

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 676

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO FIREARMS, EXPLOSIVES, AND OTHER DEADLY WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO PROVIDE AN EXCEPTION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-3302J, IDAHO CODE, TO REVISE PROVISIONS REGARDING PREEMPTION OF FIREARMS REGULATION, TO PROVIDE FOR CIVIL ENFORCEMENT FOR VIOLATIONS, AND TO PROVIDE APPLICABILITY; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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. CONCEALED WEAPONS. (1) The legislature hereby finds that the people of Idaho have reserved for themselves the right to keep and bear arms while granting the legislature the authority to regulate the carrying of weapons concealed. The provisions of this chapter regulating the carrying of weapons must be strictly construed so as to give maximum scope to the rights retained by the people.

(2) As used in this chapter:

(a) "Concealed weapon" means any deadly weapon carried on or about the person in a manner not discernible by ordinary observation;

(b) "Deadly weapon" means:

(i) Any dirk, dirk knife, bowie knife, dagger or firearm;

(ii) Any other weapon, device, instrument, material or substance that is designed and manufactured to be readily capable of causing death or serious bodily injury; or

(iii) Any other weapon, device, instrument, material or substance that is intended by the person to be readily capable of causing death or serious bodily injury.

(c) The term "deadly weapon" does not include:

(i) Any knife, cleaver or other instrument that is intended by the person to be used in the processing, preparation or eating of food;

(ii) Any knife with a blade six (6) inches or less; or

(iii) Any taser, stun-gun, pepper spray or mace;

(d) "Firearm" means any weapon that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive;

(e) "Loaded" means:

(i) For a firearm capable of using fixed ammunition, that live ammunition is present in:

1. The chamber or chambers of the firearm;
2. Any internal magazine of the firearm; or
3. A detachable magazine inserted in the firearm;

(ii) For a firearm that is not capable of using fixed ammunition, that the firearm contains:

- 1                   1. A propellant charge; and
- 2                   2. A priming cap or primer cap.
- 3       (3) No person shall carry concealed weapons on or about his person with-
- 4 out a license to carry concealed weapons, except:
- 5       (a) In the person's place of abode or fixed place of business;
- 6       (b) On property in which the person has any ownership or leasehold in-
- 7       terest;
- 8       (c) On private property where the person has permission to carry con-
- 9       cealed weapons from any person with an ownership or leasehold interest;
- 10       (d) Outside the limits of or confines of any city, if the person is eigh-
- 11       teen (18) years of age or older and is not otherwise disqualified from
- 12       being issued a license under subsection (11) of this section.
- 13       (4) Subsection (3) of this section shall not apply to restrict or pro-
- 14       hibit the carrying or possession of:
- 15       (a) Any deadly weapon located in plain view;
- 16       (b) Any lawfully possessed shotgun or rifle;
- 17       (c) Any deadly weapon concealed in a motor vehicle;
- 18       (d) A firearm that is not loaded and is secured in a case;
- 19       (e) A firearm that is disassembled or permanently altered such that it
- 20       is not readily operable; and
- 21       (f) Any deadly weapon concealed by a person who ~~is~~:
- 22           (i) ~~Over~~ Is over eighteen (18) years of age;
- 23           (ii) ~~A~~ Is a citizen of the United States or a current member of the
- 24           armed forces of the United States; and
- 25           (iii) Is not disqualified from being issued a license under para-
- 26           graphs (b) through (n) of subsection (11) of this section.
- 27       (5) The requirement to secure a license to carry concealed weapons un-
- 28       der this section shall not apply to the following persons:
- 29       (a) Officials of a city, county or the state of Idaho;
- 30       (b) Any publicly elected Idaho official;
- 31       (c) Members of the armed forces of the United States or of the national
- 32       guard when in performance of official duties;
- 33       (d) Criminal investigators of the attorney general's office and crim-
- 34       inal investigators of a prosecuting attorney's office, prosecutors and
- 35       their deputies;
- 36       (e) Any peace officer as defined in section 19-5101(d), Idaho Code, in
- 37       good standing;
- 38       (f) Retired peace officers or detention deputies with at least ten (10)
- 39       years of service with the state or a political subdivision as a peace of-
- 40       ficer or detention deputy and who have been certified by the peace offi-
- 41       cer standards and training council;
- 42       (g) Any person who has physical possession of his valid license or per-
- 43       mit authorizing him to carry concealed weapons from another state; and
- 44       (h) Any person who has physical possession of a valid license or permit
- 45       from a local law enforcement agency or court of the United States autho-
- 46       rizing him to carry concealed weapons.
- 47       (6) The sheriff of the county of the applicant's residence or, if the
- 48       applicant has obtained a protection order pursuant to chapter 63, title 39,
- 49       Idaho Code, the sheriff of a county where the applicant is temporarily resid-
- 50       ing may issue a temporary emergency license for good cause pending review of

1 an application made under subsection (7) of this section. Temporary emer-  
2 gency licenses must be easily distinguishable from regular licenses. A tem-  
3 porary emergency license shall be valid for not more than ninety (90) days.

4 (7) The sheriff of a county, on behalf of the state of Idaho, must,  
5 within ninety (90) days after the filing of a license application by any per-  
6 son who is not disqualified as provided herein from possessing or receiving  
7 a firearm under state or federal law, issue a license to the person to carry  
8 concealed weapons on his person within this state. Such license shall be  
9 valid for five (5) years from the date of issuance.

10 (8) The sheriff must make license applications readily available at the  
11 office of the sheriff, at other public offices in his or her jurisdiction and  
12 on the website of the Idaho state police. The license application shall be  
13 in a form to be prescribed by the director of the Idaho state police and must  
14 meet the following requirements:

15 (a) The license application shall require the applicant's name, ad-  
16 dress, description, signature, date of birth, place of birth, military  
17 status, citizenship and the driver's license number or state identi-  
18 fication card number if used for identification in applying for the  
19 license. Provided however, that if the applicant is not a United States  
20 citizen and is legally in the United States, the application must also  
21 require any alien or admission number issued to the applicant by United  
22 States immigration and customs enforcement or any successor agency;

23 (b) The license application may ask the applicant to disclose his  
24 social security number but must indicate that disclosure of the appli-  
25 cant's social security number is optional; and

26 (c) The license application must contain a warning that substantially  
27 reads as follows:

28 CAUTION: Federal law and state law on the possession of weapons and  
29 firearms differ. If you are prohibited by federal law from possess-  
30 ing a weapon or a firearm, you may be prosecuted in federal court. A  
31 state permit is not a defense to a federal prosecution.

32 (9) The sheriff may require the applicant to demonstrate familiarity  
33 with a firearm and must accept any one (1) of the following as evidence of the  
34 applicant's familiarity with a firearm:

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

37 (b) Completion of any national rifle association firearms safety or  
38 training course or any national rifle association hunter education  
39 course or any equivalent course;

40 (c) Completion of any firearms safety or training course or class  
41 available to the general public offered by a law enforcement agency,  
42 community college, college, university, or private or public institu-  
43 tion or organization or firearms training school, utilizing instruc-  
44 tors certified by the national rifle association or the Idaho state  
45 police;

46 (d) Completion of any law enforcement firearms safety or training  
47 course or class offered for security guards, investigators, special

1 deputies, or offered for any division or subdivision of a law enforce-  
2 ment agency or security enforcement agency;

3 (e) Evidence of equivalent experience with a firearm through partici-  
4 pation in organized shooting competition or military service;

5 (f) A current license to carry concealed weapons pursuant to this sec-  
6 tion, unless the license has been revoked for cause;

7 (g) Completion of any firearms training or safety course or class con-  
8 ducted by a state-certified or national rifle association-certified  
9 firearms instructor; or

10 (h) Other training that the sheriff deems appropriate.

11 (10) Any person applying for original issuance of a license to carry  
12 concealed weapons must submit his fingerprints with the completed license  
13 application. Within five (5) days after the filing of an application, the  
14 sheriff must forward the applicant's completed license application and fin-  
15 gerprints to the Idaho state police. The Idaho state police must conduct a  
16 national fingerprint-based records check, an inquiry through the national  
17 instant criminal background check system and a check of any applicable state  
18 database, including a check for any mental health records for conditions or  
19 commitments that would disqualify a person from possessing a firearm under  
20 state or federal law, and return the results to the sheriff within sixty  
21 (60) days. If the applicant is not a United States citizen, an immigration  
22 alien query must also be conducted through United States immigration and  
23 customs enforcement or any successor agency. The sheriff shall not issue  
24 a license before receiving the results of the records check and must deny a  
25 license if the applicant is disqualified under any of the criteria listed  
26 in subsection (11) of this section. The sheriff may deny a license to carry  
27 concealed weapons to an alien if background information is not attainable or  
28 verifiable.

29 (11) A license to carry concealed weapons shall not be issued to any per-  
30 son who:

31 (a) Is under twenty-one (21) years of age, except as otherwise provided  
32 in this section;

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

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

37 (d) Is a fugitive from justice;

38 (e) Is an unlawful user of marijuana or any depressant, stimulant or  
39 narcotic drug, or any controlled substance as defined in 21 U.S.C. 802;

40 (f) Is currently suffering from or has been adjudicated as having suf-  
41 fered from any of the following conditions, based on substantial evi-  
42 dence:

43 (i) Lacking mental capacity as defined in section 18-210, Idaho  
44 Code;

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

46 (iii) Gravely disabled as defined in section 66-317, Idaho Code;

47 or

48 (iv) An incapacitated person as defined in section 15-5-101,  
49 Idaho Code;

1 (g) Has been discharged from the armed forces under dishonorable condi-  
2 tions;

3 (h) Has received a withheld judgment or suspended sentence for a crime  
4 punishable by imprisonment for a term exceeding one (1) year, unless the  
5 person has successfully completed probation;

6 (i) Has received a period of probation after having been adjudicated  
7 guilty of, or received a withheld judgment for, a misdemeanor offense  
8 that has as an element the intentional use, attempted use or threatened  
9 use of physical force against the person or property of another, unless  
10 the person has successfully completed probation;

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

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

14 (l) Is free on bond or personal recognizance pending trial, appeal or  
15 sentencing for a crime that would disqualify him from obtaining a con-  
16 cealed weapons license;

17 (m) Is subject to a protection order issued under chapter 63, title  
18 39, Idaho Code, that restrains the person from harassing, stalking or  
19 threatening an intimate partner of the person, or child of the intimate  
20 partner or person, or engaging in other conduct that would place an  
21 intimate partner in reasonable fear of bodily injury to the partner or  
22 child; or

23 (n) Is for any other reason ineligible to own, possess or receive a  
24 firearm under the provisions of Idaho or federal law.

25 (12) In making a determination in relation to an applicant's eligibil-  
26 ity under subsection (11) of this section, the sheriff shall not consider:

27 (a) A conviction, guilty plea or adjudication that has been nullified  
28 by expungement, pardon, setting aside or other comparable procedure by  
29 the jurisdiction where the conviction, guilty plea or adjudication oc-  
30 curred or in respect of which conviction, guilty plea or adjudication  
31 the applicant's civil right to bear arms either specifically or in com-  
32 bination with other civil rights has been restored under operation of  
33 law or legal process; or

34 (b) Except as provided for in subsection (11) (f) of this section, an  
35 adjudication of mental defect, incapacity or illness or an involuntary  
36 commitment to a mental institution if the applicant's civil right to  
37 bear arms has been restored under operation of law or legal process.

38 (13) A license to carry concealed weapons must be in a form substan-  
39 tially similar to that of the Idaho driver's license and must meet the  
40 following specifications:

41 (a) The license must provide the licensee's name, address, date of  
42 birth and the driver's license number or state identification card num-  
43 ber if used for identification in applying for the license;

44 (b) The license must bear the licensee's signature and picture; and

45 (c) The license must provide the date of issuance and the date on which  
46 the license expires.

47 (14) Upon issuing a license under the provisions of this section, the  
48 sheriff must notify the Idaho state police within three (3) business days on  
49 a form or in a manner prescribed by the Idaho state police. Information re-  
50 lating to an applicant or licensee received or maintained pursuant to this

1 section by the sheriff or Idaho state police is confidential and exempt from  
2 disclosure under section 74-105, Idaho Code.

3 (15) The fee for original issuance of a license shall be twenty dollars  
4 (\$20.00), which the sheriff must retain for the purpose of performing the du-  
5 ties required in this section. The sheriff may collect the actual cost of any  
6 additional fees necessary to cover the cost of processing fingerprints law-  
7 fully required by any state or federal agency or department, and the actual  
8 cost of materials for the license lawfully required by any state agency or  
9 department, which costs must be paid to the state. The sheriff must provide  
10 the applicant with a copy of the results of the fingerprint-based records  
11 check upon request of the applicant.

12 (16) The fee for renewal of the license shall be fifteen dollars  
13 (\$15.00), which the sheriff must retain for the purpose of performing the du-  
14 ties required in this section. The sheriff may collect the actual cost of any  
15 additional fees necessary to cover the processing costs lawfully required by  
16 any state or federal agency or department, and the actual cost of materials  
17 for the license lawfully required by any state agency or department, which  
18 costs must be paid to the state.

19 (17) Every license that is not, as provided by law, suspended, revoked  
20 or disqualified in this state shall be renewable at any time during the  
21 ninety (90) day period before its expiration or within ninety (90) days after  
22 the expiration date. The sheriff must mail renewal notices ninety (90) days  
23 prior to the expiration date of the license. The sheriff shall require the  
24 licensee applying for renewal to complete an application. The sheriff must  
25 submit the application to the Idaho state police for a records check of state  
26 and national databases. The Idaho state police must conduct the records  
27 check and return the results to the sheriff within thirty (30) days. The  
28 sheriff shall not issue a renewal before receiving the results of the records  
29 check and must deny a license if the applicant is disqualified under any of  
30 the criteria provided in this section. A renewal license shall be valid for  
31 a period of five (5) years. A license so renewed shall take effect on the ex-  
32 piration date of the prior license. A licensee renewing ninety-one (91) days  
33 to one hundred eighty (180) days after the expiration date of the license  
34 must pay a late renewal penalty of ten dollars (\$10.00) in addition to the  
35 renewal fee unless waived by the sheriff, except that any licensee serving  
36 on active duty in the armed forces of the United States during the renewal  
37 period shall not be required to pay a late renewal penalty upon renewing  
38 ninety-one (91) days to one hundred eighty (180) days after the expiration  
39 date of the license. After one hundred eighty-one (181) days, the licensee  
40 must submit an initial application for a license and pay the fees prescribed  
41 in subsection (15) of this section. The renewal fee and any penalty shall  
42 be paid to the sheriff for the purpose of enforcing the provisions of this  
43 chapter. Upon renewing a license under the provisions of this section, the  
44 sheriff must notify the Idaho state police within five (5) days on a form or  
45 in a manner prescribed by the Idaho state police.

46 (18) No city, county or other political subdivision of this state shall  
47 modify or add to the requirements of this section, nor shall a city, county  
48 or political subdivision ask the applicant to voluntarily submit any infor-  
49 mation not required in this section. A civil action may be brought to enjoin  
50 a wrongful refusal to issue a license or a wrongful modification of the re-

1 requirements of this section. The civil action may be brought in the county in  
2 which the application was made or in Ada county at the discretion of the peti-  
3 tioner. Any person who prevails against a public agency in any action in the  
4 courts for a violation of this section must be awarded costs, including rea-  
5 sonable attorney's fees incurred in connection with the legal action.

6 (19) A county sheriff, deputy sheriff or county employee who issues a  
7 license to carry a concealed weapon under this section shall not incur any  
8 civil or criminal liability as the result of the performance of his duties in  
9 compliance with this section.

10 (20) The sheriff of a county shall issue a license to carry a con-  
11 cealed weapon to those individuals between the ages of eighteen (18) and  
12 twenty-one (21) years who, except for the age requirement contained in sec-  
13 tion 18-3302K(4), Idaho Code, would otherwise meet the requirements for  
14 issuance of a license under section 18-3302K, Idaho Code. Licenses issued  
15 to individuals between the ages of eighteen (18) and twenty-one (21) years  
16 under this subsection shall be easily distinguishable from licenses issued  
17 pursuant to subsection (7) of this section. A license issued pursuant to  
18 this subsection after July 1, 2016, shall expire on the twenty-first birth-  
19 day of the licensee. A licensee, upon attaining the age of twenty-one (21)  
20 years, shall be allowed to renew the license under the procedure contained in  
21 section 18-3302K(9), Idaho Code. Such renewal license shall be issued as an  
22 enhanced license pursuant to the provisions of section 18-3302K, Idaho Code.

23 (21) A person carrying a concealed weapon in violation of the provisions  
24 of this section shall be guilty of a misdemeanor.

25 (22) The sheriff of the county where the license was issued or the sher-  
26 iff of the county where the person resides shall have the power to revoke a  
27 license subsequent to a hearing in accordance with the provisions of chapter  
28 52, title 67, Idaho Code, for any of the following reasons:

29 (a) Fraud or intentional misrepresentation in the obtaining of a li-  
30 cense;

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

34 (c) The doing of an act or existence of a condition that would have been  
35 grounds for the denial of the license by the sheriff;

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

37 (e) The applicant is adjudicated guilty of or receives a withheld judg-  
38 ment for a crime that would have disqualified him from initially receiv-  
39 ing a license.

40 (23) A person twenty-one (21) years of age or older who presents a valid  
41 license to carry concealed weapons is exempt from any requirement to undergo  
42 a records check at the time of purchase or transfer of a firearm from a feder-  
43 ally licensed firearms dealer. Provided however, a temporary emergency li-  
44 cense issued pursuant to subsection (6) of this section shall not exempt the  
45 holder of the license from any records check requirement.

46 (24) The attorney general must contact the appropriate officials in  
47 other states for the purpose of establishing, to the extent possible, recog-  
48 nition and reciprocity of the license to carry concealed weapons by other  
49 states, whether by formal agreement or otherwise. The Idaho state police

1 must keep a copy and maintain a record of all such agreements and reciprocity  
2 recognitions, which must be made available to the public.

3 (25) Nothing in subsection (3) or (4) of this section shall be construed  
4 to limit the existing rights of a private property owner, private tenant,  
5 private employer, or private business entity; however, unless otherwise  
6 prohibited in this chapter, the provisions of this subsection shall not ap-  
7 ply to any property owned by the state of Idaho or its political subdivisions  
8 that is leased, rented, licensed, loaned, permitted, or occupied, whether  
9 for consideration or not, to any private entity or person when such private  
10 entity or person does not exclusively and continuously possess and enjoy the  
11 use of such property for a period less than ninety (90) days. Nothing in this  
12 subsection relieves any political subdivision of the state of Idaho of its  
13 duties to convey or manage public property in accordance with Idaho law.

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

18 SECTION 2. That Section 18-3302J, Idaho Code, be, and the same is hereby  
19 amended to read as follows:

20 18-3302J. PREEMPTION OF FIREARMS REGULATION. (1) The legislature  
21 finds that uniform laws regulating firearms are necessary to protect the  
22 individual citizen's right to bear arms guaranteed by amendment 2 of the  
23 United States Constitution and section 11, article I of the constitution of  
24 the state of Idaho. It is the legislature's intent to wholly occupy the field  
25 of firearms regulation within this state.

26 (2) Except as expressly authorized by state statute, no county, city,  
27 agency, board, or any other political subdivision of this state may ~~adopt~~:

28 (a) Adopt, display, or enforce any tax, law, rule, regulation, or  
29 ordinance which, order, policy, directive, or lease agreement as either  
30 landlord or tenant that regulates, discourages, or otherwise limits  
31 in any manner the sale, acquisition, transfer, ownership, possession,  
32 transportation, carrying, or storage of firearms or any element relat-  
33 ing to firearms and components thereof, including ammunition; or

34 (b) Require the licensing or registration of firearms or ammunition or  
35 any firearm or ammunition components or related accessories.

36 (3) A county may adopt ordinances to regulate, restrict or prohibit the  
37 discharge of firearms within its boundaries. Ordinances adopted under this  
38 subsection may not apply to or affect:

39 (a) A person discharging a firearm in the lawful defense of person or  
40 persons or property;

41 (b) A person discharging a firearm in the course of lawful hunting;

42 (c) A landowner and guests of the landowner discharging a firearm, when  
43 the discharge will not endanger persons or property;

44 (d) A person lawfully discharging a firearm on a sport shooting range as  
45 defined in section 55-2604, Idaho Code; or

46 (e) A person discharging a firearm in the course of target shooting on  
47 public land if the discharge will not endanger persons or property.

1 (4) A city may adopt ordinances to regulate, restrict or prohibit the  
 2 discharge of firearms within its boundaries. Ordinances adopted under this  
 3 subsection may not apply to or affect:

4 (a) A person discharging a firearm in the lawful defense of person or  
 5 persons or property; or

6 (b) A person lawfully discharging a firearm on a sport shooting range as  
 7 defined in section 55-2604, Idaho Code.

8 (5) This section shall not be construed to affect:

9 (a) The authority of the department of fish and game to make rules or  
 10 regulations concerning the management of any wildlife of this state, as  
 11 set forth in section 36-104, Idaho Code; and

12 (b) The authority of counties and cities to regulate the location and  
 13 construction of sport shooting ranges, subject to the limitations con-  
 14 tained in chapter 26, title 55, Idaho Code.

15 (6) Civil enforcement for violations of this section, and any related  
 16 sections, shall be as follows:

17 (a) Any person or public entity who violates the provisions of subsec-  
 18 tion (2), (3), or (4) of this section shall be liable for civil damages  
 19 and subject to declaratory and injunctive relief.

20 (b) Any governmental entity, person, or membership organization that  
 21 may reasonably be adversely affected by a violation of this section may  
 22 file suit against any person or entity in any court of this state having  
 23 jurisdiction over any defendant alleged to be in violation of this sec-  
 24 tion. The suit may seek declaratory and injunctive relief.

25 (c) Any governmental entity, person, or membership organization may  
 26 also sue for nominal or actual damages, as limited in this subsection,  
 27 caused by the violation after giving the person or entity written notice  
 28 of the violation and sixty (60) days have elapsed from the date of such  
 29 written notice.

30 (d) A court shall award the prevailing plaintiff in any suits set forth  
 31 in paragraphs (b) and (c) of this subsection reasonable attorney's fees  
 32 and costs in accordance with the laws of this state, including a contin-  
 33 gency fee and the actual damages incurred. Interest on the sums awarded  
 34 pursuant to this subsection shall accrue at the legal rate from the date  
 35 on which suit was filed.

36 (7) The provisions of this section shall apply to property that is owned  
 37 by the state of Idaho or its political subdivisions that is leased to a pri-  
 38 ivate entity or person.

39 (8) The provisions of this section are hereby declared to be severable.  
 40 And if any provision is declared invalid for any reason, such declaration  
 41 shall not affect the validity of the remaining portions of this section.

42 SECTION 3. An emergency existing therefor, which emergency is hereby  
 43 declared to exist, this act shall be in full force and effect on and after  
 44 July 1, 2022.