

## Idaho Code

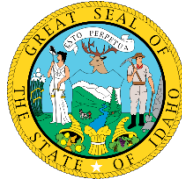
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## TITLE 18. Crimes and Punishments

### Chapter 33. Firearms, Explosives and Other Deadly Weapons

**§ 18-3301. Deadly weapon – Possession with intent to assault.** Every person having upon him any deadly weapon with intent to assault another is guilty of a misdemeanor.

### § 18-3302. Concealed weapons

(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.
- (3) No person shall carry concealed weapons on or about his person without a license to carry concealed weapons, except:
- (a) In the person's place of abode or fixed place of business;
  - (b) On property in which the person has any ownership or leasehold interest;
  - (c) On private property where the person has permission to carry concealed weapons from any person with an ownership or leasehold interest;
  - (d) Outside the limits of or confines of any city, if the person is over 18 years of age and is not otherwise disqualified from being issued a license under subsection (11) of this section.
- (4) Subsection (3) of this section shall not apply to restrict or prohibit the carrying or possession of:
- (a) Any deadly weapon located in plain view;
  - (b) Any lawfully possessed shotgun or rifle;
  - (c) 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;
  - (e) A firearm that is disassembled or permanently altered such that it is not readily operable; and
  - (f) A concealed handgun by a person who is:
    - (i) Over 21 years of age;
    - (ii) A resident of Idaho; and
    - (iii) Is not disqualified from being issued a license under subsection (11) of this section.
- (5) The requirement to secure a license to carry concealed weapons under this section shall not apply to the following persons:
- (a) Officials of a city, county or the state of Idaho;
  - (b) Any publicly elected Idaho official;
  - (c) Members of the armed forces of the United States or of the national guard when in performance of official duties;
  - (d) Criminal investigators of the attorney general's office and criminal investigators of a prosecuting attorney's office, prosecutors and their deputies;
  - (e) Any peace officer as defined in § 19-5101(d), Idaho Code, in good standing;
  - (f) Retired peace officers or detention deputies with at least 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 90 days.
- (7) The sheriff of a county, on behalf of the state of Idaho, must, within 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 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 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 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 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 1 year;

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

**(d)** Is a fugitive from justice;

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

**(f)** Is currently suffering from or has been adjudicated as having suffered from any of the following conditions, based on substantial evidence:

**(i)** Lacking mental capacity as defined in § 18-210, Idaho Code;

**(ii)** Mentally ill as defined in § 66-317, Idaho Code;

**(iii)** Gravely disabled as defined in § 66-317, Idaho Code; or

**(iv)** An incapacitated person as defined in § 15-5-101, Idaho Code.

**(g)** Has been discharged from the armed forces under dishonorable conditions;

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

**(i)** Has received a period of probation after having been adjudicated guilty of, or received a withheld judgment for, a misdemeanor offense that has as an element the intentional use, attempted use or threatened use of physical force

against the person or property of another, unless the person has successfully completed probation;

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

**(k)** Is a person who having been a citizen of the United States has renounced his or her citizenship;

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

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

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

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

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

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

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

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

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

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

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

**(15)** The fee for original issuance of a license shall be \$20, which the sheriff must retain for the purpose of performing the duties required in this section. The sheriff may collect the actual cost of any additional fees necessary to cover the cost of processing fingerprints lawfully required by any state or federal agency or department, and the actual cost of materials for the license lawfully required by any state agency or department, which costs must be paid to the state. The sheriff must provide the applicant with a copy of the results of the fingerprint-based records check upon request of the applicant.

**(16)** The fee for renewal of the license shall be \$15, which the sheriff must retain for the purpose of performing the duties required in this section. The sheriff may collect the actual cost of any additional fees necessary to cover the processing costs lawfully required by any state or federal agency or department, and the actual cost of materials for the license lawfully required by any state agency or department, which costs must be paid to the state.

**(17)** Every license that is not, as provided by law, suspended, revoked or disqualified in this state shall be renewable at any time during the 90 day period before its expiration or within 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 30 days. The sheriff shall not issue a renewal before receiving the results of the records check and must deny a license if the applicant is disqualified under any of the criteria provided in this section. A renewal license shall be valid for a period of 5 years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing 91 days to 180 days after the expiration date of the license must pay a late renewal penalty of \$10 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 91 days to 180 days after the expiration date of the license. After 181 days, the licensee must submit an initial application for a license and pay the fees prescribed in subsection (15) of this section. The renewal fee and any penalty shall be paid to the sheriff for the purpose of enforcing the provisions of this chapter. Upon renewing a license under the provisions of this section, the sheriff must notify the Idaho state police within 5 days on a form or in a manner prescribed by the Idaho state police.

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

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

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

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

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

- (a)** Fraud or intentional misrepresentation in the obtaining of a license;
- (b)** Misuse of a license, including lending or giving a license to another person, duplicating a license or using a license with the intent to unlawfully cause harm to a person or property;
- (c)** The doing of an act or existence of a condition 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.

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

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

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

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

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

**§ 18-3302B. Carrying concealed weapons under the influence of alcohol or drugs**

**(1)** It shall be unlawful for any person to carry a concealed weapon on or about his person when intoxicated or under the influence of an intoxicating drink or drug. Any violation of the provisions of this section shall be a misdemeanor.

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

**§ 18-3302C. Prohibited conduct.** Any person obtaining a license under the provisions of § 18-3302, Idaho Code, or carrying a concealed deadly weapon pursuant to the provisions of § 18-3302(4)(f), Idaho Code, shall not:

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

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

**(2)** Provide information on the application for a permit to carry a concealed weapon knowing the same to be untrue. Any person violating the provisions of this section shall be guilty of a misdemeanor.

**§ 18-3302D. Possessing weapons or firearms on school property**

**(1) (a)** It shall be unlawful and is a misdemeanor for any person to possess a firearm or other deadly or dangerous weapon while on the property of a school or in those portions of any building, stadium or other structure on school

grounds which, at the time of the violation, were being used for an activity sponsored by or through a school in this state or while riding school provided transportation.

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

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

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

(b) "**Firearm**" means any firearm as defined in 18 U.S.C. § 921;

(c) "**Minor**" means a person under the age of 18 years;

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

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

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

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

(a) A peace officer;

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

(c) A person or persons complying with the provisions of § 19-202A, Idaho Code;

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

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

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

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

#### **§ 18-3302E. Possession of a weapon by a minor**

(1) It shall be unlawful for any person under the age of 18 years to possess or have in possession any weapon, as defined in § 18-3302A, Idaho Code, unless he:

(a) Has the written permission of his parent or guardian to possess the weapon; or

(b) Is accompanied by his parent or guardian while he has the weapon in his possession.

(2) Any minor under the age of 12 years in possession of a weapon shall be accompanied by an adult.

(3) Any person who violates the provisions of this section is guilty of a misdemeanor.

#### **§ 18-3302F. Prohibition of possession of certain weapons by a minor**

(1) It shall be unlawful for any person under the age of 18 years to possess or have in possession any handgun.

(2) Except as provided by federal law, a minor under the age of 18 years may not possess the following:

(a) A sawed-off rifle or sawed-off shotgun; or

(b) A full automatic weapon.

(3) Any person who violates the provisions of subsection (2)(a) of this section is guilty of a misdemeanor.

(4) Any person who violates the provisions of subsection (2)(b) of this section is guilty of a felony.

(5) For purposes of this section:

(a) "Full automatic weapon" means any firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than 1 bullet, or other missile without reloading, by a single function of the trigger.

(b) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches. Excluded from this definition are handguns firing a metallic projectile, such

as a BB or pellet, through the force of air pressure, CO2 pressure, or spring action or any spot marker gun.

(6) Any person who provides a handgun to a minor when the possession of the handgun by the minor is a violation of the provisions of this section is guilty of a misdemeanor.

**§ 18-3302G. Exceptions.** The provisions of § 18-3302E, Idaho Code, regarding the possession of a weapon by a minor or § 18-3302F, Idaho Code, regarding possession of handguns by minors shall not apply to any of the following:

- (1) Patrons firing at lawfully operated target concessions at amusement parks and similar locations provided that the firearms to be used are firmly chained or affixed to the counters;
- (2) Any person in attendance at a hunter's safety course or a firearm's safety course;
- (3) Any person engaging in practice or any other lawful use of a firearm at an established range or any other area where the discharge of a firearm is not prohibited by state or local law;
- (4) Any person engaging in an organized competition involving the use of a firearm, or participating in or practicing for such competition;
- (5) Any minor under 18 years of age who is on real property with the permission of the owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian or the owner, licensee, or lessee to possess a firearm not otherwise in violation of the law;
- (6) Any resident or nonresident hunters with a valid hunting license or other persons who are lawfully engaged in hunting; and
- (7) Any person traveling to or from any activity described in subsection (2), (3), (4), (5) or (6) of this section with an unloaded firearm in his possession.

**§ 18-3302H. Carrying of concealed firearms by qualified retired law enforcement officers**

(1) A county sheriff shall issue a license to carry a concealed firearm to a qualified retired law enforcement officer provided that the provisions of this section are met.

(2) As used in this section:

- (a) "Firearm" means a handgun and does not include:
  - (i) Any machine gun, as defined in 26 U.S.C. § 5845(b);
  - (ii) Any firearm silencer, as defined in 18 U.S.C. § 921; or
  - (iii) Any destructive device, as defined in 18 U.S.C. § 921.
- (b) "Qualified retired law enforcement officer" means an individual who:
  - (i) Retired in good standing from service with a public agency as a law enforcement officer, provided that such retirement was for reasons other than mental instability;
  - (ii) Before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;
  - (iii) Before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more, or retired from service with such agency after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
  - (iv) Has a nonforfeitable right to benefits under the retirement plan of the agency;
  - (v) During the most recent 12 month period has met, at his own expense, the standards for training and qualification of this state, as required at the discretion of the sheriff under paragraph (d) of this subsection or the agency from which he retired for active law enforcement officers, to carry a concealed firearm;
  - (vi) Is not chronically under the influence of alcohol, or under the influence of another intoxicating or hallucinatory drug or substance in violation of any provision of federal or state law;
  - (vii) Is not prohibited by federal law from receiving a firearm;
  - (viii) Has a current and valid photographic identification issued by the agency from which the individual retired from service as a law enforcement officer;
  - (ix) Provides by his affidavit, in triplicate, sworn and signed by him under penalty of perjury, that he meets all of the conditions set forth in this subsection (2);
  - (x) Pays the fees charged by the sheriff pursuant to this section; and
  - (xi) Completes the original application or renewal application as provided by this section.
- (c) "Retired in good standing" means that at the time of his retirement, he was not under investigation, or subject to discipline, for any violation of this state's law enforcement code of conduct.
- (d) "Standards for training and qualification in this state" means that when issuing a license pursuant to this section, the sheriff may require the applicant to demonstrate familiarity with a firearm by any of the following methods, provided the sheriff may require an applicant to complete more than 1 firearms safety or training course:
  - (i) Completion of any hunter education or hunter safety course approved by the department of fish and game or a similar agency of another state;
  - (ii) Completion of any national rifle association firearms safety or training course, or any national rifle association hunter education course;
  - (iii) Completion of any firearms safety or training course or class available to the general public offered by a law enforcement agency, community college, college, university, or private or public institution or organization or firearms training school, utilizing instructors certified by the national rifle association or the Idaho state police;

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

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

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

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

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

(4) The fee for original issuance of a license under this section shall be \$20, paid to the sheriff. The sheriff may also collect any additional fees necessary to cover the cost of processing and the cost of materials for the license, which shall also be paid to the sheriff.

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

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

(7) The fee for renewal of the license, which must be paid on a yearly basis, shall be \$12, paid to the sheriff. The sheriff may also collect any additional fees necessary to cover the processing costs and the cost of materials for the license, which shall also be paid to the sheriff. A licensee renewing after the expiration date of the license shall pay a late renewal penalty of \$10 in addition to the renewal fee. The renewal penalty fee, if any, shall be paid to the sheriff.

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

(9) The sheriff of the county where the license was issued or the sheriff of the county where the person resides shall have the power to revoke a license issued under this section pursuant to the provisions of § 18-3302(15) [(21)], Idaho Code.

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

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

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

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

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

#### **§ 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) "**On school grounds**" means in, or on the property of, a public or private elementary or secondary school.

#### **§ 18-3302J. Preemption of firearms regulation**

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



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

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

- (a) A person discharging a firearm in the lawful defense of person or persons or property;
- (b) A person discharging a firearm in the course of lawful hunting;
- (c) A landowner and guests of the landowner discharging a firearm, when the discharge will not endanger persons or property;
- (d) A person lawfully discharging a firearm on a sport shooting range as defined in § 55-2604, Idaho Code; or
- (e) A person discharging a firearm in the course of target shooting on public land if the discharge will not endanger persons or property.

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

- (a) A person discharging a firearm in the lawful defense of person or persons or property; or
- (b) A person lawfully discharging a firearm on a sport shooting range as defined in § 55-2604, Idaho Code.

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

- (a) The authority of the department of fish and game to make rules or regulations concerning the management of any wildlife of this state, as set forth in § 36-104, Idaho Code; and
  - (b) The authority of counties and cities to regulate the location and construction of sport shooting ranges, subject to the limitations contained in chapter 26, title 55, Idaho Code.
- (6) The provisions of this section are hereby declared to be severable. And if any provision is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this section.

#### **§ 18-3302K. Issuance of enhanced licenses to carry concealed weapons**

(1) The sheriff of a county, on behalf of the state of Idaho, must, within 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 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 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 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 § 18-3302(11), Idaho Code, or does not meet all of the following qualifications:

- (a) Is over the age of 21 years;
- (b) Has been a legal resident of the state of Idaho for at least 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 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 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 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 § 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 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 § 74-105, Idaho Code.

**(7)** The fee for original issuance of an enhanced license shall be \$20, 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 \$15, 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 90 day period before its expiration or within 90 days after the expiration date. The sheriff must mail renewal notices 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 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 5 years. A license so renewed shall take effect on the expiration date of the prior license. A licensee renewing 91 days to 180 days after the expiration date of the license must pay a late renewal penalty of \$10 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 91 days to 180 days after the expiration date of the license. After 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 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 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 § 74-105, Idaho Code, except that any law enforcement officer or law enforcement agency, whether inside or outside the state of Idaho, may access the record system for the purpose of verifying current enhanced licensee status.

**§ 18-3303. Exhibition or use of deadly weapon.** Every person who, not in necessary self-defense, in the presence of 2 or more persons, draws or exhibits any deadly weapon in a rude, angry and threatening manner, or who, in any manner, unlawfully uses the same, in any fight or quarrel, is guilty of a misdemeanor.

**§ 18-3304. Aiming firearms at others.** Any person who shall intentionally, without malice, point or aim any firearm at or toward any other person shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$1,000 and not less than \$5.

**§ 18-3305. Discharge of arms aimed at another.** Any person who shall discharge, without injury to any person, any firearm, while intentionally, without malice, aimed at or toward any person, shall be guilty of a misdemeanor, and shall be liable to a fine of not more than \$1,000, or imprisonment in the county jail not to exceed 6 months, or both, at the discretion of the court.

**§ 18-3306. Injuring another by discharge of aimed firearms.** Any person who shall maim or injure any other person by the discharge of any firearm pointed or aimed, intentionally but without malice, at any such person, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$50 nor more than \$1,000, or imprisonment in the county jail for a period of not more than 1 year; and if death ensue from such wounding or maiming, such person so offending shall be deemed guilty of the crime of manslaughter.

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

**§ 18-3308. Selling explosives, ammunition or firearms to minors.** No person, firm, association or corporation shall sell or give to any minor under the age of 16 years any powder, commonly called gunpowder, of any description, or any dynamite or other explosive, or any shells or fixed ammunition of any kind, except shells loaded for use in shotguns and for use in rifles of 22 caliber or smaller, or any firearms of any description, without the written consent of the parents or guardian of such minor first had and obtained. Any person, firm, association or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor.

**§ 18-3309. Authority of governing boards of public colleges and universities regarding firearms**

**(1)** The board of regents of the university of Idaho, the boards of trustees of the state colleges and universities, the board for career technical education and the boards of trustees of each of the community colleges established under chapter 21,

title 33, Idaho Code, hereby have the authority to prescribe rules and regulations relating to firearms.

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

(a) However, a person issued a license under the provisions of § 18-3302H or 18-3302K, Idaho Code, shall not carry a concealed weapon:

(i) Within a student dormitory or residence hall; or

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

(b) As used in this section:

(i) "Public entertainment facility" means an arena, stadium, amphitheater, auditorium, theater or similar facility with a seating capacity of at least 1,000 persons that is owned or operated by the board of regents of the university of Idaho, a board of trustees of a state college or university, the state board for career technical education or a board of trustees of a community college established under chapter 21, title 33, Idaho Code, that is primarily designed and used for artistic, theatrical, cultural, charitable, musical, sporting or entertainment events, but does not include publicly accessible outdoor grounds or rights-of-way appurtenant to the facility, including parking lots within the facility used for the parking of motor vehicles.

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

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

(i) A person or persons complying with the provisions of § 19-202A, Idaho Code.

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

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

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

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

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

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

**§ 18-3311. Keeping gunpowder or other explosives in towns.** Every person who makes or keeps gunpowder, nitroglycerin, or other highly explosive substance, within any city or town, or who carries the same through the streets thereof, in any quantity or manner prohibited by law, or by any ordinance of such city or town, is guilty of a misdemeanor.

**§ 18-3312. Injuring another by careless handling and discharge of firearms.** Any person who handles, uses or operates any firearm in a careless, reckless or negligent manner, or without due caution and circumspection, whereby the same is fired or discharged and maims, wounds or injures any other person or persons, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$1,000, or by imprisonment in the county jail for not more than 6 months, or by both such fine and imprisonment.

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

**§ 18-3314. Resident's purchase of firearm out-of-state.** Residents of the state of Idaho may purchase rifles and shotguns in a state other than Idaho, provided that such residents conform to the applicable provisions of the federal gun control act of 1968, and regulations thereunder, and provided further, that such residents conform to the provisions of law applicable to such a purchase in Idaho and in the state in which the purchase is made.

**§ 18-3315. Nonresident – Purchase of firearm in Idaho.** Residents of a state other than the state of Idaho may purchase rifles and shotguns in Idaho, provided that such residents conform to the applicable provisions of the federal gun control act of 1968, and regulations thereunder, and provided further, that such residents conform to the provisions of law applicable to such purchase in Idaho and in the state in which such persons reside.

**§ 18-3315A. Prohibition of federal regulation of certain firearms**

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

**§ 18-3316. 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 5 years and by a fine not to exceed \$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 § 18-310, Idaho Code, or to a comparable felony crime in another state, territory, commonwealth, or other jurisdiction of the United States.

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

**§ 18-3317. Unlawful discharge of a firearm at a dwelling house, occupied building, vehicle or mobile home.**

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

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

**§ 18-3318. Definitions.** Definitions as used in §§ 18-3319, 18-3319A, 18-3320, 18-3320A and 18-3321, Idaho Code:

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

(2) "**Destructive device**" means:

(a) Any explosive, incendiary or poisonous gas:

(i) Bomb;

(ii) Grenade;

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

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

(v) Mine;

(vi) Similar device.

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

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

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

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

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

(iii) Otherwise lawfully owned surplus military ordnance;

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

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

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

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

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

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

### **§ 18-3319. Unlawful possession of bombs or destructive devices**

(1) Any person who knowingly, intentionally, or recklessly possesses or controls a bomb or destructive device for a purpose unlawful pursuant to title 18, Idaho Code, is guilty of a felony, punishable by up to a \$5,000 fine and 5 years in prison.

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

(a) Has been convicted of a felony; or

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

(c) Is in possession or control of any substance or paraphernalia in violation of § 37-2732B, 37-2734A or 37-2734B, Idaho Code, or the felony provisions of § 37-2732, Idaho Code; is guilty of a felony, punishable by up to a \$5,000 fine and 5 years in prison.

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

### **§ 18-3319A. Unlawful acts – Hoax destructive device**

(1) A person is guilty of a felony if such person intentionally causes a reasonable person to be in fear of serious bodily injury or death by:

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

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

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

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

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

**§ 18-3320. Unlawful use of destructive device or bomb.** Any person who knowingly, intentionally, or recklessly:  
(1) Conspires to use, uses or causes to be used a destructive device or bomb in the commission of or an attempt to commit a felony; or  
(2) With the intent to injure the person or property of another, transports a bomb or destructive device; or  
(3) Injures another or conspires or attempts to injure another in his person or property through the use of a destructive device or bomb is guilty of a felony, punishable by up to a \$25,000 fine and life in prison.

**§ 18-3321. Persons exempt.** Unless the intent to injure the person or property of another has been established, the provisions in § 18-3319, Idaho Code, shall not apply to:

- (1) Any public safety officer or member of the armed forces of the United States or national guard while acting in his official capacity;
- (2) Any person possessing a valid permit issued under the provisions of the international fire code, §§ 41-253 and 41-254, Idaho Code, or any employee of such permittee acting within the scope of his employment;
- (3) Any person possessing a valid license as an importer, wholesaler, or display operator under the provisions of the Idaho fireworks act, §§ 39-2602, 39-2606, 39-2607, 39-2608, 39-2609, 39-2610, 39-2611 and 39-2612, Idaho Code;
- (4) A device which falls within the definition of a bomb or destructive device when used on property owned or otherwise in the control of the person using the device;
- (5) Those licensed or permitted by the federal government to use or possess a bomb or destructive device.
- (6) Those persons who possess a destructive device properly registered and taxed under the provisions of the national firearms act, as amended, as to possession of destructive devices properly registered to such persons.

**§ 18-3322. Use of weapons of mass destruction – Definition**

- (1) Any person who willfully and without lawful authority uses, threatens, attempts or conspires to use a weapon of mass destruction, as defined in this section and including a biological agent, toxin or vector, against any person or property shall be guilty of a felony and shall be punished by a term of up to and including life imprisonment or by a fine not exceeding \$50,000, or by both.
- (2) As used in this section, the term "weapon of mass destruction" means:
  - (a) Any bomb or destructive device, as those terms are defined in § 18-3318, Idaho Code;
  - (b) Any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination or impact of toxic or poisonous chemicals or the precursors of such chemicals;
  - (c) Any weapon involving a disease organism; or
  - (d) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

**Chapter 85. Idaho Criminal Gang Enforcement Act**

**§ 18-8505. Supplying firearms to a criminal gang**

- (1) A person commits the offense of supplying firearms to a criminal gang if the person knows an individual is a gang member and supplies, sells or gives possession or control of any firearm to that gang member.
- (2) Subsection (1) of this section shall not apply to a person who is convicted as a principal to the offense committed by the recipient of the firearm.
- (3) A person convicted of a violation of this section shall be imprisoned for a term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both.