operating condition, and that each inspected item passed inspection or, if found to be in need of repair, was repaired on a given date. The application must be accompanied by a separate, signed form for each listed vehicle. (4-7-11)

**b.** Annual Inspection. A business licensee must ensure that each vehicle passes an inspection every twelve (12) months, and that the inspection is performed by an ASE mechanic or vehicle technician documented on the Board-approved form referenced in Paragraph 225.06.a. of these rules. If a vehicle fails an annual inspection, the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes a subsequent inspection and the business licensee has submitted to the Bureau the inspection form evidencing that the vehicle has passed. (4-7-11)

**c.** Incident Inspection. If a vehicle incident occurs that requires an investigation and report by law enforcement, or in which the damage exceeds one thousand five hundred dollars (\$1,500), the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes inspection by an ASE mechanic or vehicle technician and the business licensee has submitted to the Bureau the inspection form evidencing that the vehicle has passed. (4-7-11)

**d.** Signage. The business licensee must ensure that the outside of each vehicle is equipped with safely secured signs. Signs must include "Student Driver," "Driver Education," "Driver Training," "Driving School," or similar language that clearly designates the vehicle as a driver training vehicle. (4-7-11)

**07. Course of Instruction.** Each applicant, for an original business license, must provide with its application the course of instruction the applicant will use when instructing students. The applicant must demonstrate, to the Board's satisfaction, that the course of instruction is designed to produce safe and effective drivers and is educationally sound. The course of instruction must be based on the minimum curriculum components outlined in

Rule 226, and shall consist of: (4-7-11)

- a. Not less than thirty (30) hours of classroom instruction; and (4-7-11)
- b. Not less than six (6) hours of behind-the-wheel practice driving; and (4-7-11)
- c. Not less than six (6) hours of student, in-vehicle observation of other persons (e.g., parents, other student drivers, etc.) driving the vehicle. (4-7-11)

**08. On-line Instruction.** In addition to, or in lieu of offering classroom instruction at a physical classroom location, a business licensee may offer classroom instruction to students via the internet if the instruction content meets the requirements of these rules and is approved by the Board. (4-7-11)

**09. Instructor Apprenticeship Training Program.** A driving business may offer a Board-approved instructor apprenticeship training program under the conditions specified in Rule 275. (4-7-11)

**(BREAK IN CONTINUITY OF SECTIONS)**

**250. DRIVING INSTRUCTOR LICENSE (RULE 250).**

**01. Application.** Each applicant for a driving instructor license must apply as required by Rule 150. Each applicant is required to provide his name, date of birth, and contact information, including mailing address and telephone number, on the Board-approved application form. (4-7-11)

**02. Age.** An applicant for a driving instructor license must be at least twenty-one (21) years old. (4-7-11)

**03. Driving Record and Drivers License.** Each applicant must submit a copy of a valid driver's license in good standing and a copy of a satisfactory driving record. An unsatisfactory record includes, but is not limited to, two (2) moving violations in the past twelve (12) months, or suspension or revocation of a driver's license in the last thirty-six (36) months, or a conviction involving alcohol or controlled substances within the last thirty-six (36) months. (4-7-11)

**04. Criminal History Background Check.** Each applicant must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. Each applicant must submit a full set of the applicant's fingerprints, and any relevant fees, ~~directly to the organization that conducts the criminal history check, and ensure that the organization delivers the results directly~~ to the Bureau which will forward the fingerprints and fees to the organization that conducts the fingerprint based criminal history background check. The Board application will not be processed ~~the application~~ until the completed fingerprint-based criminal history background check has been received. ~~(4-7-11)~~(5-3-13)T

**05. Medical Certificate.** A driving instructor licensee may not provide in-vehicle instruction to students if the instructor suffers from a medical condition that may impair the instructor's ability to safely instruct student drivers. Accordingly, each applicant for an instructor's license must obtain a medical examination conducted in accordance with the Federal Motor Carriers Safety Regulations (49 CFR 391.41-391.49). The examination must occur within the thirty (30) days preceding the application. The applicant must submit a medical affidavit or certificate, issued and signed by a licensed, qualified medical professional documenting that the examination occurred and that the applicant does not suffer from any physical or mental condition or disease that would impair the applicant's ability to safely instruct student drivers. If a medical condition exists, the applicant must re-certify as the medical professional requires and submit that information to the Board. (4-7-11)

**06. Education.** Each applicant must submit written evidence, satisfactory to the Board, of having graduated from a high school or a regionally or nationally accredited college or university, or of having obtained a GED. (4-7-11)

**07. Instructor Apprenticeship Training Program.** Applicants for licensure must demonstrate to the Board's satisfaction that they have successfully completed all required classroom instruction and behind-the-wheel training hours from a Board-approved instructor apprenticeship training program. The applicant must have undertaken and completed the apprenticeship training program within the five (5) year period immediately preceding the application. (4-7-11)

**a.** Proof of successful completion must include written certificate from a Board-approved apprenticeship training program certifying that the applicant has satisfactorily completed the program. An applicant need not have completed all required classroom instruction and behind-the-wheel training hours through a single program so long as the last program attended by the applicant ensures itself, and its business licensee certifies to the Board that the applicant has satisfactorily completed all required hours through Board-approved apprenticeship training programs. (4-7-11)

**b.** A person may not enroll in an apprenticeship training program unless the person has applied for, paid for, and obtained an apprenticeship permit from the Board. The applicant must apply on Board-approved forms, which must identify the applicant and the business licensee in whose approved apprenticeship training program the applicant will be enrolled. The individual applicant must establish that they are at least twenty-one (21) years old, hold a valid driver's license and a satisfactory driver license record, have passed a fingerprint based criminal history background check, and have obtained a medical certificate consistent with the requirements of Subsections 250.02 through 250.05. An apprenticeship permit automatically expires one (1) year after issuance. The Board also may suspend or revoke an apprenticeship permit, and refuse to issue another permit, if the permittee engages in any act or omission that would subject the permittee to discipline if the permittee had an instructor's license. No one may be a permittee for more than three (3) years. (4-7-11)(5-3-13)T

**251. -- 274. (RESERVED)**

**275. INSTRUCTOR APPRENTICESHIP TRAINING PROGRAM (RULE 275).**

**01. Application for Approval.** A business licensee may operate a Board-approved instructor apprenticeship training program. The business licensee must apply for program approval on forms provided by the Board, and submit with the application such documentation as the Board may require to enable the Board to assess whether the proposed program meets the Board's approval criteria, as specified in Subsections 275.03 through 275.08 of these rules. (4-7-11)

**02. Suspension or Revocation of Approval and Discipline.** If an approved program fails to consistently adhere to the approval criteria in Subsections 275.03 through 275.08 of these rules, the Board may suspend or revoke the approval. Further, if a business licensee that operates an approved program fails to cooperate with the Board in any inspection or audit of the program, the licensee may be disciplined. (4-7-11)

**03. Apprentices.** The business licensee must ensure that all persons who enroll in the licensee's program possess a valid instructor apprenticeship training permit from the Board, ~~are at least twenty-one (21) years old, hold a valid driver license and a satisfactory drivers record, have passed a criminal history background check, and have obtained a medical certificate consistent with the requirements of Subsections 250.02 through 250.05.~~ (4-7-11)(5-3-13)T

**04. Instruction and Training Hours.** The Board must be satisfied that the program has designed its proposed instruction and training to produce safe and effective driving instructors. The business licensee must ensure that the program includes at least the following instruction and training components: (4-7-11)

**a.** Each apprentice must receive at least sixty (60) hours of classroom instruction covering the curriculum components for student classroom instruction specified in Subsections 226.01 through 226.10 of these rules. These hours must include both a didactic component, in which a program instructor provides in-class instruction to the apprentice, and a practical component in which the apprentice provides in-class instruction to students. A program instructor must be physically present in the classroom to supervise at least thirty (30) hours of the apprentice's in-class instruction to students. (4-7-11)

**b.** Each apprentice must receive at least one hundred eight (108) hours of behind-the-wheel-training covering the curriculum components for student in-car instruction specified in Subsections 226.11 through 226.14 of these rules. When an apprentice begins to provide behind-the-wheel driving instruction to students, a program instructor must supervise the apprentice by riding in the vehicle with the apprentice and students for the first six (6) hours. A program instructor also must ride in the vehicle with the apprentice and students to evaluate the apprentice during the final two (2) hours of the apprentice's behind-the-wheel training. (4-7-11)

**05. Instructors.** The business licensee must ensure that only licensed driving instructors with five (5) or more years of continuous driver education experience are allowed to teach in the program. A list of the instructors must accompany the application for approval. (4-7-11)

**06. Recordkeeping.** The business licensee must ensure that the program maintains progress records for each apprentice. A program instructor and the apprentice must sign and date the records each month, and copies of the records must be provided to the apprentice. The records must, at a minimum, identify each lesson completed, the number of hours of instruction involved in the lesson, the date the apprentice completed the lesson, the instructor who taught the lesson, and whether the apprentice passed. When an apprentice's course of instruction has been completed or terminated, the program business licensee must maintain the records of the apprentice's progress, and the total hours recorded and maintained by the program for a period of five (5) years from completion or termination date. These records are subject to inspection by the Board at any time. (4-7-11)

**07. Certificate of Proficiency.** The program must provide each apprentice with a certificate of proficiency evidencing all hours satisfactorily completed by the apprentice while in the program, and that the apprentice is proficient in all areas covered by the certificate. (4-7-11)

**08. Discontinuance of Program.** If the business licensee ceases to operate the program, the business licensee must provide the program's current and prior apprentices with any progress or other records that the program is required to maintain under this Section. (4-7-11)