

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 122

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO FIREARMS; AMENDING SECTION 18-3302C, IDAHO CODE, TO REVISE A
2 PROVISION REGARDING PROHIBITED CONDUCT AND TO MAKE TECHNICAL CORREC-
3 TIONS; AND AMENDING SECTION 18-3302D, IDAHO CODE, TO DEFINE TERMS, TO
4 REVISE A DEFINITION, TO PROVIDE THAT CERTAIN PERSONS SHALL NOT BE PRO-
5 HIBITED FROM POSSESSING WEAPONS ON SCHOOL PROPERTY, TO PROVIDE THAT
6 CERTAIN PERSONS SHALL NOT BE COMPELLED TO DISCLOSE CERTAIN INFORMA-
7 TION OR BE DISCIPLINED FOR CERTAIN ACTIONS, TO PROVIDE FOR DISCLOSURE
8 TO A PRINCIPAL AND SUPERINTENDENT IN CERTAIN INSTANCES, TO PROVIDE FOR
9 CONFIDENTIALITY OF CERTAIN RECORDS, TO PROVIDE THAT PRIVATE PROPERTY
10 OWNERS SHALL RETAIN CERTAIN RIGHTS, TO PROVIDE IMMUNITY FROM CERTAIN
11 LIABILITY, TO PROHIBIT CERTAIN SIGNAGE, TO PROVIDE THAT SCHOOL EM-
12 PLOYEES SHALL NOT BE REQUIRED TO CARRY A CONCEALED WEAPON, AND TO MAKE
13 TECHNICAL CORRECTIONS.
14

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

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

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

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

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

30 (2) Provide information on the application for a permit to carry a con-
31 cealed weapon knowing the same to be untrue.

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

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

36 18-3302D. POSSESSING WEAPONS OR FIREARMS ON SCHOOL PROPERTY.

37 (1) (a) It shall be unlawful and is a misdemeanor for any person to pos-
38 sess a firearm or other deadly or dangerous weapon while on the property
39 of a school or in those portions of any building, stadium or other struc-
40 ture on school grounds ~~which~~ that, at the time of the violation, were be-

1 ing used for an activity sponsored by or through a school in this state
2 or while riding school-provided transportation.

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

8 (2) Definitions. As used in this section:

9 (a) "Deadly or dangerous weapon" means any weapon as defined in 18
10 U.S.C. 930;

11 (b) "Employee" means an officer, board member, commissioner, execu-
12 tive, employee, or servant. "Employee" also includes elected or ap-
13 pointed officials but does not include independent contractors;

14 (c) "Firearm" means any firearm as defined in 18 U.S.C. 921;

15 (d) "Immediate control" means to possess on one's person and within
16 one's own clothing in a manner so that no other person may easily gain
17 control;

18 (ee) "Minor" means a person under the age of eighteen (18) years;

19 (df) "Possess" means to bring an object, or to cause it to be brought,
20 onto the property of a public or private elementary or secondary school,
21 or onto a vehicle being used for school-provided transportation, or to
22 exercise dominion and control over an object located anywhere on such
23 property or vehicle. For purposes of subsection (1) (b) of this section,
24 "possess" shall also mean to bring an object onto the site of a school-
25 sponsored activity, program or event, regardless of location, or to ex-
26 ercise dominion and control over an object located anywhere on such a
27 site;

28 (eg) "School" means a ~~private or~~ public and public charter elementary
29 or secondary school;

30 (h) "School district" means any public or public charter school dis-
31 trict;

32 (i) "School employee" means an employee of the school or school dis-
33 trict. "School employee" does not include anyone who is a student en-
34 rolled in the school district; and

35 (j) "School property" means property owned, used, or leased by a school
36 district where the school employee is employed.

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

43 (4) The provisions of this section shall not apply to the following per-
44 sons:

45 (a) A peace officer;

46 (b) A qualified retired law enforcement officer licensed under section
47 18-3302H, Idaho Code;

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

1 (d) A person or persons complying with the provisions of section
2 19-202A, Idaho Code;

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

7 (f) A person who lawfully possesses a firearm or other deadly or danger-
8 ous weapon in a private vehicle while delivering minor children, stu-
9 dents or school employees to and from school or a school activity; ~~or~~

10 (g) Notwithstanding the provisions of section 18-3302C, Idaho Code, a
11 person ~~or an employee of the school or school district~~ who is authorized
12 to carry a firearm with the permission of the board of trustees of the
13 school district or the governing board; or

14 (h) Notwithstanding the provisions of section 18-3302C, Idaho Code,
15 and with or without permission from a board listed in paragraph (g) of
16 this subsection, a school employee who possesses a valid enhanced li-
17 cence to carry concealed weapons issued pursuant to section 18-3302K,
18 Idaho Code, as long as the firearm or deadly weapon is concealed and that
19 school employee maintains immediate control over the firearm or deadly
20 weapon.

21 (5) No school employee who lawfully carries a concealed firearm or
22 other deadly weapon in accordance with the provisions of subsection (4) (h)
23 of this section shall:

24 (a) Be compelled to disclose the possession or presence of any firearm
25 or deadly weapon, except as provided in subsection (6) of this section
26 or to an Idaho peace officer who is conducting a lawful investigation
27 when such information is reasonably related to the investigation; or

28 (b) Be subject to any disciplinary action, retaliation, or adverse work
29 conditions by any Idaho school or school district for possession of a
30 firearm on school property, unless said school employee fails to comply
31 with the provisions of this section or other Idaho firearms laws.

32 (6) A school employee who possesses a valid enhanced license to carry
33 concealed weapons and desires to carry a concealed weapon on school property
34 shall inform the principal of the school and the superintendent of the school
35 district where he is employed and shall provide them with a copy of the en-
36 hanced license. The principal and superintendent may share the information
37 with the school board; however, the principal, superintendent, and school
38 board shall maintain the confidentiality of the names of those employees
39 with enhanced licenses and the copies of their enhanced licenses. The
40 copy of the enhanced license shall not be included in the school employee's
41 personnel file. This information shall be shared with all local law en-
42 forcement, including the city police department, if applicable, the county
43 sheriff, and the Idaho state police along with a photo of the school employee
44 in order to assist law enforcement officers in the exercise of their duties.

45 (7) Nothing in subsection (4) of this section shall limit the right of
46 an owner of private property, including a private school, from permitting or
47 prohibiting the carrying of a concealed firearm or other deadly weapon on his
48 property.

49 (8) No action, but for reckless, willful, and wanton behavior, shall
50 lie or be maintained for civil damages in any court of this state against a

1 school, school district, or school employee where the claim arises out of the
2 lawful carrying, possession, use, or nonuse of a deadly weapon by a school
3 employee on school property who does so without the consent of the board in
4 accordance with subsection (4) (h) of this section.

5 (9) No public school shall display any signage indicating that school
6 property is a gun-free zone.

7 (10) No school employee shall be required to carry a concealed weapon on
8 school property without his consent. No school employee shall have a duty
9 arising from this section to carry or use a deadly weapon on school property.

10 (~~5~~11) Penalties. Persons who are found guilty of violating the provi-
11 sions of this section may be sentenced to a jail term of not more than one
12 (1) year or fined an amount not in excess of one thousand dollars (\$1,000) or
13 both. If a violator is a student and under the age of eighteen (18) years,
14 the court may place the violator on probation and suspend the juvenile deten-
15 tion or fine or both as long as the violator is enrolled in a program of study
16 recognized by the court that, upon successful completion, will grant the vi-
17 olator a general equivalency diploma (GED) or a high school diploma or other
18 educational program authorized by the court. Upon successful completion of
19 the terms imposed by the court, the court shall discharge the offender from
20 serving the remainder of the sentence. If the violator does not complete, is
21 suspended from, or otherwise withdraws from the program of study imposed by
22 the court, the court, upon receiving such information, shall order the vio-
23 lator to commence serving the sentence provided for in this section.