

IN THE SENATE

SENATE BILL NO. 1297

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO CONCEALED WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO RE-
VISE A PROVISION REGARDING WHO MAY CARRY A CONCEALED WEAPON AND TO MAKE
TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-3302, Idaho Code, be, and the same is hereby
amended to read as follows:

18-3302. CONCEALED WEAPONS. (1) The legislature hereby finds that the
people of Idaho have reserved for themselves the right to keep and bear arms
while granting the legislature the authority to regulate the carrying of
weapons concealed. The provisions of this chapter regulating the carrying
of weapons must be strictly construed so as to give maximum scope to the
rights retained by the people.

(2) As used in this chapter:

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

(b) "Deadly weapon" means:

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

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

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

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

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

(ii) Any knife with a blade four (4) 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.

1 (3) No person shall carry concealed weapons on or about his person with-
2 out a license to carry concealed weapons, except:

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

4 (b) On property in which the person has any ownership or leasehold in-
5 terest;

6 (c) On private property where the person has permission to carry con-
7 cealed weapons from any person with an ownership or leasehold interest;

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

11 (4) Subsection (3) of this section shall not apply to restrict or pro-
12 hibit the carrying or possession of:

13 (a) Any deadly weapon located in plain view;

14 (b) Any lawfully possessed shotgun or rifle;

15 (c) A firearm that is not loaded and is concealed in a motor vehicle;

16 (d) A firearm that is not loaded and is secured in a case;

17 (e) A firearm that is disassembled or permanently altered such that it
18 is not readily operable; and

19 (f) A concealed handgun by a person who is:

20 (i) Over twenty-one (21) years of age;

21 (ii) A resident of Idaho, a resident of a state other than Idaho or
22 a current member of the armed forces of the United States; and

23 (iii) Is not disqualified from being issued a license under sub-
24 section (11) of this section.

25 (5) The requirement to secure a license to carry concealed weapons un-
26 der this section shall not apply to the following persons:

27 (a) Officials of a city, county or the state of Idaho;

28 (b) Any publicly elected Idaho official;

29 (c) Members of the armed forces of the United States or of the national
30 guard when in performance of official duties;

31 (d) Criminal investigators of the attorney general's office and crim-
32 inal investigators of a prosecuting attorney's office, prosecutors and
33 their deputies;

34 (e) Any peace officer as defined in section 19-5101(d), Idaho Code, in
35 good standing;

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

40 (g) Any person who has physical possession of his valid license or per-
41 mit authorizing him to carry concealed weapons from another state; and

42 (h) Any person who has physical possession of a valid license or permit
43 from a local law enforcement agency or court of the United States autho-
44 rizing him to carry concealed weapons.

45 (6) The sheriff of the county of the applicant's residence or, if the
46 applicant has obtained a protection order pursuant to chapter 63, title 39,
47 Idaho Code, the sheriff of a county where the applicant is temporarily resid-
48 ing may issue a temporary emergency license for good cause pending review of
49 an application made under subsection (7) of this section. Temporary emer-

1 agency licenses must be easily distinguishable from regular licenses. A tem-
2 porary emergency license shall be valid for not more than ninety (90) days.

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

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

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

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

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

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

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

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

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

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

45 (d) Completion of any law enforcement firearms safety or training
46 course or class offered for security guards, investigators, special
47 deputies, or offered for any division or subdivision of a law enforce-
48 ment agency or security enforcement agency;

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

3 (f) Is currently licensed to carry concealed weapons pursuant to this
4 section, unless the license has been revoked for cause;

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

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

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

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

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

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

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

35 (d) Is a fugitive from justice;

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

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

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

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

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

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

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

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

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

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

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

12 (l) Is free on bond or personal recognizance pending trial, appeal or
13 sentencing for a crime ~~which~~ that would disqualify him from obtaining a
14 concealed weapons license;

15 (m) Is subject to a protection order issued under chapter 63, title
16 39, Idaho Code, that restrains the person from harassing, stalking or
17 threatening an intimate partner of the person or child of the intimate
18 partner or person, or engaging in other conduct that would place an
19 intimate partner in reasonable fear of bodily injury to the partner or
20 child; or

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

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

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

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

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

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

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

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

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

1 (15) The fee for original issuance of a license shall be twenty dollars
2 (\$20.00), which the sheriff must retain for the purpose of performing the du-
3 ties required in this section. The sheriff may collect the actual cost of any
4 additional fees necessary to cover the cost of processing fingerprints law-
5 fully required by any state or federal agency or department, and the actual
6 cost of materials for the license lawfully required by any state agency or
7 department, which costs must be paid to the state. The sheriff must provide
8 the applicant with a copy of the results of the fingerprint-based records
9 check upon request of the applicant.

10 (16) The fee for renewal of the license shall be fifteen dollars
11 (\$15.00), which the sheriff must retain for the purpose of performing the du-
12 ties required in this section. The sheriff may collect the actual cost of any
13 additional fees necessary to cover the processing costs lawfully required by
14 any state or federal agency or department, and the actual cost of materials
15 for the license lawfully required by any state agency or department, which
16 costs must be paid to the state.

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

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

1 tioner. Any person who prevails against a public agency in any action in the
2 courts for a violation of this section must be awarded costs, including rea-
3 sonable attorney's fees incurred in connection with the legal action.

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

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

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

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

27 (a) Fraud or intentional misrepresentation in the obtaining of a li-
28 cense;

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

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

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

35 (e) The applicant is adjudicated guilty of or receives a withheld judg-
36 ment for a crime ~~which~~ that would have disqualified him from initially
37 receiving a license.

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

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

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

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