

TITLE 18  
CRIMES AND PUNISHMENTS

CHAPTER 33  
FIREARMS, EXPLOSIVES AND OTHER DEADLY WEAPONS

18-3301. DEADLY WEAPON -- POSSESSION WITH INTENT TO ASSAULT. Every person having upon him any deadly weapon with intent to assault another is guilty of a misdemeanor.

[18-3301, added 1972, ch. 336, sec. 1, p. 911.]

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. A propellant charge; and

2. A priming cap or primer cap.

(3) No person shall carry concealed weapons on or about his person without a license to carry concealed weapons, except:

(a) In the person's place of abode or fixed place of business;

(b) On property in which the person has any ownership or leasehold interest;

(c) On private property where the person has permission to carry concealed weapons from any person with an ownership or leasehold interest;

(d) Outside the limits of or confines of any city, if the person is eighteen (18) years of age or older and is not otherwise disqualified from being issued a license under subsection (11) of this section.

(4) Subsection (3) of this section shall not apply to restrict or prohibit the carrying or possession of:

- (a) Any deadly weapon located in plain view;
- (b) Any lawfully possessed shotgun or rifle;
- (c) Any deadly weapon concealed in a motor vehicle;
- (d) A firearm that is not loaded and is secured in a case;
- (e) A firearm that is disassembled or permanently altered such that it is not readily operable; and
- (f) Any deadly weapon concealed by a person who is:
  - (i) Over eighteen (18) years of age;
  - (ii) A citizen of the United States or a current member of the armed forces of the United States; and
  - (iii) Is not disqualified from being issued a license under paragraphs (b) through (n) of subsection (11) of this section.

(5) The requirement to secure a license to carry concealed weapons under this section shall not apply to the following persons:

- (a) Officials of a city, county or the state of Idaho;
- (b) Any publicly elected Idaho official;
- (c) Members of the armed forces of the United States or of the national guard when in performance of official duties;
- (d) Criminal investigators of the attorney general's office and criminal investigators of a prosecuting attorney's office, prosecutors and their deputies;
- (e) Any peace officer as defined in section [19-5101](#) (d), Idaho Code, in good standing;
- (f) Retired peace officers or detention deputies with at least ten (10) years of service with the state or a political subdivision as a peace officer or detention deputy and who have been certified by the peace officer standards and training council;
- (g) Any person who has physical possession of his valid license or permit authorizing him to carry concealed weapons from another state; and
- (h) Any person who has physical possession of a valid license or permit from a local law enforcement agency or court of the United States authorizing him to carry concealed weapons.

(6) The sheriff of the county of the applicant's residence or, if the applicant has obtained a protection order pursuant to [chapter 63, title 39](#), Idaho Code, the sheriff of a county where the applicant is temporarily residing may issue a temporary emergency license for good cause pending review of an application made under subsection (7) of this section. Temporary emergency licenses must be easily distinguishable from regular licenses. A temporary emergency license shall be valid for not more than ninety (90) days.

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

(8) The sheriff must make license applications readily available at the office of the sheriff, at other public offices in his or her jurisdiction and on the website of the Idaho state police. The license application shall be

in a form to be prescribed by the director of the Idaho state police and must meet the following requirements:

- (a) The license application shall require the applicant's name, address, description, signature, date of birth, place of birth, military status, citizenship and the driver's license number or state identification card number if used for identification in applying for the license. Provided however, that if the applicant is not a United States citizen and is legally in the United States, the application must also require any alien or admission number issued to the applicant by United States immigration and customs enforcement or any successor agency;
- (b) The license application may ask the applicant to disclose his social security number but must indicate that disclosure of the applicant's social security number is optional; and
- (c) The license application must contain a warning that substantially reads as follows:

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

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

- (a) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state;
- (b) Completion of any national rifle association firearms safety or training course or any national rifle association hunter education course or any equivalent course;
- (c) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the Idaho state police;
- (d) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or offered for any division or subdivision of a law enforcement agency or security enforcement agency;
- (e) Evidence of equivalent experience with a firearm through participation in organized shooting competition or military service;
- (f) A current license to carry concealed weapons pursuant to this section, unless the license has been revoked for cause;
- (g) Completion of any firearms training or safety course or class conducted by a state-certified or national rifle association-certified firearms instructor; or
- (h) Other training that the sheriff deems appropriate.

(10) Any person applying for original issuance of a license to carry concealed weapons must submit his fingerprints with the completed license application. Within five (5) days after the filing of an application, the sheriff must forward the applicant's completed license application and fingerprints to the Idaho state police. The Idaho state police must conduct a national fingerprint-based records check, an inquiry through the national

instant criminal background check system and a check of any applicable state database, including a check for any mental health records for conditions or commitments that would disqualify a person from possessing a firearm under state or federal law, and return the results to the sheriff within sixty (60) days. If the applicant is not a United States citizen, an immigration alien query must also be conducted through United States immigration and customs enforcement or any successor agency. The sheriff shall not issue a license before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria listed in subsection (11) of this section. The sheriff may deny a license to carry concealed weapons to an alien if background information is not attainable or verifiable.

(11) A license to carry concealed weapons shall not be issued to any person who:

- (a) Is under twenty-one (21) years of age, except as otherwise provided in this section;
- (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 marijuana or any depressant, stimulant or narcotic drug, or any controlled substance as defined in 21 U.S.C. 802;
- (f) Is currently suffering from or has been adjudicated as having suffered from any of the following conditions, 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](#), Idaho Code;
- (g) Has been discharged from the armed forces under dishonorable conditions;
- (h) Has received a withheld judgment or suspended sentence for a crime punishable by imprisonment for a term exceeding one (1) year, unless the person has successfully completed probation;
- (i) Has received a period of probation after having been adjudicated guilty of, or received a withheld judgment for, a misdemeanor offense that has as an element the intentional use, attempted use or threatened use of physical force against the person or property of another, unless the person has successfully completed probation;
- (j) Is an alien illegally in the United States;
- (k) Is a person who having been a citizen of the United States has renounced his or her citizenship;
- (l) Is free on bond or personal recognizance pending trial, appeal or sentencing for a crime that would disqualify him from obtaining a concealed weapons license;
- (m) Is subject to a protection order issued under [chapter 63, title 39](#), Idaho Code, that restrains the person from harassing, stalking or threatening an intimate partner of the person or child of the intimate partner or person, or engaging in other conduct that would place an

intimate partner in reasonable fear of bodily injury to the partner or child; or

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

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

(a) A conviction, guilty plea or adjudication that has been nullified by expungement, pardon, setting aside or other comparable procedure by the jurisdiction where the conviction, guilty plea or adjudication occurred or in respect of which conviction, guilty plea or adjudication the applicant's civil right to bear arms either specifically or in combination with other civil rights has been restored under operation of law or legal process; or

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

(13) A license to carry concealed weapons must be in a form substantially similar to that of the Idaho driver's license and must meet the following specifications:

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

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

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

(14) Upon issuing a license under the provisions of this section, the sheriff must notify the Idaho state police within three (3) business days on a form or in a manner prescribed by the Idaho state police. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section [74-105](#), Idaho Code.

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

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

(17) Every license that is not, as provided by law, suspended, revoked or disqualified in this state shall be renewable at any time during the ninety (90) day period before its expiration or within ninety (90) days after the expiration date. The sheriff must mail renewal notices ninety (90) days prior to the expiration date of the license. The sheriff shall

require the licensee applying for renewal to complete an application. The sheriff must submit the application to the Idaho state police for a records check of state and national databases. The Idaho state police must conduct the records check and return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria provided in this section. A renewal license shall be valid for a period of five (5) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license must pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee unless waived by the sheriff, except that any licensee serving on active duty in the armed forces of the United States during the renewal period shall not be required to pay a late renewal penalty upon renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license. After one hundred eighty-one (181) days, the licensee must submit an initial application for a license and pay the fees prescribed in subsection (15) of this section. The renewal fee and any penalty shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter. Upon renewing a license under the provisions of this section, the sheriff must notify the Idaho state police within five (5) days on a form or in a manner prescribed by the Idaho state police.

(18) No city, county or other political subdivision of this state shall modify or add to the requirements of this section, nor shall a city, county or political subdivision ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this section must be awarded costs, including reasonable attorney's fees incurred in connection with the legal action.

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

(20) The sheriff of a county shall issue a license to carry a concealed weapon to those individuals between the ages of eighteen (18) and twenty-one (21) years who, except for the age requirement contained in section [18-3302K](#)(4), Idaho Code, would otherwise meet the requirements for issuance of a license under section [18-3302K](#), Idaho Code. Licenses issued to individuals between the ages of eighteen (18) and twenty-one (21) years under this subsection shall be easily distinguishable from licenses issued pursuant to subsection (7) of this section. A license issued pursuant to this subsection after July 1, 2016, shall expire on the twenty-first birthday of the licensee. A licensee, upon attaining the age of twenty-one (21) years, shall be allowed to renew the license under the procedure contained in section [18-3302K](#)(9), Idaho Code. Such renewal license shall be issued as an enhanced license pursuant to the provisions of section [18-3302K](#), Idaho Code.

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

(22) The sheriff of the county where the license was issued or the sheriff of the county where the person resides shall have the power to revoke a

license subsequent to a hearing in accordance with the provisions of [chapter 52, title 67](#), Idaho Code, for any of the following reasons:

- (a) Fraud or intentional misrepresentation in the obtaining of a license;
- (b) Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;
- (c) The doing of an act or existence of a condition that would have been grounds for the denial of the license by the sheriff;
- (d) The violation of any of the terms of this section; or
- (e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime that would have disqualified him from initially receiving a license.

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

(24) The attorney general must contact the appropriate officials in other states for the purpose of establishing, to the extent possible, recognition and reciprocity of the license to carry concealed weapons by other states, whether by formal agreement or otherwise. The Idaho state police must keep a copy and maintain a record of all such agreements and reciprocity recognitions, which must be made available to the public.

(25) Nothing in subsection (3) or (4) of this section shall be construed to limit the existing rights of a private property owner, private tenant, private employer or private business entity.

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

[18-3302, added 2015, ch. 303, sec. 2, p. 1188; am. 2016, ch. 208, sec. 1, p. 585; am. 2017, ch. 231, sec. 1, p. 558; am. 2019, ch. 272, sec. 1, p. 791; am. 2019, ch. 273, sec. 1, p. 798; am. 2020, ch. 82, sec. 9, p. 179; am. 2020, ch. 315, sec. 1, p. 893.]

18-3302A. SALE OF WEAPONS TO MINORS. It shall be unlawful to directly or indirectly sell to any minor under the age of eighteen (18) years any weapon without the written consent of the parent or guardian of the minor. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine not in excess of one thousand dollars (\$1,000), by imprisonment in the county jail for a term not in excess of six (6) months, or by both such fine and imprisonment. As used in this section, "weapon" shall mean any dirk, dirk knife, bowie knife, dagger, pistol, revolver or gun.

[18-3302A, added 1990, ch. 256, sec. 3, p. 736; am. 1994, ch. 369, sec. 1, p. 1186.]

18-3302B. CARRYING CONCEALED WEAPONS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS. (1) It shall be unlawful for any person to carry a concealed weapon on or about his person when intoxicated or under the influence of an intoxicat-

ing drink or drug. Any violation of the provisions of this section shall be a misdemeanor.

(2) In addition to any other penalty, any person who enters a plea of guilty, who is found guilty or who is convicted of a violation of subsection (1) of this section when such violation occurs on a college or university campus shall have any and all licenses issued pursuant to section [18-3302](#), [18-3302H](#) or [18-3302K](#), Idaho Code, revoked for a period of three (3) years and such person shall be ineligible to obtain or renew any such license or use any other license recognized by this state for the same period.

[18-3302B, added 1990, ch. 256, sec. 3, p. 736; am. 2014, ch. 73, sec. 2, p. 189.]

18-3302C. PROHIBITED CONDUCT. Any person obtaining a license under the provisions of section [18-3302](#), Idaho Code, or carrying a concealed deadly weapon pursuant to the provisions of section [18-3302](#)(4)(f), Idaho Code, shall not:

(1) Carry a concealed weapon in a courthouse; juvenile detention facility or jail; public or private school, except as provided in subsection (4)(g) of section [18-3302D](#), Idaho Code; provided that this subsection shall not apply to:

- (a) Peace officers while acting within the scope of their employment;
- (b) Security personnel while actually engaged in their employment; or
- (c) Any person who is authorized to carry a weapon by a person, board or other entity having authority over the building or facility; or

(2) Provide information on the application for a permit to carry a concealed weapon knowing the same to be untrue.

Any person violating the provisions of this section shall be guilty of a misdemeanor.

[18-3302C, added 1990, ch. 256, sec. 3, p. 736; am. 1991, ch. 262, sec. 2, p. 652; am. 2000, ch. 420, sec. 2, p. 1368; am. 2016, ch. 208, sec. 2, p. 591; am. 2018, ch. 195, sec. 2, p. 438.]

18-3302D. POSSESSING WEAPONS OR FIREARMS ON SCHOOL PROPERTY.

(1) (a) It shall be unlawful and is a misdemeanor for any person to possess a firearm or other deadly or dangerous weapon while on the property of a school or in those portions of any building, stadium or other structure on school grounds which, at the time of the violation, were being used for an activity sponsored by or through a school in this state or while riding school provided transportation.

(b) The provisions of this section regarding the possession of a firearm or other deadly or dangerous weapon on school property shall also apply to students of schools while attending or participating in any school-sponsored activity, program or event regardless of location.

(2) Definitions. As used in this section:

- (a) "Deadly or dangerous weapon" means any weapon as defined in 18 U.S.C. 930;
- (b) "Firearm" means any firearm as defined in 18 U.S.C. 921;
- (c) "Minor" means a person under the age of eighteen (18) years;
- (d) "Possess" means to bring an object, or to cause it to be brought, onto the property of a public or private elementary or secondary school, or onto a vehicle being used for school-provided transportation, or to

exercise dominion and control over an object located anywhere on such property or vehicle. For purposes of subsection (1) (b) of this section, "possess" shall also mean to bring an object onto the site of a school-sponsored activity, program or event, regardless of location, or to exercise dominion and control over an object located anywhere on such a site;

(e) "School" means a private or public elementary or secondary school.

(3) Right to search students or minors. For purposes of enforcing the provisions of this section, employees of a school district shall have the right to search all students or minors, including their belongings and lockers, that are reasonably believed to be in violation of the provisions of this section, or applicable school rule or district policy, regarding the possessing of a firearm or other deadly or dangerous weapon.

(4) The provisions of this section shall not apply to the following persons:

(a) A peace officer;

(b) A qualified retired law enforcement officer licensed under section [18-3302H](#), Idaho Code;

(c) A person who lawfully possesses a firearm or deadly or dangerous weapon as an appropriate part of a program, an event, activity or other circumstance approved by the board of trustees or governing board;

(d) A person or persons complying with the provisions of section [19-202A](#), Idaho Code;

(e) Any adult over eighteen (18) years of age and not enrolled in a public or private elementary or secondary school who has lawful possession of a firearm or other deadly or dangerous weapon, secured and locked in his vehicle in an unobtrusive, nonthreatening manner;

(f) A person who lawfully possesses a firearm or other deadly or dangerous weapon in a private vehicle while delivering minor children, students or school employees to and from school or a school activity; or

(g) Notwithstanding the provisions of section [18-3302C](#), Idaho Code, a person or an employee of the school or school district who is authorized to carry a firearm with the permission of the board of trustees of the school district or the governing board.

(5) Penalties. Persons who are found guilty of violating the provisions of this section may be sentenced to a jail term of not more than one (1) year or fined an amount not in excess of one thousand dollars (\$1,000) or both. If a violator is a student and under the age of eighteen (18) years, the court may place the violator on probation and suspend the juvenile detention or fine or both as long as the violator is enrolled in a program of study recognized by the court that, upon successful completion, will grant the violator a general equivalency diploma (GED) or a high school diploma or other educational program authorized by the court. Upon successful completion of the terms imposed by the court, the court shall discharge the offender from serving the remainder of the sentence. If the violator does not complete, is suspended from, or otherwise withdraws from the program of study imposed by the court, the court, upon receiving such information, shall order the violator to commence serving the sentence provided for in this section.

[18-3302D, added 1993, ch. 153, sec. 1, p. 389; am. 1995, ch. 248, sec. 1, p. 819; am. 2000, ch. 420, sec. 1, p. 1366; am. 2018, ch. 195, sec. 3, p. 438.]

18-3302E. POSSESSION OF A WEAPON BY A MINOR. (1) It shall be unlawful for any person under the age of eighteen (18) years to possess or have in possession any weapon, as defined in section [18-3302A](#), Idaho Code, unless he:

- (a) Has the written permission of his parent or guardian to possess the weapon; or
  - (b) Is accompanied by his parent or guardian while he has the weapon in his possession.
- (2) Any minor under the age of twelve (12) years in possession of a weapon shall be accompanied by an adult.
- (3) Any person who violates the provisions of this section is guilty of a misdemeanor.

[18-3302E, added 1994, ch. 369, sec. 2, p. 1187.]

18-3302F. PROHIBITION OF POSSESSION OF CERTAIN WEAPONS BY A MINOR. (1) It shall be unlawful for any person under the age of eighteen (18) years to possess or have in possession any handgun.

- (2) Except as provided by federal law, a minor under the age of eighteen (18) years may not possess the following:
  - (a) A sawed-off rifle or sawed-off shotgun; or
  - (b) A full automatic weapon.
- (3) Any person who violates the provisions of subsection (2) (a) of this section is guilty of a misdemeanor.
- (4) Any person who violates the provisions of subsection (2) (b) of this section is guilty of a felony.
- (5) For purposes of this section:
  - (a) "Full automatic weapon" means any firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one (1) bullet, or other missile without reloading, by a single function of the trigger.
  - (b) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable, or magazine breech, does not exceed twelve (12) inches. Excluded from this definition are handguns firing a metallic projectile, such as a BB or pellet, through the force of air pressure, CO pressure, or spring action or any spot marker gun.
- (6) Any person who provides a handgun to a minor when the possession of the handgun by the minor is a violation of the provisions of this section is guilty of a misdemeanor.

[18-3302F, added 1994, ch. 369, sec. 3, p. 1187.]

18-3302G. EXCEPTIONS. The provisions of section [18-3302E](#), Idaho Code, regarding the possession of a weapon by a minor or section [18-3302F](#), Idaho Code, regarding possession of handguns by minors shall not apply to any of the following:

- (1) Patrons firing at lawfully operated target concessions at amusement parks and similar locations provided that the firearms to be used are firmly chained or affixed to the counters;
- (2) Any person in attendance at a hunter's safety course or a firearm's safety course;

(3) Any person engaging in practice or any other lawful use of a firearm at an established range or any other area where the discharge of a firearm is not prohibited by state or local law;

(4) Any person engaging in an organized competition involving the use of a firearm, or participating in or practicing for such competition;

(5) Any minor under eighteen (18) years of age who is on real property with the permission of the owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian or the owner, licensee, or lessee to possess a firearm not otherwise in violation of the law;

(6) Any resident or nonresident hunters with a valid hunting license or other persons who are lawfully engaged in hunting; and

(7) Any person traveling to or from any activity described in subsection (2), (3), (4), (5) or (6) of this section with an unloaded firearm in his possession.

[18-3302G, added 1994, ch. 369, sec. 4, p. 1188.]

18-3302H. CARRYING OF CONCEALED FIREARMS BY QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS. (1) A county sheriff shall issue a license to carry a concealed firearm to a qualified retired law enforcement officer provided that the provisions of this section are met.

(2) As used in this section:

(a) "Firearm" means a handgun and does not include:

- (i) Any machine gun, as defined in 26 U.S.C. section 5845 (b);
- (ii) Any firearm silencer, as defined in 18 U.S.C. section 921; or
- (iii) Any destructive device, as defined in 18 U.S.C. section 921.

(b) "Qualified retired law enforcement officer" means an individual who:

- (i) Retired in good standing from service with a public agency as a law enforcement officer, provided that such retirement was for reasons other than mental instability;
- (ii) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;
- (iii) Before such retirement, was regularly employed as a law enforcement officer for an aggregate of ten (10) years or more, or retired from service with such agency after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
- (iv) Has a nonforfeitable right to benefits under the retirement plan of the agency;
- (v) During the most recent twelve (12) month period has met, at his own expense, the standards for training and qualification of this state, as required at the discretion of the sheriff under paragraph (d) of this subsection or the agency from which he retired for active law enforcement officers, to carry a concealed firearm;
- (vi) Is not chronically under the influence of alcohol, or under the influence of another intoxicating or hallucinatory drug or substance in violation of any provision of federal or state law;
- (vii) Is not prohibited by federal law from receiving a firearm;

(viii) Has a current and valid photographic identification issued by the agency from which the individual retired from service as a law enforcement officer;

(ix) Provides by his affidavit, in triplicate, sworn and signed by him under penalty of perjury, that he meets all of the conditions set forth in this subsection (2);

(x) Pays the fees charged by the sheriff pursuant to this section; and

(xi) Completes the original application or renewal application as provided by this section.

(c) "Retired in good standing" means that at the time of his retirement, he was not under investigation, or subject to discipline, for any violation of this state's law enforcement code of conduct.

(d) "Standards for training and qualification in this state" means that when issuing a license pursuant to this section, the sheriff may require the applicant to demonstrate familiarity with a firearm by any of the following methods, provided the sheriff may require an applicant to complete more than one (1) firearms safety or training course:

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

(ii) Completion of any national rifle association firearms safety or training course, or any national rifle association hunter education course;

(iii) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university, or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the Idaho state police;

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

(v) Presentation of evidence of equivalent experience with a firearm through participation in organized shooting competitions or military service;

(vi) Completion of any firearms training or training or safety course or class conducted by a state certified or national rifle association certified firearms instructor; or

(vii) Any other firearms safety training that the sheriff may deem appropriate.

(3) The original and renewal license applications under this section shall be in triplicate, in a form to be prescribed by the director of the Idaho state police, and shall ask the name, address, description and signature of the licensee, date of birth, social security number, military status, identification of the law enforcement agency from which the applicant retired, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license. The application shall indicate that provision of the social security number is optional. In implementing the provisions of this section, the sheriff shall make applications readily available at the office of the sheriff or at other public offices in his jurisdiction.

(4) The fee for original issuance of a license under this section shall be twenty dollars (\$20.00), paid to the sheriff. The sheriff may also collect any additional fees necessary to cover the cost of processing and the cost of materials for the license, which shall also be paid to the sheriff.

(5) An original or renewed license issued pursuant to this section shall be in a form substantially similar to that of the Idaho driver's license and shall be valid for a period of one (1) year. The license shall bear the signature, name, address, date of birth, picture of the licensee, expiration date, and the driver's license number or state identification card number of the licensee if used for identification in applying for the license, and shall state that the licensee is a qualified retired law enforcement officer. Upon issuing a license under the provisions of this section, the sheriff shall notify the Idaho state police on a form or in a manner prescribed by the director of the Idaho state police.

(6) A qualified retired law enforcement licensee under this section may renew his license if he applies for renewal at any time before or within ninety (90) days after the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete a renewal application pursuant to subsection (3) of this section and an affidavit pursuant to subsection (2) of this section. A renewed license shall take effect upon the expiration date of the prior license.

(7) The fee for renewal of the license, which must be paid on a yearly basis, shall be twelve dollars (\$12.00), paid to the sheriff. The sheriff may also collect any additional fees necessary to cover the processing costs and the cost of materials for the license, which shall also be paid to the sheriff. A licensee renewing after the expiration date of the license shall pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee. The renewal penalty fee, if any, shall be paid to the sheriff.

(8) A current and valid photographic identification issued by the agency from which the individual retired from service as a law enforcement officer, together with a license issued by the sheriff pursuant to this section, shall serve as a license to carry a firearm for a qualified retired law enforcement officer under 18 U.S.C. section 926C.

(9) The sheriff of the county where the license was issued or the sheriff of the county where the person resides shall have the power to revoke a license issued under this section pursuant to the provisions of section [18-3302](#)(22), Idaho Code.

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

(11) A city, county or other political subdivision of this state shall not modify the requirements of this section, nor shall a political subdivision ask the applicant to voluntarily submit any information not required by this section.

(12) A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action shall be brought in the county in which the application was made.

(13) In lieu of or in addition to qualification to carry a concealed firearm under this section, a retired law enforcement officer may apply for a license to carry concealed weapons under section [18-3302](#), Idaho Code.

(14) Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section [74-102](#), Idaho Code.

[18-3302H, added 2005, ch. 128, sec. 1, p. 412; am. 2009, ch. 202, sec. 1, p. 650; am. 2015, ch. 141, sec. 17, p. 396; am. 2019, ch. 80, sec. 1, p. 185.]

18-3302I. THREATENING VIOLENCE UPON SCHOOL GROUNDS -- FIREARMS AND OTHER DEADLY OR DANGEROUS WEAPONS.

(1) (a) Any person, including a student, who willfully threatens by word, electronic means or act to use a firearm or other deadly or dangerous weapon to do violence to any person on school grounds or to disrupt the normal operations of an educational institution by making a threat of violence is guilty of a misdemeanor.

(b) Any person, including a student, who knowingly has in his possession a firearm or other deadly or dangerous weapon, or who makes, alters or repairs any firearm or other deadly or dangerous weapon, in the furtherance of carrying out a threat made by word, electronic means or act to do violence to any person on school grounds or to disrupt the normal operations of an educational institution by making a threat of violence is guilty of a felony.

(2) Definitions. As used in this section:

(a) "Deadly or dangerous weapon" means a weapon, device, instrument, material or substance that is used for, or is readily capable of, causing death or serious bodily injury;

(b) "On school grounds" means in or on property owned or operated by a school district, public charter school or private school.

[18-3302I, added 2006, ch. 303, sec. 1, p. 936; am. 2015, ch. 303, sec. 3, p. 1194; am. 2018, ch. 240, sec. 1, p. 562.]

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

(2) Except as expressly authorized by state statute, no county, city, agency, board or any other political subdivision of this state may adopt or enforce any law, rule, regulation, or ordinance which regulates in any manner the sale, acquisition, transfer, ownership, possession, transportation, carrying or storage of firearms or any element relating to firearms and components thereof, including ammunition.

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

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

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

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

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

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

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

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

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

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

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

(b) The authority of counties and cities to regulate the location and construction of sport shooting ranges, subject to the limitations contained in [chapter 26, title 55](#), Idaho Code.

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

[18-3302J, added 2008, ch. 304, sec. 2, p. 845; am. 2014, ch. 73, sec. 3, p. 189.]

18-3302K. ISSUANCE OF ENHANCED LICENSES TO CARRY CONCEALED WEAPONS. (1) The sheriff of a county, on behalf of the state of Idaho, must, within ninety (90) days after the filing of an application by any person who is not disqualified from possessing or receiving a firearm under state or federal law and has otherwise complied with the requirements of this section, issue an enhanced license to the person to carry concealed weapons on his person. Licenses issued under this section shall be valid for five (5) years from the date of issue.

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

(a) The license application shall require the applicant's name, address, description, signature, date of birth, place of birth, military status, citizenship and the driver's license number or state identification card number if used for identification in applying for the license. If the applicant is not a U.S. citizen, the application shall also require any alien or admission number issued to the applicant by U.S. immigration and customs enforcement, or any successor agency;

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

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

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

(3) Any person who is applying for original issuance of a license to carry concealed weapons must submit his fingerprints with the completed application. Within five (5) days after the filing of an application, the sheriff must forward the applicant's completed license application and fingerprints to the Idaho state police. The Idaho state police must conduct a national fingerprint-based records check, an inquiry through the national instant criminal background check system, and a check of any applicable state database, including a check for any mental health records for conditions or commitments that would disqualify a person from possessing a firearm under state or federal law, and must return the results to the sheriff within sixty (60) days. If the applicant is not a U.S. citizen, an immigration alien query must also be conducted through U.S. immigration and customs enforcement or any successor agency. The sheriff shall not issue a license before receiving and reviewing the results of the records check.

(4) The sheriff must deny an enhanced license to carry a concealed weapon if the applicant is disqualified under any of the criteria listed in section [18-3302](#) (11), Idaho Code, or does not meet all of the following qualifications:

(a) Is over the age of twenty-one (21) years;

(b) Has been a legal resident of the state of Idaho for at least six (6) consecutive months before filing an application under this section or holds a current license or permit to carry concealed weapons issued by his state of residence; and

(c) Has successfully completed, within the twelve (12) months immediately preceding filing an application, a qualifying handgun course as specified in this paragraph and taught by a certified instructor who is not prohibited from possessing firearms under state or federal law. A copy of the certificate of successful completion of the handgun course, in a form to be prescribed by the director of the Idaho state police and signed by the course instructor, must be submitted to the sheriff at the time of filing an application under this section. Certified instructors of handgun courses when filing an application under this section shall not be required to submit such certificates but must submit a copy of their current instructor's credential. The sheriff must accept as a qualifying handgun course a personal protection course offered by the national rifle association or an equivalent, provided that all personal protection or equivalent courses must meet the following requirements:

(i) The course instructor is certified by the national rifle association, or by another nationally recognized organization that customarily certifies firearms instructors, as an instructor in personal protection with handguns, or the course instructor is certified by the Idaho peace officers standards and training council as a firearms instructor;

(ii) The course is at least eight (8) hours in duration;

(iii) The course is taught face to face and not by electronic or other means; and

(iv) The course includes instruction in:

1. Idaho law relating to firearms and the use of deadly force, provided that such instruction is delivered by either of the following whose name and credential must appear on the certificate:

(A) An active, senior or emeritus member of the Idaho state bar; or

- (B) A law enforcement officer who possesses an intermediate or higher Idaho peace officers standards and training certificate;
2. The basic concepts of the safe and responsible use of handguns;
  3. Self-defense principles; and
  4. Live fire training including the firing of at least ninety-eight (98) rounds by the student.

An instructor must provide a copy of the syllabus and a written description of the course of fire used in a qualifying handgun course that includes the name of the individual instructing the legal portion of the course to the sheriff upon request.

(5) A license to carry concealed weapons must be in a form substantially similar to that of the Idaho driver's license and must meet the following specifications:

- (a) The license must provide the licensee's name, address, date of birth and the driver's license number or state identification card number if used for identification in applying for the license;
- (b) The license must bear the licensee's signature and picture;
- (c) The license must provide the date of issuance and the date on which the license expires; and
- (d) The license must be clearly distinguishable from a license issued pursuant to section [18-3302](#), Idaho Code, and must be marked "Idaho enhanced concealed weapons license" on its face.

(6) Upon issuing a license under the provisions of this section, the sheriff must notify the Idaho state police within three (3) days on a form or in a manner prescribed by the Idaho state police. Information relating to an applicant or licensee received or maintained pursuant to this section by the sheriff or Idaho state police is confidential and exempt from disclosure under section [74-105](#), Idaho Code.

(7) The fee for original issuance of an enhanced license shall be twenty dollars (\$20.00), which the sheriff must retain for the purpose of performing the duties required in this section. The sheriff may collect the actual cost of any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, as well as the actual cost of materials for the license lawfully required by any state agency or department, which costs must be paid to the state. The sheriff must provide the applicant with a copy of the results of the fingerprint-based records check upon request of the applicant.

(8) The fee for renewal of the enhanced license shall be fifteen dollars (\$15.00), which the sheriff must retain for the purpose of performing duties required in this section. The sheriff may collect the actual cost of any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, as well as the actual cost of materials for the license lawfully required by any state agency or department, which costs must be paid to the state.

(9) Every license that is not, as provided by law, suspended, revoked or disqualified in this state shall be renewable at any time during the ninety (90) day period before its expiration or within ninety (90) days after the expiration date. The sheriff must mail renewal notices ninety (90) days prior to the expiration date of the license. The sheriff shall require the licensee applying for renewal to complete an application. The sheriff must submit the application to the Idaho state police. The Idaho

state police must conduct the same records checks as required for an initial license under subsection (3) of this section and must return the results to the sheriff within thirty (30) days. The sheriff shall not issue a renewal before receiving and reviewing the results of the records check and must deny a license if the applicant is disqualified under any of the criteria provided in this section. A renewal license shall be valid for a period of five (5) years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license must pay a late renewal penalty of ten dollars (\$10.00) in addition to the renewal fee, except that any licensee serving on active duty in the armed forces of the United States during the renewal period shall not be required to pay a late renewal penalty upon renewing ninety-one (91) days to one hundred eighty (180) days after the expiration date of the license. After one hundred eighty-one (181) days, the licensee shall be required to submit an initial application for an enhanced license and pay the fees prescribed in subsection (7) of this section. The renewal fee and any penalty shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter. Upon renewing a license under the provisions of this section, the sheriff must notify the Idaho state police within five (5) days on a form or in a manner prescribed by the Idaho state police.

(10) No city, county or other political subdivision of this state shall modify or add to the requirements of this section, nor shall a city, county or political subdivision ask the applicant to voluntarily submit any information not required in this section. A civil action may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section. The civil action may be brought in the county in which the application was made or in Ada county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this section must be awarded costs, including reasonable attorney's fees, incurred in connection with the legal action.

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

(12) The sheriff shall have the power to revoke a license issued pursuant to this section subsequent to a hearing in accordance with the provisions of [chapter 52, title 67](#), Idaho Code, for any of the following reasons, provided that the sheriff must notify the Idaho state police within three (3) days on a form or in a manner prescribed by the Idaho state police of any such revocation:

- (a) Fraud or intentional misrepresentation in the obtaining of a license;
- (b) Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;
- (c) The doing of an act or existence of a condition that would have been grounds for the denial of the license by the sheriff;
- (d) The violation of any of the provisions of this section; or
- (e) The applicant is adjudicated guilty of or receives a withheld judgment for a crime that would have disqualified him from initially receiving a license.

(13) An applicant who provides information on the application for an enhanced license to carry a concealed weapon knowing the same to be untrue shall be guilty of a misdemeanor.

(14) The attorney general must contact the appropriate officials in other states for the purpose of establishing, to the extent possible, recognition and reciprocity of the enhanced license to carry a concealed weapon by other states, whether by formal agreement or otherwise. The Idaho state police or the attorney general must keep a copy and maintain a record of all such agreements and reciprocity recognitions that must be made available to the public.

(15) Any license issued pursuant to this section is valid throughout the state of Idaho and shall be considered an authorized state license.

(16) The Idaho state police must maintain a computerized record system that is accessible to law enforcement agencies in any state for the purpose of verifying current enhanced licensee status. Information maintained in the record system shall be confidential and exempt from disclosure under section [74-105](#), Idaho Code, except that any law enforcement officer or law enforcement agency, whether inside or outside the state of Idaho, may access the record system for the purpose of verifying current enhanced licensee status.

[18-3302K, added 2015, ch. 303, sec. 5, p. 1194; am. 2015, ch. 141, sec. 18, p. 398; am. 2018, ch. 171, sec. 1, p. 379.]

18-3303. EXHIBITION OR USE OF DEADLY WEAPON. Every person who, not in necessary self-defense, in the presence of two (2) or more persons, draws or exhibits any deadly weapon in a rude, angry and threatening manner, or who, in any manner, unlawfully uses the same, in any fight or quarrel, is guilty of a misdemeanor.

[18-3303, added 1972, ch. 336, sec. 1, p. 911.]

18-3304. AIMING FIREARMS AT OTHERS. Any person who shall intentionally, without malice, point or aim any firearm at or toward any other person shall be guilty of a misdemeanor and shall be subject to a fine of not more than one thousand dollars (\$1,000) and not less than five dollars (\$5.00).

[18-3304, added 1972, ch. 336, sec. 1, p. 911; am. 2006, ch. 71, sec. 9, p. 219.]

18-3305. DISCHARGE OF ARMS AIMED AT ANOTHER. Any person who shall discharge, without injury to any person, any firearm, while intentionally, without malice, aimed at or toward any person, shall be guilty of a misdemeanor, and shall be liable to a fine of not more than one thousand dollars (\$1,000), or imprisonment in the county jail not to exceed six (6) months, or both, at the discretion of the court.

[18-3305, added 1972, ch. 336, sec. 1, p. 912; am. 2006, ch. 71, sec. 10, p. 219; am. 2007, ch. 7, sec. 1, p. 7.]

18-3306. INJURING ANOTHER BY DISCHARGE OF AIMED FIREARMS. Any person who shall maim or injure any other person by the discharge of any firearm pointed or aimed, intentionally but without malice, at any such person, shall be guilty of a misdemeanor, and shall be punished by a fine of not less

than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000), or imprisonment in the county jail for a period of not more than one (1) year; and if death ensue from such wounding or maiming, such person so offending shall be deemed guilty of the crime of manslaughter.

[18-3306, added 1972, ch. 336, sec. 1, p. 912; am. 2006, ch. 71, sec. 11, p. 219.]

18-3307. CIVIL LIABILITY FOR INJURY BY FIREARM. Any party maimed or wounded by the discharge of any firearm aforesaid, or the heirs or representatives of any person who may be killed by such discharge, may have an action against the party offending, for damages, which shall be found by a jury, and such damages, when found, may in the discretion of the court before which such action is brought, be doubled.

[18-3307, added 1972, ch. 336, sec. 1, p. 912.]

18-3308. SELLING EXPLOSIVES, AMMUNITION OR FIREARMS TO MINORS. No person, firm, association or corporation shall sell or give to any minor under the age of sixteen (16) years any powder, commonly called gunpowder, of any description, or any dynamite or other explosive, or any shells or fixed ammunition of any kind, except shells loaded for use in shotguns and for use in rifles of twenty-two (22) caliber or smaller, or any firearms of any description, without the written consent of the parents or guardian of such minor first had and obtained. Any person, firm, association or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor.

[18-3308, added 1972, ch. 336, sec. 1, p. 912; am. 1994, ch. 131, sec. 14, p. 300.]

18-3309. AUTHORITY OF GOVERNING BOARDS OF PUBLIC COLLEGES AND UNIVERSITIES REGARDING FIREARMS. (1) The board of regents of the university of Idaho, the boards of trustees of the state colleges and universities, the board for career technical education and the boards of trustees of each of the community colleges established under [chapter 21, title 33](#), Idaho Code, hereby have the authority to prescribe rules and regulations relating to firearms.

(2) Notwithstanding any other provision of state law, this authority shall not extend to regulating or prohibiting the otherwise lawful possession, carrying or transporting of firearms or ammunition by persons licensed under section [18-3302H](#) or [18-3302K](#), Idaho Code.

(a) However, a person issued a license under the provisions of section [18-3302K](#), Idaho Code, shall not carry a concealed weapon:

- (i) Within a student dormitory or residence hall; or
- (ii) Within any building of a public entertainment facility, provided that proper signage is conspicuously posted at each point of public ingress to the facility notifying attendees of any restriction on the possession of firearms in the facility during the game or event.

(b) As used in this section:

- (i) "Public entertainment facility" means an arena, stadium, amphitheater, auditorium, theater or similar facility with a seating capacity of at least one thousand (1,000) persons that is owned

or operated by the board of regents of the university of Idaho, a board of trustees of a state college or university, the state board for career technical education or a board of trustees of a community college established under [chapter 21, title 33](#), Idaho Code, that is primarily designed and used for artistic, theatrical, cultural, charitable, musical, sporting or entertainment events, but does not include publicly accessible outdoor grounds or rights-of-way appurtenant to the facility, including parking lots within the facility used for the parking of motor vehicles.

(ii) "Student dormitory or residence hall" means a building owned or operated by the board of regents of the university of Idaho, a board of trustees of a state college or university, the state board for career technical education or a board of trustees of a community college established under [chapter 21, title 33](#), Idaho Code, located on or within the campus area owned by the university or college to house persons residing on campus as students, but does not include off-campus housing or publicly accessible outdoor grounds or rights-of-way appurtenant to the building, including parking lots within the building used for the parking of motor vehicles.

(c) The provisions of subsection (2) (a) of this section shall not apply to the following persons:

(i) A person or persons complying with the provisions of section [19-202A](#), Idaho Code;

(ii) A person or an employee who is authorized to carry a firearm by the university or college board of trustees, board of regents, governing board or a person or entity with authority over the building or facility;

(iii) A person who possesses a firearm for authorized use in an approved program, event, activity or other circumstance approved by a person or entity with authority over the building or facility;

(iv) A person who possesses a firearm in a private vehicle while delivering students, employees or other persons to and from a university, college or public entertainment facility;

(v) An on-duty or off-duty certified peace officer; or

(vi) A qualified retired law enforcement officer licensed under section [18-3302H](#), Idaho Code.

(3) Any rule, regulation or policy that is contrary to this section is null and void.

[18-3309, added 2014, ch. 73, sec. 4, p. 190; am. 2015, ch. 244, sec. 1, p. 1008; am. 2016, ch. 25, sec. 3, p. 36; am. 2018, ch. 195, sec. 1, p. 437.]

18-3310. SHIPPING LOADED FIREARMS. Every person who ships, or causes to be shipped, or delivers or causes to be delivered, to any railroad, express or stage company, or to any other common carrier, for shipment as baggage or otherwise, any loaded pistol, revolver, rifle, shotgun or other firearm, is guilty of a misdemeanor.

[18-3310, added 1972, ch. 336, sec. 1, p. 912.]

18-3311. KEEPING GUNPOWDER OR OTHER EXPLOSIVES IN TOWNS. Every person who makes or keeps gunpowder, nitroglycerin, or other highly explosive sub-

stance, within any city or town, or who carries the same through the streets thereof, in any quantity or manner prohibited by law, or by any ordinance of such city or town, is guilty of a misdemeanor.

[18-3311, added 1972, ch. 336, sec. 1, p. 913.]

18-3312. INJURING ANOTHER BY CARELESS HANDLING AND DISCHARGE OF FIREARMS. Any person who handles, uses or operates any firearm in a careless, reckless or negligent manner, or without due caution and circumspection, whereby the same is fired or discharged and maims, wounds or injures any other person or persons, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

[18-3312, as added by 1972, ch. 336, sec. 1, p. 913; am. 2005, ch. 359, sec. 6, p. 1135.]

18-3313. FALSE REPORTS OF EXPLOSIVES IN PUBLIC OR PRIVATE PLACES A FELONY -- PENALTY. Any person who reports to any police officer, sheriff, employee of a police department or sheriff's office, employee of a 911 emergency communications system or emergency vehicle dispatch center, employee of a fire department or fire service, prosecuting attorney, newspaper, radio station, television station, deputy sheriff, deputy prosecuting attorney, member of the state police, employee of an airline, employee of an airport, employee of a railroad or bus line, an employee of a telephone company, occupants of a building, employee of a school district, or a news reporter in the employ of a newspaper or radio or television station, that a bomb or other explosive has been placed or secreted in a public or private place knowing that such report is false, is guilty of a felony, and upon conviction thereof, shall be sentenced to a term of not to exceed five (5) years in the state penitentiary.

[18-3313, added 1972, ch. 336, sec. 1, p. 913; am. 2006, ch. 46, sec. 1, p. 135.]

18-3314. RESIDENT'S PURCHASE OF FIREARM OUT-OF-STATE. Residents of the state of Idaho may purchase rifles and shotguns in a state other than Idaho, provided that such residents conform to the applicable provisions of the federal gun control act of 1968, and regulations thereunder, and provided further, that such residents conform to the provisions of law applicable to such a purchase in Idaho and in the state in which the purchase is made.

[18-3314, added 1972, ch. 336, sec. 1, p. 913; am. 2009, ch. 110, sec. 1, p. 363.]

18-3315. NONRESIDENT -- PURCHASE OF FIREARM IN IDAHO. Residents of a state other than the state of Idaho may purchase rifles and shotguns in Idaho, provided that such residents conform to the applicable provisions of the federal gun control act of 1968, and regulations thereunder, and provided further, that such residents conform to the provisions of law applicable to such purchase in Idaho and in the state in which such persons reside.

[18-3315, added 1972, ch. 336, sec. 1, p. 913; am. 2009, ch. 110, sec. 2, p. 363.]

18-3315A. PROHIBITION OF FEDERAL REGULATION OF CERTAIN FIREARMS. (1) As used in this section:

(a) "Borders of Idaho" means the boundaries of Idaho described in [chapter 1, title 31](#), Idaho Code.

(b) "Firearms accessories" means items that are used in conjunction with or mounted upon a firearm but are not essential to the basic function of a firearm including, but not limited to, telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket stocks and grips, speedloaders, ammunition, ammunition carriers and lights for target illumination.

(c) "Generic and insignificant parts" includes, but is not limited to, springs, screws, nuts and pins.

(d) "Manufactured" means that a firearm, a firearm accessory, or ammunition has been created from basic materials for functional usefulness including, but not limited to, forging, casting, machining or other processes for working materials.

(2) A personal firearm, a firearm accessory, or ammunition that is manufactured commercially or privately in Idaho and that remains within the borders of Idaho is not subject to federal law or federal regulation, including registration, under the authority of congress to regulate interstate commerce. It is declared by the legislature that those items have not traveled in interstate commerce. This section applies to a firearm, a firearm accessory or ammunition that is manufactured in Idaho from basic materials and that can be manufactured without the inclusion of any significant parts imported from another state.

(3) It is declared by the legislature that generic and insignificant parts that have other manufacturing or consumer product applications are not firearms, firearms accessories or ammunition, and their importation into Idaho and incorporation into a firearm, a firearm accessory or ammunition manufactured in Idaho does not subject the firearm, firearm accessory or ammunition to federal regulation. It is declared by the legislature that basic materials, such as unmachined steel and unshaped wood, are not firearms, firearms accessories or ammunition and are not subject to congressional authority to regulate firearms, firearms accessories and ammunition under interstate commerce as if they were actually firearms, firearms accessories or ammunition. The authority of congress to regulate interstate commerce in basic materials does not include authority to regulate firearms, firearms accessories and ammunition made in Idaho from those materials. Firearms accessories that are imported into Idaho from another state and that are subject to federal regulation as being in interstate commerce do not subject a firearm to federal regulation under interstate commerce because they are attached to or used in conjunction with a firearm in Idaho.

(4) Subsections (2) and (3) of this section do not apply to:

(a) A firearm that cannot be carried and used by one (1) person;

(b) A firearm that has a bore diameter greater than one and one-half (1 1/2) inches and that uses smokeless powder, not black powder, as a propellant;

(c) Ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm; or

(d) A firearm that discharges two (2) or more rounds of ammunition with one (1) activation of the trigger or other firing device.

(5) A firearm manufactured or sold in Idaho under this section shall have the words "Made in Idaho" clearly stamped on a central metallic part, such as the receiver or frame.

(6) This section applies to firearms, firearms accessories and ammunition that are manufactured as defined in subsection (1) and retained in Idaho after October 1, 2010.

[18-3315A, added 2010, ch. 244, sec. 3, p. 628.]

18-3315B. PROHIBITION OF REGULATION OF CERTAIN FIREARMS. (1) Other than compliance with an order of the court, any official, agent, or employee of an Idaho government entity who knowingly and willfully orders an official, agent, or employee of an Idaho government entity to enforce any executive order, agency order, treaty, law, rule, or regulation of the United States government as provided in subsection (2) of this section upon a firearm, a firearm accessory, firearm component, or ammunition shall, on a first violation, be liable for a civil penalty not to exceed one thousand dollars (\$1,000), which shall be paid into the general fund of the state, and on a second or subsequent violation shall be guilty of a misdemeanor. If a public officer or person commits a violation of section [18-315](#) or [18-703](#), Idaho Code, the public officer or person shall be punished as provided in those sections. Nothing in this section shall be construed to affect the law of search and seizure as set forth in section 17, article I of the constitution of the state of Idaho or as set forth in the fourth, fifth, and fourteenth amendments to the United States constitution. Notwithstanding anything to the contrary contained elsewhere in this act, no private cause of action exists under this section.

(2) No federal executive order, agency order, treaty, law, statute, rule, or regulation issued, enacted, or promulgated on or after the effective date of this act will be knowingly and willfully ordered to be enforced by any official, agent, or employee of an Idaho government entity if contrary to the provisions of section 11, article I of the constitution of the state of Idaho.

(3) "Enforcement," "enforce," or "enforced" shall not be construed to include the performance of any act solely for the purpose of facilitating the transfer of firearms under federal law. Any order of enforcement not excluded by the provisions of this subsection that occurs on and after the effective date of this act shall be and is a breach of the oath of office of the official, agent, or employee of the state or a political subdivision of the state.

(4) All Idaho government entities are prohibited from using any personnel, funds, or other resources to enforce, administer, or support the enforcement of any executive order, agency order, treaty, law, rule, or regulation of the United States government enacted or promulgated on or after the effective date of this act upon a firearm, firearm component, firearm accessory, or ammunition if contrary to the provisions of section 11, article I of the constitution of the state of Idaho.

(5) The provisions of this section may be enforced by the Idaho attorney general. The legislature of the state of Idaho may bring legal action for declaratory or injunctive relief to ensure compliance with the provisions of this section. The prevailing party in any such action may recover reasonable attorney's fees and costs from the nonprevailing party.

(6) With the exception of failure to comply with an order of the court, any official, agent, or employee of an Idaho government entity shall not be subject to civil liability for failure to enforce, support, or assist with the enforcement of any executive order, agency order, treaty, law, rule, or regulation of the United States government that is contrary to section 11, article I of the constitution of the state of Idaho or the second amendment to the United States constitution.

(7) As used in this section:

(a) "Firearm accessory" means an item that is used in conjunction with or mounted upon a firearm, including but not limited to telescopic or laser sights, magazines, flash or sound suppressors, folding or after-market stocks and grips, speedloaders, braces, ammunition, ammunition carriers, and lights for target illumination.

(b) "Firearm component" means a component for making firearms, a component for making ammunition, reloading materials and equipment, machinery, design plans, software, and tools for manufacturing firearms and their ammunition.

(c) "Idaho government entity" means the state of Idaho and its departments and agencies and any political subdivision of the state of Idaho and other local government entities and agencies.

(8) Nothing in this "Idaho Firearm and Firearm Accessories and Components Protection Act" is intended nor shall be construed to replace or change the effective date or protections provided by the "Idaho Federal Firearm, Magazine and Register Ban Enforcement Act" as enacted in 2014 and that created this section. To the maximum extent possible, this "Idaho Firearm and Firearm Accessories and Components Protection Act" is intended to add to and expand upon the protections provided by the 2014 act and to provide the greatest possible protection to the rights of Idaho citizens.

[18-3315B, added 2014, ch. 148, sec. 3, p. 411; am. 2021, ch. 329, sec. 3, p. 1009.]

18-3316. UNLAWFUL POSSESSION OF A FIREARM. (1) A person who previously has been convicted of a felony who purchases, owns, possesses, or has under his custody or control any firearm shall be guilty of a felony and shall be imprisoned in the state prison for a period of time not to exceed five (5) years and by a fine not to exceed five thousand dollars (\$5,000).

(2) For the purpose of subsection (1) of this section, "convicted of a felony" shall include a person who has entered a plea of guilty, nolo contendere or has been found guilty of any of the crimes enumerated in section [18-310](#), Idaho Code, or to a comparable felony crime in another state, territory, commonwealth, or other jurisdiction of the United States.

(3) Subsection (1) of this section shall not apply to a person whose conviction has been nullified by expungement, pardon, setting aside the conviction or other comparable procedure by the jurisdiction where the felony conviction occurred; or whose civil right to bear arms either specifically or in combination with other civil rights has been restored by any other provision of Idaho law.

[18-3316, added 1992, ch. 224, sec. 1, p. 675; am. 2002, ch. 187, sec. 1, p. 541; am. 2015, ch. 303, sec. 6, p. 1198.]

18-3317. UNLAWFUL DISCHARGE OF A FIREARM AT A DWELLING HOUSE, OCCUPIED BUILDING, VEHICLE OR MOBILE HOME. It shall be unlawful for any person to

intentionally and unlawfully discharge a firearm at an inhabited dwelling house, occupied building, occupied motor vehicle, inhabited mobile home, inhabited travel trailer, or inhabited camper. Any person violating the provisions of this section shall be guilty of a felony, punishable by imprisonment in the state prison for a term not to exceed fifteen (15) years.

As used in this section, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

[18-3317, added 1993, ch. 254, sec. 1, p. 880; am. 2007, ch. 42, sec. 1, p. 104.]

18-3318. DEFINITIONS. Definitions as used in sections [18-3319](#), [18-3319A](#), [18-3320](#), [18-3320A](#) and [18-3321](#), Idaho Code:

(1) "Bomb" means any chemical or mixture of chemicals contained in such a manner that it can be made to explode with fire or force, and combined with the method or mechanism intended to cause its explosion. The term includes components of a bomb only when the individual charged has taken steps to place the components in proximity to each other, or has partially assembled components from which a completed bomb can be readily assembled. "Bomb" does not include: rifle, pistol or shotgun ammunition and their components; fireworks; boating, railroad and other safety flares or propellants used in model rockets or similar hobby activities.

(2) "Destructive device" means:

(a) Any explosive, incendiary or poisonous gas:

(i) Bomb;

(ii) Grenade;

(iii) Rocket having a propellant charge of more than four (4) ounces;

(iv) Missile having an explosive or incendiary charge of more than one-fourth (1/4) ounce;

(v) Mine;

(vi) Similar device.

(b) Any type of weapon, by whatever name known, which will, or which may be imminently converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than .700 inches in diameter, except rifled and unrifled shotguns or shotgun shells.

(c) Components of a destructive device only when the individual charged has taken steps to place the components in proximity to each other, or has partially assembled components from which a completed destructive device can be readily assembled.

(d) The term "destructive device" shall not include:

(i) Any device which is neither designed nor redesigned for use as a weapon;

(ii) Any device which, although originally designed for use as a weapon, has been redesigned for use as a signaling, pyrotechnic, line throwing, safety or similar device;

(iii) Otherwise lawfully owned surplus military ordnance;

(iv) Antiques or reproductions thereof and rifles held for sporting, recreational, investment or display purposes;

(v) Rifle, pistol or shotgun ammunition and their components.

(3) "Hoax destructive device" means any object that:

(a) Under the circumstances, reasonably appears to be a destructive device as defined in subsection (2) of this section, but is an inoperative imitation of a destructive device; or

(b) Is proclaimed to contain a destructive device as defined in subsection (2) of this section, but does not in fact contain a destructive device.

(4) "Shrapnel" means any metal, ceramic, glass, hard plastic or other material of sufficient hardness to puncture human skin when propelled by force of the bomb or destructive device to which it is attached or in which it is contained.

[18-3318, added 1997, ch. 272, sec. 1, p. 796; am. 2001, ch. 256, sec. 1, p. 922; am. 2010, ch. 261, sec. 1, p. 662.]

18-3319. UNLAWFUL POSSESSION OF BOMBS OR DESTRUCTIVE DEVICES. (1) Any person who knowingly, intentionally, or recklessly possesses or controls a bomb or destructive device for a purpose unlawful pursuant to [title 18](#), Idaho Code, is guilty of a felony, punishable by up to a five thousand dollar (\$5,000) fine and five (5) years in prison.

(2) Any person who knowingly possesses an assembled bomb or assembled destructive device and who:

(a) Has been convicted of a felony; or

(b) Has been found guilty of any crime where such conviction results in the person being prohibited from possessing or owning firearms; or

(c) Is in possession or control of any substance or paraphernalia in violation of section [37-2732B](#), [37-2734A](#) or [37-2734B](#), Idaho Code, or the felony provisions of section [37-2732](#), Idaho Code;

is guilty of a felony, punishable by up to a five thousand dollar (\$5,000) fine and five (5) years in prison.

(3) Any person who possesses a bomb or destructive device which by its design will propel shrapnel is guilty of a felony, punishable by up to a five thousand dollar (\$5,000) fine and five (5) years in prison.

[18-3319, added 1997, ch. 272, sec. 1, p. 797; am. 2001, ch. 256, sec. 2, p. 923.]

18-3319A. UNLAWFUL ACTS -- HOAX DESTRUCTIVE DEVICE. (1) A person is guilty of a felony if such person intentionally causes a reasonable person to be in fear of serious bodily injury or death by:

(a) Possessing, manufacturing, selling, giving, mailing, sending or causing to be sent to another person a hoax destructive device; or

(b) Placing or causing to be placed a hoax destructive device at any location; or

(c) Conspiring to use, using or causing to be used a hoax destructive device in the commission of or an attempt to commit a felony.

(2) A violation of the provisions of paragraph (a) or (b) of subsection (1) of this section is punishable by imprisonment in the state prison not to exceed five (5) years.

(3) A violation of the provisions of paragraph (c) of subsection (1) of this section is punishable by imprisonment in the state prison not to exceed fifteen (15) years and by a fine not exceeding fifteen thousand dollars (\$15,000).

[18-3319A, added 2010, ch. 261, sec. 2, p. 663.]

18-3320. UNLAWFUL USE OF DESTRUCTIVE DEVICE OR BOMB. Any person who knowingly, intentionally, or recklessly:

(1) Conspires to use, uses or causes to be used a destructive device or bomb in the commission of or an attempt to commit a felony; or

(2) With the intent to injure the person or property of another, transports a bomb or destructive device; or

(3) Injures another or conspires or attempts to injure another in his person or property through the use of a destructive device or bomb is guilty of a felony, punishable by up to a twenty-five thousand dollar (\$25,000) fine and life in prison.

[18-3320, added 1997, ch. 272, sec. 1, p. 797.]

18-3320A. DISPOSAL OF DESTRUCTIVE DEVICES OR BOMBS. Any destructive device or bomb that has been lawfully seized by a law enforcement agency may be destroyed in a reasonable manner. An official record listing the destructive device or bomb destroyed and the location of destruction shall be kept on file at the office of the seizing agency. In the event of such destruction, a photograph, videotape, or similar record of the device or bomb shall be preserved for evidentiary purposes. The destruction of a destructive device or bomb before a preliminary hearing, trial, or both shall not be a bar to prosecution for any violation of law.

[18-3320A, added 1999, ch. 299, sec. 1, p. 751.]

18-3321. PERSONS EXEMPT. Unless the intent to injure the person or property of another has been established, the provisions in section [18-3319](#), Idaho Code, shall not apply to:

(1) Any public safety officer or member of the armed forces of the United States or national guard while acting in his official capacity;

(2) Any person possessing a valid permit issued under the provisions of the international fire code, sections [41-253](#) and [41-254](#), Idaho Code, or any employee of such permittee acting within the scope of his employment;

(3) Any person possessing a valid license as an importer, wholesaler, or display operator under the provisions of the Idaho fireworks act, sections [39-2602](#), [39-2606](#), [39-2607](#), [39-2608](#), [39-2609](#), [39-2610](#), [39-2611](#) and [39-2612](#), Idaho Code;

(4) A device which falls within the definition of a bomb or destructive device when used on property owned or otherwise in the control of the person using the device;

(5) Those licensed or permitted by the federal government to use or possess a bomb or destructive device.

(6) Those persons who possess a destructive device properly registered and taxed under the provisions of the national firearms act, as amended, as to possession of destructive devices properly registered to such persons.

[18-3321, added 1997, ch. 272, sec. 1, p. 797; am. 2002, ch. 86, sec. 1, p. 196.]

18-3322. USE OF WEAPONS OF MASS DESTRUCTION -- DEFINITION. (1) Any person who willfully and without lawful authority uses, threatens, attempts or conspires to use a weapon of mass destruction, as defined in this section and including a biological agent, toxin or vector, against any person or property shall be guilty of a felony and shall be punished by a term of up to and

including life imprisonment or by a fine not exceeding fifty thousand dollars (\$50,000), or by both.

(2) As used in this section, the term "weapon of mass destruction" means:

- (a) Any bomb or destructive device, as those terms are defined in section [18-3318](#), Idaho Code;
- (b) Any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination or impact of toxic or poisonous chemicals or the precursors of such chemicals;
- (c) Any weapon involving a disease organism; or
- (d) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

[18-3322, added 2002, ch. 222, sec. 1, p. 624.]

18-3323. BIOLOGICAL WEAPONS -- DEFINITIONS. (1) Any person who knowingly develops, produces, stockpiles, transfers, acquires, retains or possesses any biological agent, toxin or delivery system for use as a weapon, or who knowingly assists another person or group of persons in doing so, or attempts, threatens or conspires to do so, shall be guilty of a felony and shall be punished by imprisonment for a term of up to and including life imprisonment or by a fine not exceeding fifty thousand dollars (\$50,000), or by both.

(2) As used in this section, the term "for use as a weapon" does not include the development, production, stockpiling, transfer, acquisition, retention or possession of a biological agent, toxin or delivery system for prophylactic, protective or other peaceful purposes if such biological agent, toxin or delivery system is of a type and in a quantity that is reasonable for such purposes.

(3) The attorney general of the state of Idaho may obtain in a civil action an injunction against:

- (a) The conduct prohibited under this section;
- (b) The preparation, solicitation, attempt, threat or conspiracy to engage in conduct prohibited under this section; or
- (c) The development, production, stockpiling, acquisition, retention or possession of any biological agent, toxin or delivery system of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective or other peaceful purposes.

(4) As used in this section:

(a) "Biological agent" means any microorganism, virus, infectious substance or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance or biological product that is capable of causing:

- (i) Death, disease or other biological malfunction in any animal, including humans, or any plant or other living organism;
- (ii) Deterioration of food, water, equipment, supplies or material of any kind; or
- (iii) Deleterious alteration of the environment;

(b) "Toxin" means the toxic material of animals, plants, microorganisms, viruses, fungi, infectious substances or a recombinant molecule, whatever its origin or method of production including:

- (i) Any poisonous substance or biological product that may be engineered as a result of biotechnology produced from a living organism; or

- (ii) Any poisonous isomer or biological product, homologue, or derivative of such substance;
- (c) "Delivery system" means any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin or vector;
- (d) "Vector" means a living organism or molecule, including a recombinant molecule, or a biological product that may be engineered as a result of biotechnology capable of carrying a biological agent to a host.

[18-3323, added 2002, ch. 222, sec. 2, p. 624.]

18-3324. USE OF CHEMICAL WEAPONS -- DEFINITIONS. (1) Except as provided in subsection (2) of this section, it shall be unlawful for any person to knowingly:

- (a) Develop, produce or otherwise acquire, transfer directly or indirectly, receive, stockpile, retain, own, possess, use or threaten to use any chemical weapon; or

- (b) Assist or induce in any way a person to violate, or attempt or conspire to violate, subsection (1) (a) of this section.

(2) Subsection (1) of this section shall not apply to:

- (a) The retention, ownership, possession, transfer or receipt of a chemical weapon by a department, agency or other entity of the state of Idaho or the United States; or

- (b) Any person, including a member of the armed forces of the United States, who is authorized by law or by an appropriate officer of the state of Idaho or the United States to retain, possess, transfer or receive a chemical weapon; or

- (c) To an otherwise nonculpable person in an emergency situation if such person is attempting to seize or destroy the weapon.

(3) (a) Any person who violates this section is guilty of a felony and shall be punished by imprisonment for a term of up to and including life imprisonment or by a fine not exceeding fifty thousand dollars (\$50,000), or by both.

- (b) The attorney general of the state of Idaho may bring a civil action in a state district court against any person who violates this section and, upon proof of such violation by a preponderance of the evidence, such person shall be required to pay a civil penalty in an amount not to exceed one hundred thousand dollars (\$100,000) for each violation. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law or administrative remedy which is otherwise available by law to the state of Idaho or any other person.

- (c) The court shall order any person convicted of an offense under this section to reimburse the state of Idaho for any expenses incurred by the state incident to the seizure, storage, handling, transportation, destruction or other disposition of any property or material seized in connection with an investigation of the commission of an offense by that person.

- (d) The state of Idaho may obtain in a civil action an injunction against any conduct prohibited in subsection (1) of this section or the preparation or solicitation to engage in such conduct.

(4) Nothing in this section shall be construed to prohibit the possession or use of any individual self-defense device, including devices which contain pepper spray or chemical mace.

(5) As used in this section:

(a) "Chemical weapon" means the following, together or separately:

(i) A toxic chemical and its precursors, except where intended for a purpose not prohibited by this section provided the type and quantity of such chemical or precursors are consistent with such a purpose;

(ii) A munition or device that is specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in paragraph (5) (a) (i) of this section and that would be released as a result of the employment of such munition or device;

(iii) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in paragraph (5) (a) (ii) of this section.

(b) Except as otherwise provided, "person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, the state of Idaho or any political subdivision thereof, or any political entity within the state, any foreign government or nation or any agency, instrumentality or political subdivision of such government or nation located in the state of Idaho.

(c) "Precursor" means any chemical reactant that takes part at any stage in the production, by whatever method, of a toxic chemical. The term includes any key component of a binary or multicomponent chemical system.

(d) "Purposes not prohibited by this section" means:

(i) Any peaceful purpose related to an industrial, agricultural, research, medical or pharmaceutical activity or other activity;

(ii) Any purpose directly related to protection against toxic chemicals or chemical weapons;

(iii) Any military purpose of the United States that is not connected with the use of a chemical weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm; or

(iv) Any law enforcement purpose, including any domestic riot control purpose and the imposition of capital punishment.

(e) "Toxic chemical" means any chemical that, through its chemical action on life processes, can cause death, temporary incapacitation or permanent harm to animals, including humans. The term includes all such chemicals, regardless of their form or method of production, and regardless of whether they are produced in facilities, munitions or elsewhere.

[18-3324, added 2002, ch. 222, sec. 3, p. 625.]

18-3325. PROHIBITION -- POSSESSION -- USE OF CONDUCTED ENERGY DEVICE -- PENALTIES. (1) It shall be a misdemeanor to possess a conducted energy device by:

(a) Any person found guilty of a felony who is not finally discharged from a sentence of imprisonment, probation or parole; or

(b) Any person who, having been found guilty of a felony, has not had his or her civil right to ship, transport, possess or receive a firearm restored.

(2) Use of a conducted energy device during the commission of a felony offense shall constitute a separate felony offense.

(3) Use of a conducted energy device during the commission of any of the following misdemeanor crimes of violence: sections [18-901](#), [18-903](#), [18-917](#) or [18-918](#), Idaho Code, shall result in double the penalties provided for in Idaho Code regarding those crimes.

(4) A sentence imposed for a violation of the provisions of this section shall be imposed separate from and consecutive to the sentence for any offense based on the act establishing the offense under this section.

(5) For purposes of this section, "conducted energy device" means any item that emits an electrical current, impulse, wave or beam, which current, impulse, wave or beam is designed to incapacitate, injure or kill.

[18-3325, added 2008, ch. 333, sec. 1, p. 918.]

18-3326. SECOND AMENDMENT FINANCIAL PRIVACY ACT -- LEGISLATIVE INTENT. (1) The legislature finds that:

(a) The second amendment to the United States constitution guarantees the people the right to keep and bear arms;

(b) Section 11, article I of the constitution of the state of Idaho provides that the "people have the right to keep and bear arms, which right shall not be abridged;... No law shall impose licensure, registration or special taxation on the ownership or possession of firearms or ammunition";

(c) In September 2022, the world's three (3) largest payment card networks publicly announced they would assign a unique merchant category code to firearm retailers accepting payment cards for purchases, after twenty-eight (28) members of congress sent a public letter to networks, pressuring them to adopt the new code;

(d) In the letter to payment card networks, federal lawmakers stated that the new merchant category code for firearms retailers would be "the first step towards facilitating the collection of valuable financial data that could help law enforcement in countering the financing of terrorism efforts," expressing a clear government expectation that networks will utilize the new merchant category code to conduct mass surveillance of constitutionally protected firearms and ammunition purchases in cooperation with law enforcement;

(e) The new merchant category code will allow payment card networks, acquirers, and other entities involved in payment card processing to identify and separately track lawful payment card purchases at firearms retailers in Idaho, paving the way for both unprecedented surveillance of second amendment activity and unprecedented information sharing between payment networks and the government; and

(f) This potential for cooperative surveillance and tracking of lawful firearm and ammunition purchases will have a significant chilling effect on citizens wishing to exercise their federal and state constitutional rights to keep and bear arms in Idaho.

(2) Based on the findings described in subsection (1) of this section, it is the intent of the legislature to prohibit the misuse of payment card processing systems to surveil, report, or otherwise discourage constitutionally protected firearm, firearm accessories or components, and ammunition purchases and sales within Idaho's jurisdiction.

(3) This section and section [18-3326A](#), Idaho Code, shall be construed as generally applicable consumer financial protection law and shall not prevent or significantly interfere with the duly authorized powers of any bank or directly or indirectly discriminate against any bank based on its charter

or structure. This section and section [18-3326A](#), Idaho Code, shall not apply to any financial institution as defined in section [18-3326A](#), Idaho Code, or any person, company, entity, or organization regulated by the Idaho department of finance or otherwise subject to the jurisdiction, rules, or regulations of the federal deposit insurance corporation.

[18-3326, added 2023, ch. 303, sec. 1, p. 913.]

18-3326A. SECOND AMENDMENT FINANCIAL PRIVACY ACT. (1) For purposes of this section:

- (a) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm;
- (b) "Assign" or "assignment" means a payment network's policy, process, or practice that labels, links, or otherwise associates a firearms code with a merchant or payment card transaction in a manner that allows the payment network or any other entity facilitating or processing the payment card transaction to identify whether a merchant is a firearms retailer or whether a transaction involves the sale of firearms or ammunition;
- (c) "Customer" means any person engaged in a payment card transaction that a financial institution facilitates or processes and any person or the person's duly authorized representative who has transacted business with or has used the services of a financial institution or for whom a financial institution has acted as a fiduciary in relation to an account maintained in such person's name;
- (d) "Disclosure" means the transfer, publication, or distribution of protected financial information to another person for any purpose other than to process or facilitate a payment card transaction;
- (e) "Financial institution" means:
  - (i) A bank, savings and loan association, trust company, or credit union chartered pursuant to any state or federal law, a regulated consumer lender, a money service business, payment card issuer, or other institutions that are by law under the jurisdiction and supervision of the department of finance or the federal deposit insurance corporation; and
  - (ii) An entity involved in facilitating or processing a payment card transaction, including but not limited to a bank, acquirer, gateway, payment card network, or payment card issuer;
- (f) "Financial record" means:
  - (i) The original or a copy of any record or document held by a payment network pertaining to a customer of a financial institution utilizing the payment network, including any record of a transaction conducted by means of a customer bank communication terminal or other electronic device;
  - (ii) A financial record held by a payment network related to a payment card transaction that the financial institution has processed or facilitated; and
  - (iii) Any information derived from such records or documents;
- (g) "Firearm" means any weapon that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive;
- (h) "Firearm accessory or component" means:
  - (i) Any device specifically adapted to enable the wearing or carrying about one's person or the storage or mounting in or on any conveyance of a firearm and any attachment or device specifically

adapted to be inserted into or affixed onto any firearm to enable, alter, or improve the functioning or capabilities of the firearm;

(ii) Any item that is used in conjunction with or mounted upon a firearm, including but not limited to telescopic or laser sights, magazines, flash or sound suppressors, folding or aftermarket stocks and grips, speedloaders, braces, ammunition carriers, and lights for target illumination; and

(iii) Any component for making ammunition, reloading materials and equipment, machinery, and tools for manufacturing ammunition;

(i) "Firearms code" means any code or other indicator a payment network assigns to a merchant or to a payment card transaction that identifies whether a merchant is a firearms retailer or whether the payment card transaction involves the purchase of a firearm, firearm accessories or components, or ammunition. The term includes but is not limited to a merchant category code assigned to a retailer by a payment card network or other financial institution;

(j) "Firearms dealer" means any person engaged in the lawful business of selling or trading firearms or antique firearms, as those terms are defined in 18 U.S.C. 921, or ammunition to be used in firearms or antique firearms;

(k) "Government entity" means any state or local government agency or instrumentality thereof located in Idaho;

(l) "Merchant" means a person or entity that accepts payment cards from customers for the purchase of goods or services. The term includes a firearms retailer that accepts payment cards for the lawful purchase of firearms, firearm accessories or components, or ammunition;

(m) "Payment card" means a credit card, charge card, debit card, or any other card that is issued to an authorized card user and that allows the user to purchase goods or services from a merchant;

(n) "Payment network" means a debit or credit network through which funds may be transferred, such as credit card associations, electronic funds transfer networks, or other organizations, or associations, that issue or sponsor a financial transaction device. A payment network does not include any financial institution as defined in this section; and

(o) "Protected financial information" means any record of a sale, purchase, return, or refund involving a payment card that is retrieved, characterized, generated, labeled, sorted, or grouped based on the assignment of a firearms code. A customer's protected financial information refers to protected financial information appearing in the financial records of a customer.

(2) Except for those records kept during the regular course of a criminal investigation and prosecution or as otherwise required by law, a state government entity or local government, special district, or other political subdivision or official, agent, or employee of the state or other government entity or any other person, public or private, other than the owner or owner's representative, may not knowingly and willfully keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of those firearms.

(3) A payment network or its agent may not require the usage of a firearms code in a way that distinguishes a firearms retailer physically located in the state of Idaho from Idaho general merchandise retailers or sporting goods retailers.

(4) A payment network may not discriminate against a firearms retailer by:

(a) Declining a lawful payment card transaction based solely on the assignment or non-assignment of a firearms code to the merchant or transaction;

(b) Limiting or declining to do business with a customer, potential customer, or merchant based on the assignment or non-assignment of a firearms code to previous lawful transactions involving the customer, potential customer, or merchant;

(c) Charging a higher transaction or interchange fee to any merchant or for a lawful transaction based on the assignment or non-assignment of a firearms code; or

(d) Otherwise taking any action against a customer or merchant that is intended to suppress lawful commerce involving firearms, firearm accessories or components, or ammunition, which action is based solely or in part on the customer's or merchant's business involving firearms, firearm accessories or components, or ammunition.

(5) Except as otherwise required by law, a payment network may not disclose a financial record, including a firearms code that was collected in violation of this section.

(6) The attorney general may investigate alleged violations of this section and, upon finding a violation, shall provide written notice to any individual or entity, public or private, believed to be in violation of this section. Written notice to any commercial entity shall be made to the entity's registered agent. Upon receipt of such written notice from the attorney general, the entity shall have thirty (30) calendar days to cease the requirement for usage of the firearms code. At the attorney general's discretion, an entity may be granted up to an additional one hundred twenty (120) days to cease the requirement for usage of the firearms code.

(7) (a) Either a firearms retailer physically located within Idaho whose business was the subject of an alleged violation of this section or a customer who transacted at a firearms retailer physically located in Idaho whose business was the subject of an alleged violation of this section may petition the attorney general to investigate the alleged violation.

(b) If the attorney general does not commence an action within ninety (90) days of receiving the petition pursuant to this subsection, then the firearms retailer or customer may file an action in a court of competent jurisdiction to enjoin the individual or entity from requiring the firearms code in violation of this section.

(8) If an individual or entity is found to be requiring the usage of a firearms code by any merchant physically located in Idaho in violation of this section and fails to cease the requirement for usage of the firearms code by any firearms retailer physically located in Idaho after the expiration of thirty (30) calendar days from the receipt of written notice by the attorney general's office, the attorney general shall pursue an injunction against any individual or entity, public or private, alleged to be in violation of this section. The attorney general shall pursue an injunction pursuant to this section in a court of competent jurisdiction in the judicial district where the alleged violation occurred against the individual or entity in alleged violation of this section.

(a) If a court finds that an individual or entity continues to be in violation of this section after thirty (30) calendar days from receiving

written notice from the attorney general or from a finding by the court of a violation of this section, then the court shall enjoin the individual or entity from continuing to require the usage of the firearms code.

(b) If an individual or entity knowingly and willfully fails to comply with an injunction as provided in this section within thirty (30) days after being served with the injunction, then the court shall impose a civil penalty in a sum not to exceed ten thousand dollars (\$10,000) per violation of an injunction issued pursuant to this section, committed after the expiration of the thirty (30) calendar day period after the entity or individual, public or private, was served with the injunction. In assessing such a penalty, the court shall consider factors including the financial resources of the violator and the harm or risk of harm to second amendment rights resulting from the violation. Any order assessing a penalty for violation of this section shall be stayed pending appeal of the order.

(c) In addition to the remedies provided in this section, the attorney general or a petitioner who prevails in an action under this section shall recover costs, reasonable attorney's fees, and any other remedy the court deems appropriate.

(9) It shall not be a defense to an action filed pursuant to this section that such information was disclosed to a federal government entity, unless such disclosure or action was made based on a good faith conclusion that the disclosure or action was required by federal law or regulation.

[18-3326A, added 2023, ch. 303, sec. 2, p. 914.]