

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 223

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO CONCEALED WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO RE-
VISE THE DEFINITION OF "CONCEALED WEAPON" AND TO MAKE A TECHNICAL COR-
RECTION; AND DECLARING AN EMERGENCY.

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 dis-
qualified 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 provi-
sions of state or federal law;

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

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

(d) Is a fugitive from justice;

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

(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;

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

(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.

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

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

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

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

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

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

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

9 (m) Is free on bond or personal recognizance pending trial, appeal or
10 sentencing for a crime which would disqualify him from obtaining a con-
11 cealed 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 a form to be prescribed by the
19 director of the Idaho state police, and shall ask the name, address, de-
20 scription and signature of the licensee, date of birth, place of birth,
21 social security number, military status, citizenship and the driver's
22 license number or state identification card number of the licensee if
23 used for identification in applying for the license. The application
24 shall indicate that provision of the social security number is op-
25 tional. The license application shall contain a warning substantially
26 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 is-
32 suance of a license to submit his fingerprints in addition to the other
33 information required in this subsection. Within five (5) days after the
34 filing of an application, the sheriff shall forward the application and
35 fingerprints to the Idaho state police for a records check of state and
36 national files. The Idaho state police shall conduct a national finger-
37 print-based records check and return the results to the sheriff within
38 seventy-five (75) days. The sheriff shall not issue a license before
39 receiving the results of the records check and must deny a license if
40 the applicant is disqualified under any of the criteria listed in para-
41 graphs (a) through (n) of this subsection.

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

1 formation relating to an applicant or licensee received or maintained
2 pursuant to this section by the sheriff or Idaho state police is confi-
3 dential and exempt from disclosure under section 9-338, Idaho 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 of
6 this chapter. The sheriff may collect any additional fees necessary to cover
7 the cost of processing fingerprints lawfully required by any state or fed-
8 eral agency or department, and the cost of materials for the license lawfully
9 required by any state agency or department, which costs shall be paid to the
10 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 or
21 disqualified in this state shall be renewable at any time during the ninety
22 (90) day period before its expiration or within ninety (90) days after the
23 expiration date. Renewal notices shall be mailed out ninety (90) days prior
24 to the expiration date of the license. The sheriff shall require the li-
25 censee applying for renewal to complete an application. The sheriff shall
26 submit the application to the Idaho state police for a records check of state
27 and national databases. The Idaho state police shall conduct the records
28 check and return the results to the sheriff within thirty (30) days. The
29 sheriff shall not issue a renewal before receiving the results of the records
30 check and must deny a license if the applicant is disqualified under any of
31 the criteria listed in subsection (1), paragraphs (a) through (n) of this
32 section. A renewal license shall be valid for a period of five (5) years. A
33 license so renewed shall take effect on the expiration date of the prior li-
34 cense. A licensee renewing ninety-one (91) days or more after the expiration
35 date of the license shall pay a late renewal penalty of ten dollars (\$10.00)
36 in addition to the renewal fee, except that any licensee serving on active
37 duty in the armed forces of the United States during the renewal period shall
38 not be required to pay a late renewal penalty upon renewing ninety-one (91)
39 days or more after the expiration date of the license. The fee shall be paid
40 to the sheriff for the purpose of enforcing the provisions of this chapter.

41 (5) Notwithstanding the requirements of this section, the sheriff of
42 the county of the applicant's residence may issue a temporary emergency li-
43 cense for good cause pending review under subsection (1) of this section.

44 (6) A city, county or other political subdivision of this state shall
45 not modify the requirements of this section, nor may a political subdivi-
46 sion ask the applicant to voluntarily submit any information not required in
47 this section. A civil action may be brought to enjoin a wrongful refusal to
48 issue a license or a wrongful modification of the requirements of this sec-
49 tion. The civil action may be brought in the county in which the application
50 was made or in Ada county at the discretion of the petitioner. Any person who

1 prevails against a public agency in any action in the courts for a violation
2 of subsections (1) through (5) of this section, shall be awarded costs, in-
3 cluding reasonable attorney's fees incurred in connection with the legal ac-
4 tion.

5 (7) Except in the person's place of abode or fixed place of business, or
6 on property in which the person has any ownership or leasehold interest, a
7 person shall not carry a concealed weapon without a license to carry a con-
8 cealed weapon. For the purposes of this section, a concealed weapon means
9 any dirk, dirk knife, bowie knife, dagger, pistol, revolver or any other
10 deadly or dangerous weapon. The provisions of this section shall not apply
11 to any lawfully possessed shotgun or rifle, any knife, cleaver or other in-
12 strument primarily used in the processing, preparation or eating of food,
13 any knife with a blade four (4) inches or less or any lawfully possessed
14 taser, stun gun or pepper spray.

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

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

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

28 (11) The sheriff of a county may issue a license to carry a concealed
29 weapon to those individuals between the ages of eighteen (18) and twenty-one
30 (21) years who in the judgment of the sheriff warrant the issuance of the li-
31 cense to carry a concealed weapon. Such issuance shall be subject to limita-
32 tions which the issuing authority deems appropriate. Licenses issued to in-
33 dividuals between the ages of eighteen (18) and twenty-one (21) years shall
34 be easily distinguishable from regular licenses.

35 (12) The requirement to secure a license to carry a concealed weapon un-
36 der this section shall not apply to the following persons:

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

40 (b) Employees of the adjutant general and military division of the
41 state where military membership is a condition of employment when on
42 duty;

43 (c) Criminal investigators of the attorney general's office, crimi-
44 nal investigators of a prosecuting attorney's office, prosecutors and
45 their deputies;

46 (d) Any person outside the limits of or confines of any city while en-
47 gaged in lawful hunting, fishing, trapping or other lawful outdoor ac-
48 tivity;

49 (e) Any publicly elected Idaho official;

1 (f) Retired peace officers or detention deputies with at least ten (10)
2 years of service with the state or a political subdivision as a peace of-
3 ficer or detention deputy and who have been certified by the peace offi-
4 cer standards and training council;

5 (g) Any person who has a valid permit from a state or local law enforce-
6 ment agency or court authorizing him to carry a concealed weapon. A per-
7 mit issued in another state will only be considered valid if the permit
8 is in the licensee's physical possession.

9 (13) When issuing a license pursuant to this section, the sheriff may
10 require the applicant to demonstrate familiarity with a firearm and shall
11 accept any of the following, provided the applicant may select whichever of
12 the following applies:

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

15 (b) Completion of any national rifle association firearms safety or
16 training course or any national rifle association hunter education
17 course;

18 (c) Completion of any firearms safety or training course or class
19 available to the general public offered by a law enforcement agency,
20 community college, college, university, or private or public institu-
21 tion or organization or firearms training school, utilizing instruc-
22 tors certified by the national rifle association or the Idaho state
23 police;

24 (d) Completion of any law enforcement firearms safety or training
25 course or class offered for security guards, investigators, special
26 deputies, or any division or subdivision of a law enforcement agency or
27 security enforcement agency;

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

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

33 (g) Completion of any firearms training or training or safety course or
34 class conducted by a state certified or national rifle association cer-
35 tified firearms instructor.

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

38 (15) The sheriff of the county where the license was issued or the sher-
39 iff of the county where the person resides shall have the power to revoke a
40 license subsequent to a hearing in accordance with the provisions of chapter
41 52, title 67, Idaho Code, for any of the following reasons:

42 (a) Fraud or intentional misrepresentation in the obtaining of a li-
43 cense;

44 (b) Misuse of a license, including lending or giving a license to an-
45 other person, duplicating a license or using a license with the intent
46 to unlawfully cause harm to a person or property;

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

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

1 (e) The applicant is adjudicated guilty of or receives a withheld judg-
2 ment for a crime which would have disqualified him from initially re-
3 ceiving a license.

4 (16) A person twenty-one (21) years of age or older issued a license to
5 carry a concealed weapon is exempt from any requirement to undergo a records
6 check at the time of purchase or transfer of a firearm from a federally li-
7 censed firearms dealer. However, a temporary emergency license issued un-
8 der subsection (5) of this section shall not exempt the holder of the license
9 from any records check requirement. Temporary emergency licenses shall be
10 easily distinguishable from regular licenses.

11 (17) The attorney general is authorized to negotiate reciprocal agree-
12 ments with other states related to the recognition of licenses to carry
13 concealed weapons. The Idaho state police shall keep a copy and maintain a
14 record of all such agreements, which shall be made available to the public.

15 (18) The provisions of this section are hereby declared to be severable
16 and if any provision of this section or the application of such provision to
17 any person or circumstance is declared invalid for any reason, such declara-
18 tion shall not affect the validity of remaining portions of this section.

19 SECTION 2. An emergency existing therefor, which emergency is hereby
20 declared to exist, this act shall be in full force and effect on and after its
21 passage and approval.