

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 89

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO CONCEALED WEAPONS; AMENDING SECTION 18-3302, IDAHO CODE, TO PRO-  
2 VIDE THAT THE SHERIFF SHALL ISSUE A CONCEALED WEAPONS LICENSE FOR THE  
3 PURPOSE OF RECIPROCITY, TO REMOVE A PROVISION RELATING TO DATES WHEN A  
4 LICENSE WAS ISSUED, TO REMOVE PROVISIONS RELATING TO PLACES WHERE A PER-  
5 SON SHALL NOT CARRY A CONCEALED WEAPON WITHOUT A LICENSE AND TO REVISE  
6 PROVISIONS RELATING TO PERSONS WHO MAY CARRY A CONCEALED WEAPON WITHOUT  
7 A LICENSE.  
8

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

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

12 18-3302. ISSUANCE OF LICENSES TO CARRY CONCEALED WEAPONS. (1) For the  
13 purpose of reciprocity ~~t~~The sheriff of a county, on behalf of the state of  
14 Idaho, shall, within ninety (90) days after the filing of an application by  
15 any person who is not disqualified from possessing or receiving a firearm un-  
16 der state or federal law, issue a license to the person to carry a weapon con-  
17 cealed on his person within this state. ~~For licenses issued before July 1,~~  
18 ~~2006, a license shall be valid for four (4) years from the date of issue. For~~  
19 ~~licenses issued on or after July 1, 2006, a~~A license shall be valid for five  
20 (5) years from the date of issue. The citizen's constitutional right to bear  
21 arms shall not be denied to him, unless one (1) of the following applies. He:

22 (a) Is ineligible to own, possess or receive a firearm under the provi-  
23 sions of state or federal law;

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

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

28 (d) Is a fugitive from justice;

29 (e) Is an unlawful user of, or addicted to, marijuana or any depres-  
30 sant, stimulant or narcotic drug, or any other controlled substance as  
31 defined in 21 U.S.C. 802;

32 (f) Is currently suffering or has been adjudicated as follows, based on  
33 substantial evidence:

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

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

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

38 or

39 (iv) An incapacitated person as defined in section 15-5-101(a),  
40 Idaho Code.

41 (g) Is or has been discharged from the armed forces under dishonorable  
42 conditions;

1 (h) Is or has been adjudicated guilty of or received a withheld judgment  
2 or suspended sentence for one (1) or more crimes of violence constitut-  
3 ing a misdemeanor, unless three (3) years have elapsed since disposi-  
4 tion or pardon has occurred prior to the date on which the application is  
5 submitted;

6 (i) Has had entry of a withheld judgment for a criminal offense which  
7 would disqualify him from obtaining a concealed weapon license;

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

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

11 (l) Is under twenty-one (21) years of age;

12 (m) Is free on bond or personal recognizance pending trial, appeal or  
13 sentencing for a crime which would disqualify him from obtaining a con-  
14 cealed weapon license; or

15 (n) 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.

21 The license application shall be in a form to be prescribed by the  
22 director of the Idaho state police, and shall ask the name, address, de-  
23 scription and signature of the licensee, date of birth, place of birth,  
24 social security number, military status, citizenship and the driver's  
25 license number or state identification card number of the licensee if  
26 used for identification in applying for the license. The application  
27 shall indicate that provision of the social security number is op-  
28 tional. The license application shall contain a warning substantially  
29 as follows:

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

34 The sheriff shall require any person who is applying for original is-  
35 suance of a license to submit his fingerprints in addition to the other  
36 information required in this subsection. Within five (5) days after the  
37 filing of an application, the sheriff shall forward the application and  
38 fingerprints to the Idaho state police for a records check of state and  
39 national files. The Idaho state police shall conduct a national finger-  
40 print-based records check and return the results to the sheriff within  
41 seventy-five (75) days. The sheriff shall not issue a license before  
42 receiving the results of the records check and must deny a license if  
43 the applicant is disqualified under any of the criteria listed in para-  
44 graphs (a) through (n) of this subsection. In the event the sheriff has  
45 collected a fee to cover the cost of processing fingerprints for the  
46 records check, the sheriff shall provide the applicant with a copy of  
47 the results of the records check upon request of the applicant.

1           The license will be in a form substantially similar to that of the  
2 Idaho driver's license. It will bear the signature, name, address, date  
3 of birth, picture of the licensee, expiration date and the driver's li-  
4 cense number or state identification card number of the licensee if used  
5 for identification in applying for the license. Upon issuing a license  
6 under the provisions of this section, the sheriff will notify the Idaho  
7 state police on a form or in a manner prescribed by the state police. In-  
8 formation relating to an applicant or licensee received or maintained  
9 pursuant to this section by the sheriff or Idaho state police is confi-  
10 dential and exempt from disclosure under section 9-338, Idaho Code.

11           (2) The fee for original issuance of a license shall be twenty dollars  
12 (\$20.00) paid to the sheriff for the purpose of enforcing the provisions of  
13 this chapter. The sheriff may collect any additional fees necessary to cover  
14 the cost of processing fingerprints lawfully required by any state or fed-  
15 eral agency or department, and the cost of materials for the license lawfully  
16 required by any state agency or department, which costs shall be paid to the  
17 state.

18           (3) The fee for renewal of the license shall be fifteen dollars  
19 (\$15.00). The sheriff may collect any additional fees necessary to cover  
20 the processing costs lawfully required by any state or federal agency or  
21 department, and the cost of materials for the license lawfully required by  
22 any state agency or department, which costs shall be paid to the state. If  
23 a licensee applying for renewal has not previously been required to submit  
24 fingerprints, the sheriff shall require the licensee to do so and may collect  
25 any additional fees necessary to cover the cost of processing fingerprints  
26 lawfully required by any state or federal agency or department.

27           (4) Every license that is not, as provided by law, suspended, revoked or  
28 disqualified in this state shall be renewable at any time during the ninety  
29 (90) day period before its expiration or within ninety (90) days after the  
30 expiration date. Renewal notices shall be mailed out ninety (90) days prior  
31 to the expiration date of the license. The sheriff shall require the li-  
32 censee applying for renewal to complete an application. The sheriff shall  
33 submit the application to the Idaho state police for a records check of state  
34 and national databases. The Idaho state police shall conduct the records  
35 check and return the results to the sheriff within thirty (30) days. The  
36 sheriff shall not issue a renewal before receiving the results of the records  
37 check and must deny a license if the applicant is disqualified under any of  
38 the criteria listed in subsection (1), paragraphs (a) through (n) of this  
39 section. A renewal license shall be valid for a period of five (5) years.  
40 A license so renewed shall take effect on the expiration date of the prior  
41 license. A licensee renewing ninety-one (91) days to one hundred eighty  
42 (180) days after the expiration date of the license shall pay a late renewal  
43 penalty of ten dollars (\$10.00) in addition to the renewal fee, except that  
44 any licensee serving on active duty in the armed forces of the United States  
45 during the renewal period shall not be required to pay a late renewal penalty  
46 upon renewing ninety-one (91) days to one hundred eighty (180) days after the  
47 expiration date of the license. After one hundred eighty-one (181) days, the  
48 licensee shall be required to submit an initial application for a license and  
49 to pay the fees prescribed in subsection (2) of this section. The renewal fee  
50 and any penalty shall be paid to the sheriff for the purpose of enforcing the

1 provisions of this chapter. Upon renewing a license under the provisions of  
2 this section, the sheriff shall notify the Idaho state police within five (5)  
3 days on a form or in a manner prescribed.

4 (5) Notwithstanding the requirements of this section, the sheriff of  
5 the county of the applicant's residence may issue a temporary emergency li-  
6 cense for good cause pending review under subsection (1) of this section.

7 (6) A city, county or other political subdivision of this state shall  
8 not modify the requirements of this section, nor may a political subdivi-  
9 sion ask the applicant to voluntarily submit any information not required in  
10 this section. A civil action may be brought to enjoin a wrongful refusal to  
11 issue a license or a wrongful modification of the requirements of this sec-  
12 tion. The civil action may be brought in the county in which the application  
13 was made or in Ada county at the discretion of the petitioner. Any person who  
14 prevails against a public agency in any action in the courts for a violation  
15 of subsections (1) through (5) of this section, shall be awarded costs, in-  
16 cluding reasonable attorney's fees incurred in connection with the legal ac-  
17 tion.

18 ~~(7) Except in the person's place of abode or fixed place of business, or~~  
19 ~~on property in which the person has any ownership or leasehold interest, a~~  
20 ~~person shall not carry a concealed weapon without a license to carry a con-~~  
21 ~~cealed weapon.~~ For the purposes of this section, a concealed weapon means  
22 any dirk, dirk knife, bowie knife, dagger, pistol, revolver or any other  
23 deadly or dangerous weapon. The provisions of this section shall not apply  
24 to any lawfully possessed shotgun or rifle, any knife, cleaver or other in-  
25 strument primarily used in the processing, preparation or eating of food,  
26 any knife with a blade four (4) inches or less or any lawfully possessed  
27 taser, stun gun or pepper spray.

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

32 ~~(9) While in any motor vehicle, inside the limits or confines of any~~  
33 ~~city, a person shall not carry a concealed weapon on or about his person~~  
34 ~~without a license to carry a concealed weapon. This shall not apply to any~~  
35 ~~firearm located in plain view whether it is loaded or unloaded. A firearm may~~  
36 ~~be concealed legally in a motor vehicle so long as the weapon is disassembled~~  
37 ~~or unloaded.~~

38 ~~(10)~~ In implementing the provisions of this section on behalf of the  
39 state of Idaho, the sheriff shall make applications readily available at the  
40 office of the sheriff or at other public offices in his jurisdiction.

41 ~~(11)~~ The sheriff of a county may issue a license to carry a concealed  
42 weapon to those individuals between the ages of eighteen (18) and twenty-one  
43 (21) years who in the judgment of the sheriff warrant the issuance of the li-  
44 cense to carry a concealed weapon. Such issuance shall be subject to limita-  
45 tions which the issuing authority deems appropriate. Licenses issued to in-  
46 dividuals between the ages of eighteen (18) and twenty-one (21) years shall  
47 be easily distinguishable from regular licenses.

48 ~~(12)~~ The requirement to secure a license to carry a concealed weapon  
49 under this section shall not apply to the following persons:

1 ~~(a) Officials of a county, city, state of Idaho, the United States,~~  
 2 ~~peace officers, guards of any jail, court appointed attendants or any~~  
 3 ~~officer of any express company on duty;~~

4 ~~(b) Employees of the adjutant general and military division of the~~  
 5 ~~state where military membership is a condition of employment when on~~  
 6 ~~duty;~~

7 ~~(c) Criminal investigators of the attorney general's office, crimi-~~  
 8 ~~nal investigators of a prosecuting attorney's office, prosecutors and~~  
 9 ~~their deputies;~~

10 ~~(d) Any person outside the limits of or confines of any city while en-~~  
 11 ~~gaged in lawful hunting, fishing, trapping or other lawful outdoor ac-~~  
 12 ~~tivity;~~

13 ~~(e) Any publicly elected Idaho official;~~

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

18 ~~(g) Any person who has a valid permit from a state or local law enforce-~~  
 19 ~~ment agency or court authorizing him to carry a concealed weapon. A per-~~  
 20 ~~mit issued in another state will only be considered valid if the permit~~  
 21 ~~is in the licensee's physical possession. Any person may carry a con-~~  
 22 ~~cealed weapon without a license provided that the individual meets the~~  
 23 ~~standards of eligibility as provided in subsection (1) of this section~~  
 24 ~~within the state of Idaho.~~

25 (132) When issuing a license pursuant to this section, the sheriff may  
 26 require the applicant to demonstrate familiarity with a firearm and shall  
 27 accept any of the following, provided the applicant may select whichever of  
 28 the following applies:

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

31 (b) Completion of any national rifle association firearms safety or  
 32 training course or any national rifle association hunter education  
 33 course;

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

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

44 (e) Presents evidence or equivalent experience with a firearm through  
 45 participation in organized shooting competition or military service;

46 (f) Is licensed or has been licensed to carry a firearm in this state or  
 47 a county or municipality, unless the license has been revoked for cause;  
 48 or

1 (g) Completion of any firearms training or training or safety course or  
2 class conducted by a state certified or national rifle association cer-  
3 tified firearms instructor.

4 (143) A person carrying a concealed weapon in violation of the provi-  
5 sions of this section shall be guilty of a misdemeanor.

6 (154) The sheriff of the county where the license was issued or the sher-  
7 iff of the county where the person resides shall have the power to revoke a  
8 license subsequent to a hearing in accordance with the provisions of chapter  
9 52, title 67, Idaho Code, for any of the following reasons:

10 (a) Fraud or intentional misrepresentation in the obtaining of a li-  
11 cense;

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

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

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

18 (e) The applicant is adjudicated guilty of or receives a withheld judg-  
19 ment for a crime which would have disqualified him from initially re-  
20 ceiving a license.

21 (165) A person twenty-one (21) years of age or older issued a license to  
22 carry a concealed weapon is exempt from any requirement to undergo a records  
23 check at the time of purchase or transfer of a firearm from a federally li-  
24 censed firearms dealer. However, a temporary emergency license issued un-  
25 der subsection (5) of this section shall not exempt the holder of the license  
26 from any records check requirement. Temporary emergency licenses shall be  
27 easily distinguishable from regular licenses.

28 (176) The attorney general is authorized to negotiate reciprocal agree-  
29 ments with other states related to the recognition of licenses to carry  
30 concealed weapons. The Idaho state police shall keep a copy and maintain a  
31 record of all such agreements, which shall be made available to the public.

32 (187) The provisions of this section are hereby declared to be severable  
33 and if any provision of this section or the application of such provision to  
34 any person or circumstance is declared invalid for any reason, such declara-  
35 tion shall not affect the validity of remaining portions of this section.