

Dear Senators BRACKETT, Crabtree, Buckner-Webb, and
Representatives PALMER, Shepherd, Wintrow:

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

IDAPA 39.02.75 - Rules Governing Names on Drivers' Licenses and Identification Cards - Proposed
Rule (Docket No. 39-0275-1901);

IDAPA 39.02.76 - Rules Governing Driver's License Renewal-By-Mail - Proposed Rule (Docket
No. 39-0276-1901).

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 11/22/2019. 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 12/23/2019.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
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: Legislative Drafting Attorney - Matt Drake

DATE: November 03, 2019

SUBJECT: Idaho Transportation Department

IDAPA 39.02.75 - Rules Governing Names on Drivers' Licenses and Identification Cards - Proposed Rule (Docket No. 39-0275-1901)

IDAPA 39.02.76 - Rules Governing Driver's License Renewal-By-Mail - Proposed Rule (Docket No. 39-0276-1901)

I. Docket No. 39-0275-1901

Summary and Stated Reasons for the Rule

The proposed rule addresses driver's license and identification card names to simplify name structure in cases of marriage and divorce, and also removes a requirement for the specific order of a hyphenated last name. Under the proposed rule, a first-time applicant may provide a valid, unexpired passport in addition to other options, for name verification purposes.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. There is no fiscal impact.

Statutory Authority

The rulemaking appears authorized pursuant to sections 40-312 and 49-201, Idaho Code.

II. Docket No. 39-0276-1901

Summary and Stated Reasons for the Rule

The proposed rule addresses driver's license and identification card renewal and replacement through mail and by electronic means. The proposed rule extends the mail and electronic processes to replacement as well as renewal. It also provides that such processes cover both drivers licenses and identification cards. The rule also provides exclusions for certain driver's license types, such as CDLs, and to certain persons. The proposed rule also removes certain obsolete language.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. There is no fiscal impact.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statutory Authority

The rulemaking appears authorized pursuant to sections 40-312, 49-201, 49-318, 49-319, and 49-2444, Idaho Code.

cc: Idaho Transportation Department
Ramon Hobdey-Sanchez

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.75 – RULES GOVERNING NAMES ON DRIVERS' LICENSES AND IDENTIFICATION CARDS

DOCKET NO. 39-0275-1901

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 Sections 40-312 and 49-201, 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 16, 2019.

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 change modifies language in order to simplify name structure in cases of marriage and divorce and also removes a requirement for the specific order of a hyphenated last name when issuing driver licenses and identification cards. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to customers.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 261-262](#).

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 proposed rule, please contact Brendan Floyd, DMV Program Specialist, at (208) 334-8474.

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 Wednesday, October 23, 2019.

Dated this 30th day of August, 2019.

Ramón Hobdey-Sánchez
Governmental Affairs Project Manager
Idaho Transportation Department
3311 W. State Street
P.O. Box 7129
Boise, ID 83707-1129
Phone: (208) 334-8810
ramon.hobdey-sanchez@itd.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0275-1901
(Only Those Sections With Amendments Are Shown.)

200. CRITERIA.

01. Legal Name. The name on the certified original birth certificate will be used unless a name changes due to: (3-29-12)

a. Marriage; (5-13-91)

b. Divorce; or (5-13-91)

c. Court Order. (5-13-91)

02. Stepparents' Name. An applicant is not allowed to use a stepparent's last name, except by court order or other documents may be accepted to change a name, on approval by the Idaho Transportation Department. (7-1-96)

03. Driver's License and Identification Card Names. The name printed on the driver's license or identification card will be maintained in the Idaho Transportation Department records in the following order: (1) Last name, (2) First name, (3) Middle name, (4) Designator (if applicable (see Subsection 200.04)). An applicant may not have a driver's license and an identification card in different names. An applicant may add a middle name by providing a certified original copy of the applicant's: (3-29-12)

a. Birth Certificate; (3-29-12)

b. Court Order; or (3-29-12)

c. Divorce Decree. (3-29-12)

04. Designations of Names. The designations of I, II, III, etc., will become first (1st), second (2nd), third (3rd), etc., and will appear after the middle name. The designators of JR and SR (no periods allowed) will be permitted and will appear after the middle name. The JR and SR designators will be permitted only if there is proof that the other individual exists, by way of an original certified copy of a birth certificate. (7-1-96)

05. Married Applicant's Name. (3-29-12)

a. A married applicant is permitted to use ~~the maiden name of the woman or surname of the man to use either their birth last name or the birth last name of their spouse~~ as the last name or as the middle name, or may hyphenate ~~the surname and maiden name~~ their current last name with their spouse's last name to form the last name. In no case under any of these stated options shall any applicant have more than one (1) hyphen in ~~his or her~~ their last name. (3-29-12)()

b. ~~When married applicants may choose to use different hyphenated last names or only one (1) applicant chooses to hyphenate his or her name, a woman will hyphenate her last name as "maiden married" and a man will hyphenate his last name as "surname-maiden".~~ (3-29-12)()

c. Married applicants who choose to have the same hyphenated last name may hyphenate their last names as either "maiden married" or "surname-maiden" in any order. (4-2-08)()

d. Married applicants who already have hyphenated last names may: (3-29-12)

i. Use the hyphenated name of ~~the man or the hyphenated name of the woman~~ their spouse or retain their own hyphenated name; or (3-29-12)()

ii. Combine part of ~~the~~ their own hyphenated name ~~of the man~~ and part of the hyphenated name of ~~the woman~~ their spouse. (3-29-12)()

e. An applicant who is established in department records with a hyphenated last name due to marriage and wants to drop the first part or the second part of the hyphenated name must provide, as required by the department, the following: (3-29-12)

i. A certified copy of a birth certificate; and/or (3-29-12)

ii. A certified copy of a marriage certificate; and/or (3-29-12)

iii. A certified copy of a divorce decree; and/or (3-29-12)

iv. A certified copy of a death certificate. (3-29-12)

06. Divorced Applicant's Name. A divorced applicant who wants to use ~~his or her~~ their original ~~surname or maiden~~ birth last name, or a surname from a previous marriage, but does not have a divorce decree indicating the new name, is allowed to submit the following documents to the County Sheriff or the Idaho Transportation Department: (3-29-12)()

a. Original certified copy of the birth certificate showing the original maiden or surname; or (3-29-12)

b. Original certified copies of the marriage certificate and the divorce decree, as evidence to change the name. (3-29-12)

07. Applicant's First Name. An applicant is not allowed to change ~~his or her~~ their first name except by court order. (5-13-91)()

08. Common Law Marriage. Common law marriages created prior to January 1, 1996 will, for the purposes of this rule, be treated as a valid marriage. An affidavit of agreement is required, which includes: (7-1-96)

a. The signatures of both the husband and the wife; (5-31-91)

b. The date they became married under common law; and (5-13-91)

c. Other documents verifying the marriage (subject to the approval of the Idaho Transportation Department). (5-13-91)

09. Change of Name on Record. Once a name is established in the Idaho Transportation Department records, a court order, marriage license, or divorce decree will be required to change the name and record. (3-29-12)

10. Titles or Nicknames. An applicant is not allowed to use titles or nicknames. (7-1-96)

201. -- 299. (RESERVED)

300. PROCEDURES.

01. Verification of Name. First-time applicants for a driver's license or identification card must provide the County Sheriff's issuing office with one (1) of the following in order to verify their name: (5-13-91)

a. Original certified copy of the birth certificate; (7-1-96)

b. Court order; (5-13-91)

- c. Original certified copy of the marriage license; or (7-1-96)
- d. Divorce decree (if applicable); or (7-1-96)
- e. Driver's license from another state or country that is current or if expired, has been expired for less than five (5) years. (7-1-96)

02. Surrendering Driver's License or Identification Card. Applicants for license or identification card renewals must surrender the previous driver's license or identification card. Name changes are allowed if the criteria in Section 200 are met. (7-1-96)

- f. A valid, unexpired passport.** ()

03. Surrendering Duplicate Driver's License or Identification Cards. Applicants for duplicate drivers' licenses or identification cards must surrender the previous driver's license or identification card (if applicable). Name changes are allowed if the criteria in Section 200 are met. (7-1-96)

04. Document Approval by the Department. Other documents may be accepted to change a name, on approval by the Idaho Transportation Department. (5-13-91)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT
39.02.76 – RULES GOVERNING DRIVER'S LICENSE RENEWAL-BY-MAIL
AND ELECTRONIC RENEWAL PROCESS

DOCKET NO. 39-0276-1901

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 Sections 40-312 & 49-201, Idaho Code, and Sections 49-318, 49-319, & 49-2444, 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 16, 2019.

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 change modifies language to offer applicants the ability to apply for a renewal or replacement driver license or identification card electronically, making it easier to do business with the Department's DMV and as a result, reduces wait times and foot traffic in county driver license offices by providing a more convenient alternative. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to customers.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 263-264](#).

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 proposed rule, please contact Brendan Floyd, DMV Program Specialist, at (208) 334-8474.

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 Wednesday, October 23, 2019.

Dated this 30th day of August, 2019.

Ramón Hobdey-Sánchez
Governmental Affairs Project Manager
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 39-0276-1901
(Only Those Sections With Amendments Are Shown.)

**39.02.76 – RULES GOVERNING DRIVER'S LICENSE AND IDENTIFICATION CARD
RENEWAL-BY-MAIL AND ELECTRONIC RENEWAL AND REPLACEMENT PROCESSES**

000. LEGAL AUTHORITY.

In accordance with Sections 49-201, 49-318, 49-319(10), and 49-2444, Idaho Code, the Idaho Transportation Board adopts the following rule to establish a process that may allow Idaho residents to renew or replace their Class D drivers' licenses and identification cards by mail or electronically. (3-29-12)()

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.02.76, "Rules Governing Driver's License and Identification Card Renewal-by-Mail and Electronic Renewal and Replacement Processes". (3-29-12)()

02. Scope. The purpose of this rule is to establish standards by which Class D drivers' licenses and identification cards may be renewed or replaced by mail or electronically for those individuals who are licensed Idaho residents and whose licenses Idaho credentials are about to expire or requires replacement due to loss or mutilation. The driver's license renewal-by-mail and electronic systems are designed to reduce the length of driver's license renewal waiting lines at county driver's license offices. (3-29-12)()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. ~~This rule merely implements the provisions of Section 49-319(10), Idaho Code, which states: "The department may use a mail renewal process for Class D licenses based on criteria established by rule and regulation."~~ (3-29-12)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. CDL. Commercial Driver's License. (7-1-96)

02. Class D Driver's License. A license issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in Section 49-123, Idaho Code. (7-1-96)

03. Credential. Any physical driver license or identification card issued by the department. ()

034. Expiration Date. The date a driver's license credential expires. (7-1-96)()

05. Identification Card. A card issued in accordance with Section 49-2444, Idaho Code. ()

046. Photo License. A valid Idaho driver's license credential displaying a color photograph of the license holder. (7-1-96)()

011. ELIGIBILITY FOR RENEWAL AND REPLACEMENT.

01. Eligibility. ~~The renewal by mail or electronic renewal may be granted on the expiration date of a person's Idaho Class D driver's license;~~ An applicant may renew a Class D driver's license or identification card by

mail or electronically in lieu of ~~requiring the person to renew a driver's license~~ renewing or replacing these credentials in person. Licenses or identification cards renewed by mail or electronically shall only be renewed once in an eight (8) year period, and ~~shall~~ have a four-year validity period. (3-29-12)()

02. License Renewal. Drivers' licenses ~~shall~~ may not be renewed by mail or electronically for persons who: (3-29-12)()

a. Hold a driver's license with a "J" restriction (e.g. limited to a five (5) mile driving radius of residence, driving privileges limited to one (1) or two (2) counties, cannot drive without parent for a specified time period, etc.); (7-1-96)

b. Hold a CDL; ()

bc. Have changes in the information shown on their licenses, other than address changes; (7-1-96)

ed. Have any changes in physical, mental, and/or emotional condition, including vision, which may impair the ability to safely operate a motor vehicle; (7-1-96)

de. Have drivers' licenses or driving privileges which are suspended, revoked, canceled, denied, refused, or disqualified; (7-1-96)

ef. Are operating on department or court restricted driving permits; (7-1-96)

fg. Are required to provide documentation proving lawful presence in the United States; (3-29-12)

gh. Are not lawfully present in the United States; (3-29-12)

hi. Have a driving record which has been marked for special handling (e.g., verification of identity or date of birth, possible fraud, etc.); (7-1-96)

ij. Already have an existing extension; (7-1-96)

jk. Wish to add a motorcycle endorsement; (7-1-96)

kl. Are under twenty-one (21) years of age for purposes of renewal; ~~or~~ (7-1-96)()

lm. Are seventy (70) years of age or older for purposes of renewal; ~~or~~ (7-1-96)()

n. Have been expired more than one (1) year. ()

03. Identification Card Renewal. Identification cards may not be renewed by mail or electronically for persons who: ()

a. Have changes in the information shown on their identification cards, other than address changes; ()

b. Have not been expired more than one (1) year; ()

c. Are required to provide documentation proving lawful presence in the United States; ()

d. Are not lawfully present in the United States; or ()

e. Have a canceled or surrendered status. ()

04. License and Identification Card Replacement. Any driver's license, including a CDL, or identification card may be replaced by mail or electronically as long as the credential is not expired, and there are no information changes other than address changes and the status is otherwise valid. ()

012. RENEWAL OR REPLACEMENT ELECTRONICALLY OR BY MAIL PROCEDURES.

01. ~~Use of Fax or Phone Prohibited~~ **Application Submission.** ~~Driver's license~~ Credential renewal-by-mail or electronic renewal or replacement applications ~~shall not be processed by fax or telephone~~ will be processed when received by mail or electronically. Eligible persons ~~must~~ may mail or electronically submit their ~~driver's license~~ renewal or replacement application to the department or the driver's license office in their county of residence, or deliver their application in person together with the renewal fee for the same class of license credential, pursuant to Sections 49-306, and 49-2444, Idaho Code. (3-29-12)()

02. **Updating Driving Individual Records.** The county driver's license office ~~shall~~ or the department will update driving individual records to reflect the new expiration year, ~~followed by the notation "RM," and issue a driver's license to eligible licensees if renewed, and the issue date of the new credential,~~ within three (3) business days after receipt of the completed application form. (3-29-12)()

~~03. **If The Driver's License Card Is Lost, Mutilated or Destroyed After Receipt.** If a driver's license is lost, mutilated, or destroyed after the applicant receives it, the applicant must apply in person at the county office for a duplicate driver's license.~~ (3-29-12)

043. **If Lost or Destroyed in Mail.** If an drivers' license individual's credential is lost or destroyed in the mail, a written statement detailing the loss or destruction ~~must~~ may be mailed or hand-delivered to the applicant's county of residence or completed electronically. Upon receipt of the letter, the county or the department can issue a no-charge replacement driver's license credential to the applicant. (3-29-12)()

054. **Temporarily Residing Out-of-State.** Individuals temporarily residing out-of-state may apply for a renewal by mail, electronic renewal, or an extension, but not both, in an eight (8) year period. (3-29-12)