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First Regular Session - 2015

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 301

BY STATE AFFAIRS COMMITTEE

1	AN ACT
2	RELATING TO CONCEALED WEAPONS; REPEALING SECTION 18-3302, IDAHO CODE, RE-
3	LATING TO THE ISSUANCE OF LICENSES TO CARRY CONCEALED WEAPONS; AMENDING
4	CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
5	18-3302, IDAHO CODE, TO PROVIDE POLICIES AND PROCEDURES IN THE ISSUANCE
6	OF A LICENSE TO CARRY CONCEALED WEAPONS; AMENDING SECTION 18-33021,
7	IDAHO CODE, TO REMOVE A DEFINITION; REPEALING SECTION 18-3302K, IDAHO
8	CODE, RELATING TO THE ISSUANCE OF ENHANCED LICENSES TO CARRY CONCEALED
9	WEAPONS; AMENDING CHAPTER 33, TITLE 18, IDAHO CODE, BY THE ADDITION
10	OF A NEW SECTION 18-3302K, IDAHO CODE, TO PROVIDE POLICIES AND PRO-
11	CEDURES IN THE ISSUANCE OF AN ENHANCED LICENSE TO CARRY CONCEALED
12	WEAPONS; AMENDING SECTION 18-3316, IDAHO CODE, TO REMOVE A DEFINITION;
13	AMENDING SECTION 31-870, IDAHO CODE, TO PROVIDE THAT A BOARD OF COUNTY
14	COMMISSIONERS SHALL NOT IMPOSE OR COLLECT A FEE FOR LICENSES TO CARRY
15	CONCEALED WEAPONS; AND AMENDING SECTION 9-340B, IDAHO CODE, TO PROVIDE
16	A CORRECT CODE REFERENCE.

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 That Section 18-3302, Idaho Code, be, and the same is hereby 18 repealed. 19

SECTION 2. That Chapter 33, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 18-3302, Idaho Code, and 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-qun, 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.
- (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) A firearm that is not loaded and is concealed in a motor vehicle;
 - (d) A firearm that is not loaded and is secured in a case; and
 - (e) A firearm that is disassembled or permanently altered such that it is not readily operable.
- (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) Is currently licensed 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. section 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, Tdaho Code.
- (g) Has been discharged from the armed forces under dishonorable conditions:
- (h) Has been adjudicated guilty of or received a withheld judgment or suspended sentence for a crime of violence constituting a misdemeanor or a crime that would disqualify him from obtaining a concealed weapons license, unless three (3) years have elapsed since entry of judgment or successful completion of probation prior to the date on which the application is submitted;
- (i) Is an alien illegally in the United States;

- (j) Is a person who having been a citizen of the United States has renounced his or her citizenship;
- (k) Is free on bond or personal recognizance pending trial, appeal or sentencing for a crime which would disqualify him from obtaining a concealed weapons license;
- (1) 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
- (m) Is for any other reason ineligible to own, possess or receive a firearm under the provisions of Idaho or federal law. In making a determination in relation to an applicant's eligibility under this subsection, the sheriff shall not consider:
 - (i) 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
 - (ii) Except as provided for in paragraph (f) of this subsection, 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.
- (12) 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.
- (13) 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 9-340B, Idaho Code.

- (\$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.
- (\$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.
- (16) 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. 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 (14) 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.

- (17) 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.
- (18) 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.
- (19) The sheriff of a county may issue a license to carry a concealed weapon to those individuals between the ages of eighteen (18) and twenty-one (21) years who in the judgment of the sheriff warrant the issuance of the license. Such issuance shall be subject to limitations which the issuing authority deems appropriate. Licenses issued to individuals between the ages of eighteen (18) and twenty-one (21) years shall be easily distinguishable from licenses issued pursuant to subsection (7) of this section.
- (20) A person carrying a concealed weapon in violation of the provisions of this section shall be guilty of a misdemeanor.
- (21) 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 which 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 which would have disqualified him from initially receiving a license.
- (22) 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.
- (23) 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.

- (24) 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.
- (25) 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.
- SECTION 3. That Section 18-3302I, Idaho Code, be, and the same is hereby amended to read as follows:
 - 18-3302I. THREATENING VIOLENCE ON SCHOOL GROUNDS.
 - (1) (a) Any person, including a student, who willfully threatens on school grounds by word or act to use a firearm or other deadly or dangerous weapon to do violence to any other person on school grounds is guilty of a misdemeanor.
 - (b) The threats prohibited by this section encompass only those statements or acts where the speaker or actor intends to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals. The prosecution is not required to prove that the defendant actually intended to carry out the threat.
 - (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) "Firearm" means any weapon, whether loaded or unloaded, from which a shot, projectile or other object may be discharged by force of combustion, explosive, gas and/or mechanical means, regardless of whether such weapon is operable;
- (c) "On school grounds" means in, or on the property of, a public or private elementary or secondary school.
- SECTION 4. That Section $\underline{18-3302K}$, Idaho Code, be, and the same is hereby repealed.
- SECTION 5. That Chapter 33, Title 18, Idaho Code, be, and the same is hereby amended by the addition thereto of a <u>NEW SECTION</u>, to be known and designated as Section 18-3302K, Idaho Code, and to read as follows:
 - 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 licensed 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 9-340B, 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, 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.
- (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, 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.
- (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 9-340B, 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.

 SECTION 6. That Section 18-3316, Idaho Code, be, and the same is hereby amended to read as follows:

- 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) For the purpose of subsection (1) of this section, "firearm" shall include any weapon from which a shot, projectile or other object may be discharged by force of combustion, explosive, gas and/or mechanical means, whether operable or inoperable.
- (4) 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.
- SECTION 7. That Section 31-870, Idaho Code, be, and the same is hereby amended to read as follows:
- 31-870. FEES FOR COUNTY SERVICES. (1) Notwithstanding any other provision of law, a board of county commissioners may impose and collect fees for those services provided by the county which would otherwise be funded by ad valorem tax revenues. The fees collected pursuant to this section shall be reasonably related to, but shall not exceed, the actual cost of the service being rendered. Taxing districts other than counties may impose fees for services as provided in section 63-1311, Idaho Code.
- (2) The board of county commissioners may establish and provide for the collection of a solid waste fee in accordance with a request made pursuant to this section, and such fee shall be certified and collected in the same manner provided by law for the collection of real or personal property taxes.
- (3) The administrative fee authorized under the provisions of this section and collected for issuance of motor vehicle registrations pursuant to chapter 4, title 49, Idaho Code, shall be the same for any registration issued pursuant to section 49-402B, Idaho Code, and may not be doubled or in any way increased solely because of registration under that section.
- $\frac{(4)}{\text{to carry}} \, \frac{\text{This section shall not apply to the issuance or renewal of licenses}}{\text{concealed weapons under sections 18-3302, 18-3302H or 18-3302K,}} \\ \frac{(4)}{\text{Idaho Code.}}$

SECTION 8. That Section 9-340B, Idaho Code, be, and the same is hereby amended to read as follows:

- 9-340B. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS, INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND EMERGENCY RESPONSE PLANS, WORKER'S COMPENSATION. The following records are exempt from disclosure:
- (1) Investigatory records of a law enforcement agency, as defined in section 9-337(7), Idaho Code, under the conditions set forth in section 9-335, Idaho Code.
- (2) Juvenile records of a person maintained pursuant to chapter 5, title 20, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the juvenile who is thirteen (13) years of age or younger. If the juvenile is petitioned or charged with an offense which would be a criminal offense if committed by an adult, the name, offense of which the juvenile was petitioned or charged and disposition of the court shall be subject to disclosure as provided in section 20-525, Idaho Code. Additionally, facts contained in any records of a juvenile maintained under chapter 5, title 20, Idaho Code, shall be furnished upon request to any school district where the juvenile is enrolled or is seeking enrollment.
- (3) Records of the custody review board of the Idaho department of juvenile corrections, including records containing the names, addresses and written statements of victims and family members of juveniles, shall be exempt from public disclosure pursuant to section 20-533A, Idaho Code.
 - (4) (a) The following records of the department of correction:
 - (i) Records of which the public interest in confidentiality, public safety, security and habilitation clearly outweighs the public interest in disclosure as identified pursuant to the authority of the Idaho board of correction under section 20-212, Idaho Code;
 - (ii) Records that contain any identifying information, or any information that would lead to the identification of any victims or witnesses;
 - (iii) Records that reflect future transportation or movement of a prisoner;
 - (iv) Records gathered during the course of the presentence investigation;
 - (v) Records of a prisoner, as defined in section 9-337(10), Idaho Code, or probationer shall not be disclosed to any other prisoner or probationer.
 - (b) Records of buildings, facilities, infrastructures and systems held by or in the custody of any public agency only when the disclosure of such information would jeopardize the safety of persons or the public safety. Such records may include emergency evacuation, escape or other emergency response plans, vulnerability assessments, operation and security manuals, plans, blueprints or security codes. For purposes of this section "system" shall mean electrical, heating, ventilation, air conditioning and telecommunication systems.

- (c) Records of the commission of pardons and parole shall be exempt from public disclosure pursuant to section 20-213A, Idaho Code, and section 20-223, Idaho Code. Records exempt from disclosure shall also include those containing the names, addresses and written statements of victims.
- (5) Voting records of the sexual offender classification board. The written record of the vote to classify an offender as a violent sexual predator by each board member in each case reviewed by that board member shall be exempt from disclosure to the public and shall be made available upon request only to the governor, the chairman of the senate judiciary and rules committee, and the chairman of the house of representatives judiciary, rules and administration committee, for all lawful purposes.
- (6) Records of the sheriff or Idaho state police received or maintained pursuant to sections 18-3302, 18-3302H and 18-3302K, Idaho Code, relating to an applicant or licensee except that any law enforcement officer and law enforcement agency, whether inside or outside the state of Idaho, may access information maintained in the license record system as set forth in section 18-3302K(13-6), Idaho Code.
- (7) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons. For reasons of health and safety, best interests of the child or public interest, the department of health and welfare may provide for the disclosure of records of investigations associated with actions pursuant to the provisions of chapter 16, title 16, Idaho Code, prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children except any such records regarding adoptions shall remain exempt from disclosure.
- (8) Records including, but not limited to, investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.
- (9) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.
- (10) The worker's compensation records of the Idaho industrial commission provided that the industrial commission shall make such records available:
 - (a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or
 - (b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statu-

tory limitations, who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

- (c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or
- (d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as determined by a civil court of competent jurisdiction; or
- (e) Although a claimant's records maintained by the industrial commission, including medical and rehabilitation records, are otherwise exempt from public disclosure, the quoting or discussing of medical or rehabilitation records contained in the industrial commission's records during a hearing for compensation or in a written decision issued by the industrial commission shall be permitted; provided further, the true identification of the parties shall not be exempt from public disclosure in any written decision issued and released to the public by the industrial commission.
- (11) Records of investigations compiled by the commission on aging involving vulnerable adults, as defined in section 18-1505, Idaho Code, alleged to be abused, neglected or exploited.
- (12) Criminal history records and fingerprints, as defined by section 67-3001, Idaho Code, and compiled by the Idaho state police. Such records shall be released only in accordance with chapter 30, title 67, Idaho Code.
- (13) Records furnished or obtained pursuant to section 41-1019, Idaho Code, regarding termination of an appointment, employment, contract or other insurance business relationship between an insurer and a producer.
- (14) Records of a prisoner or former prisoner in the custody of any state or local correctional facility, when the request is made by another prisoner in the custody of any state or local correctional facility.
- (15) Except as provided in section 72-1007, Idaho Code, records of the Idaho industrial commission relating to compensation for crime victims under chapter 10, title 72, Idaho Code.
- (16) Records or information identifying a complainant maintained by the department of health and welfare pursuant to section 39-3556, Idaho Code, relating to certified family homes, unless the complainant consents in writing to the disclosure or the disclosure of the complainant's identity is required in any administrative or judicial proceeding.