

Dear Senators PATRICK, Martin, Schmidt, and  
Representatives BARBIERI, Clow, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of  
the Bureau of Occupational Licenses:

IDAPA 24.08.01 - Rules of the State Board of Morticians - Proposed Rule (Docket No.  
24-0801-1501);

IDAPA 24.18.01 - Rules of the Real Estate Appraiser Board - Proposed Rule (Docket No.  
24-1801-1501);

IDAPA 24.25.01 - Rules of the Idaho Driving Businesses Licensure Board - Proposed Rule (Docket  
No. 24-2501-1501).

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 11/05/2015. 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 12/07/2015.

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 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
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:** Legislative Research Analyst - Elizabeth Bowen

**DATE:** October 19, 2015

**SUBJECT:** Bureau of Occupational Licenses

IDAPA 24.08.01 - Rules of the State Board of Morticians - Proposed Rule (Docket No. 24-0801-1501)

IDAPA 24.18.01 - Rules of the Real Estate Appraiser Board - Proposed Rule (Docket No. 24-1801-1501)

IDAPA 24.25.01 - Rules of the Idaho Driving Businesses Licensure Board - Proposed Rule (Docket No. 24-2501-1501)

#### 24.08.01

This proposed rule for the State Board of Morticians allows termination of an application for licensure for lack of activity. It also requires walk-through inspections for funeral or crematory establishments. Negotiated rulemaking was not conducted due to the nature of the rule change. There is no anticipated impact on the state general fund. The Bureau states that this rulemaking is authorized pursuant to Section 54-1107, Idaho Code.

#### 24.18.01

This proposed rule for the Real Estate Appraiser Board resolves ambiguities in the existing language and revises definitions. Negotiated rulemaking was not conducted, but the changes were discussed during noticed, open meetings of the Board. There is no anticipated impact on the state general fund. The Bureau states that this rulemaking is authorized pursuant to Section 54-4106, Idaho Code.

#### 24.25.01

This proposed rule for the Idaho Driving Businesses Licensure Board revises medical certification requirements for driving instructors. Negotiated rulemaking was not conducted, but the changes were discussed in a noticed, open meeting of the Board. There is no anticipated impact on the state general fund. The Bureau states that this rulemaking is authorized pursuant to Section 54-5403, Idaho Code.

cc: Bureau of Occupational Licenses  
Tana Cory

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

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

## **24.08.01 - RULES OF THE STATE BOARD OF MORTICIANS**

**DOCKET NO. 24-0801-1501**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1107, 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 October 21, 2015.

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:

The rule is being amended to allow for the termination of an application upon written notice when there has been no activity for 12 months. The rule amendment will also require a walk-through inspection for establishments to be arranged and completed within 6 months of the Board's review of the application.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**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: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed revisions are simple in nature. The changes were discussed in a noticed, open meeting of the Board.

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 577-2584.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 4th Day of September, 2015.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-0801-1501**  
**(Only Those Sections With Amendments Are Shown.)**

**200. APPLICATION AND PHOTOGRAPH (RULE 200).**

Application must be postmarked sixty (60) days prior to the date of examination, and must be accompanied by an unmounted passport photograph of the applicant, taken within three (3) months preceding the date of application. (3-13-02)

**01. Lack of Activity.** If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**450. FUNERAL ESTABLISHMENT AND CREMATORY ESTABLISHMENT (RULE 450).**

All applicants for establishment license shall submit a completed application on a form approved by the Board. All newly licensed establishments and all branch or satellite facilities must meet the same requirements for licensure. A walk-through inspection of the establishment must be arranged and completed within six (6) months of the Board's review of the application or the application will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. (~~4-2-08~~)( )

**01. Contents of Application.** Each applicant for a license to operate a funeral establishment or crematory establishment in Idaho shall document the following: (4-2-08)

- a. Name and address of owner whether individual or entity; and (4-2-08)
- b. Notarized signature of applicant or authorized agent; and (4-2-08)
- c. Name and license number of responsible licensee; and (4-2-08)
- d. Other such information as the board may require. (4-2-08)

**02. Change in Ownership or Location.** Any change in the ownership or location of a funeral establishment shall constitute a new funeral establishment for the purposes of licensure. (7-1-93)

**03. Funeral Establishment.** All funeral establishments shall be required to provide each of the following: (4-2-08)

- a. An operating room and necessary equipment for embalming; (4-2-08)
- b. A selection room for caskets and merchandise which may include video, catalogs, and electronic depiction of caskets and merchandise; (4-2-08)
- c. A chapel where funeral or other religious ceremonies may be held; and (4-2-08)
- d. A room for viewing and visitation. (4-2-08)

**04. Funeral Firm.** Every funeral firm in the state of Idaho and/or licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of the dead human body at the time of said arrangements and prior to rendering that service or providing that merchandise, a written statement showing to the extent then known the following: (7-1-93)

- a.** The price of the service that the person or persons have selected and what is included therein. (7-1-93)
- b.** The prices of each of the supplementary items of service and/or merchandise requested. (7-1-93)
- c.** The amount involved for each of the items for which the firm will advance monies as an accommodation for the family. (7-1-93)
- d.** The method of payment. (7-1-93)
- e.** If the quoted price includes a basic component of a funeral or a part thereof which is not desired, then a credit thereof should be granted. (7-1-93)
- 05. Crematory Establishment.** All crematory establishments shall be required to provide each of the following: (4-2-08)

  - a.** Detailed information regarding each retort, specifically documenting that each retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code or in the case of alkaline hydrolysis, a pressurized vessel heated to 150 C (330 F) for a minimum recommended period of thirty (30) minutes, thereby meeting or exceeding the United States Center for Disease Control (CDC) requirements for the complete destruction of human pathogens; and (3-20-14)
  - b.** One (1) set of blueprints for the proposed new construction or remodeling where the retort is to be located. The blueprints must be approved by the local building department as being in compliance with applicable building codes and ordinances. (4-2-08)

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

### **24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD**

**DOCKET NO. 24-1801-1501**

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

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-4106, 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 October 21, 2015.

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 rulemaking is in response to an Idaho Certified Appraiser's concern that certain parts of the rules are ambiguous and in conflict. The rule is being amended to eliminate the uniform standards of professional appraisal practice that do not apply to real estate appraisals. The definitions are being amended to eliminate the definition of Specialized Appraisal Services which is not otherwise used in the rules.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**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: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes to the rules are simple in nature and were discussed during noticed, open meetings of the Board.

**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:

The Uniform Standards of Professional Appraisal Practice (USPAP) are the appraisal standards established by federal law for state licensed and certified appraisers.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 577-2584.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 4th Day of September, 2015.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-1801-1501**  
**(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE (RULE 4).**

The document titled "Uniform Standards of Professional Appraisal Practice (USPAP)," 2014-2015 Edition, excluding standards 7, 8, 9, and 10, published by the Appraisal Foundation and effective January 1, 2014, as referenced in Subsection 700, is herein incorporated by reference and is available for review at the Board's office and may be purchased from the Appraisal Foundation, Distribution Center, P. O. Box 381, Annapolis Junction, MD 20701-0381. ~~(3-20-14)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS (RULE 10).**

The definitions numbered one through sixteen (1-16), appearing at Section 54-4104, Idaho Code are incorporated herein by reference as if set forth in full. (3-29-10)

**01. Accredited.** Accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education. (3-20-14)

**02. Advisory Committee.** A committee of state certified or licensed real estate appraisers appointed by the board to provide technical assistance relating to real estate appraisal standards and real estate appraiser experience, education and examination requirements that are appropriate for each classification of state certified or licensed real estate appraiser. (7-1-93)

**03. Appraisal Foundation.** The Appraisal Foundation means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois. (7-1-97)

**04. Appraiser Qualifications Board.** Appraiser Qualifications Board of the Appraisal Foundation establishes the qualifications criteria for licensing, certification and recertification of appraisers. (7-1-97)

**05. Appraisal Standards Board.** The Appraisal Standards Board of the Appraisal Foundation develops, publishes, interprets and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. (7-1-97)

**06. Bureau.** The Bureau means the Bureau of Occupational Licenses, as prescribed in Sections 54-4106(2)(a) and 67-2601, Idaho Code. (3-13-02)

**07. Chief.** The Bureau Chief of the Bureau of Occupational Licenses as established by Section 67-2602, Idaho Code. (7-1-93)

**08. Classroom Hour.** Fifty (50) minutes out of each sixty (60) minute hour in a setting which may include a classroom, conference/seminar, on-line or a virtual classroom. (4-4-13)

**09. Field Real Estate Appraisal Experience.** Personal inspections of real property, assembly and analysis of relevant facts, and by the use of reason and the exercise of judgment, formation of objective opinions as to the market or other value of such properties or interests therein and preparation of written appraisal reports or other memoranda showing data, reasoning, and conclusion. Professional responsibility for the valuation function is essential. (4-6-05)

**10. FIRREA.** Title XI, Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended, was designed to ensure that more reliable appraisals are rendered in connection with federally related

transactions. (3-20-14)

**11. Real Estate.** In addition to the previous definition in Section 54-4104(11), Idaho Code, will also mean an identified parcel or tract of land, including improvements, if any. (3-29-10)

**12. Real Property.** In addition to the previous definition in Section 54-4104(11), Idaho Code, will also mean one or more defined interests, benefits, or rights inherent in the ownership of real estate. (3-29-10)

**13. Residential Unit.** Real estate with a current highest and best use of a residential nature. A residential unit includes a kitchen and a bathroom. (3-29-10)

~~**14. Specialized Appraisal Services.** Services which include situations in which an appraiser is employed or retained to provide appraisal services that do not fall within the defined term "appraisal assignments." Specialized appraisal services relate to the employer's or client's individual needs or investment objectives and commonly include specialized marketing and financing studies as well as analysis, opinions, and conclusions rendered in connection with activities such as real estate brokerage, mortgage banking, and real estate counseling, including real estate tax counseling. (7-1-97)~~

~~**154. Uniform Standards of Professional Appraisal Practice or USPAP.** Those uniform standards adopted by the Appraisal Foundation's Appraisal Standards Board. These standards may be altered, amended, interpreted, supplemented, or repealed by the Appraisal Standards Board (ASB) from time to time. (3-13-02)~~

~~**165. USPAP Course.** For the purposes of licensure and license renewal, any reference to the approved USPAP course shall mean the National USPAP Course provided by Appraisal Qualifications Board Certified USPAP Instructors and Educational Providers. (4-6-05)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**700. UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE/CODE OF ETHICS (RULE 700).**

The Uniform Standards of Professional Practice, excluding standards 7, 8, 9, and 10, as published by the Appraisal Foundation and referenced in Section 004, are hereby adopted as the rules of conduct and code of ethics for all Real Estate Appraisers licensed under Title 54, Chapter 41, Idaho Code, and these rules. ~~(3-13-02)( )~~



## IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

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

DOCKET NO. 24-2501-1501

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. 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 October 21, 2015.

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:

Applicants for licensure as a driving instructor must undergo a medical examination and obtain a new medical certificate thirty days before applying for the instructor apprenticeship training program and before applying for an instructor license. Because the apprenticeship program normally takes more than one month to complete, applicants usually must undergo 2 medical exams in a short period of time to obtain an instructor license. This redundancy is expensive and is unnecessary for the protection of the safety, health, and welfare of the public. Extending the period to 2 years will eliminate this waste of time, money, and other resources.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**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: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the amendment will benefit the applicants and it was discussed during a noticed, open meeting of the Board.

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 577-2584.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 4th Day of September, 2015.

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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-2501-1501**  
**(Only Those Sections With Amendments Are Shown.)**

**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, to the Bureau which will forward the fingerprints and fees to the organization that conducts the fingerprint based criminal history background check. The application will not be processed until the completed fingerprint-based criminal history background check has been received. (3-20-14)

**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~~ **be completed** within ~~the thirty (30) days~~ **two (2) years** 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 or have met the requirements for a waiver of the apprenticeship training program as set forth in these rules. The applicant must have undertaken and completed the apprenticeship training program within the five (5) year period immediately preceding the application. (4-11-15)

**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. (3-20-14)

**08. Waiver of Instructor Apprenticeship Training Program.** An applicant shall be entitled to a waiver of the apprenticeship training program if they possess the requisite training and experience as set forth below. (4-11-15)

**a.** An applicant who holds a current active unrestricted equivalent driving instructor license from another state shall qualify for a waiver of the apprenticeship training program requirement. The applicant is responsible to provide proof to the Board that they hold a current unrestricted driving instructor license from another state, and that said license is equivalent to an Idaho driver instructor license in its qualifications and scope of practice; or (4-11-15)

**b.** An applicant who has held an active and unrestricted public driver education instructor license issued by the Idaho State Department of Education for at least two (2) years shall qualify for a waiver of the apprenticeship training program requirement. The applicant is responsible to provide proof to the Board that they hold a current unrestricted Idaho public driver instructor license. (4-11-15)