

Your Right to Bear Arms

Your right to keep and bear arms, for the purpose of defending your life and liberty, and the life and liberty of those around you, is an unalienable personal right bestowed upon you by the Creator and protected by the Constitutions of Idaho and the United States.

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

~ Constitution of the United States of America, Amendment II

"The people have the right to keep and bear arms, which right shall not be abridged; but this provision shall not prevent the passage of laws to govern the carrying of weapons concealed on the person nor prevent passage of legislation providing minimum sentences for crimes committed while in possession of a firearm, nor prevent the passage of legislation providing penalties for the possession of firearms by a convicted felon, nor prevent the passage of any legislation punishing the use of a firearm. No law shall impose licensure, registration or special taxation on the ownership or possession of firearms or ammunition. Nor shall any law permit the confiscation of firearms, except those actually used in the commission of a felony."

~ Idaho Constitution, Article I, Section 11

"[The Constitution preserves] the advantage of being armed which Americans possess over the people of almost every other nation...(where) the governments are afraid to trust the people with arms."

~ James Madison, The Federalist Papers, No. 46.

"They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety."

~ Benjamin Franklin,

Historical Review of Pennsylvania, 1759.

DISCLAIMER: All firearms laws and interpretations are provided for your information and research. You are responsible to know and understand the law. Please refer to Idaho Code or consult an attorney if you need more information. All information current as of 3/6/2009.

Open Carry

Idaho is an "open carry" state. Carrying of unconcealed weapons, including loaded firearms, is not prohibited by Idaho Code. Persons who are not prohibited by law from owning firearms may openly carry firearms in plain sight, including in vehicles.

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If you don't have a CWL, make sure your weapon is plainly visible when you carry it or keep it in close proximity, readily accessible for prompt use. Carrying of "...a concealed weapon on or about [your] person without a license to carry a concealed weapon..." is prohibited by I.C. §18-3302 (9). A weapon is considered concealed if it "is so carried that it is not discernible by ordinary observation." ~ *State v. McNary*, 596 P.2d 417 (Idaho 1979). A weapon is considered "on or about one's person" when a person "physically is carrying it in his clothing or in a handbag of some sort, but also when he goes about with the weapon in such close proximity to himself that it is readily accessible for prompt use." ~ *State v. McNary*, 596 P.2d 417 (Idaho 1979).

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Citizens can legally carry openly on private property unless the property owner does not allow it. It is not a crime to openly carry weapons on private property, but if a property owner demands you leave because you are armed and you do not, you may be charged with trespassing.

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Open carry is allowed on state and local government property. Although Idaho Code does not specifically forbid the open carry of weapons in courthouses, jails, and public or private schools, it does forbid concealed carry in those locations, and it would be wise to consider them off-limits for open carry as well.

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Open and concealed carry of weapons is legal in establishments that serve alcohol, but carrying a concealed weapon while intoxicated or under the influence is a misdemeanor.

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There is no stipulation that a Idaho CWL holder MUST carry concealed. Furthermore, lawful open carry of a firearm is NOT grounds for revocation of a Idaho CWL.

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IF IT IS NOT PROHIBITED BY STATE STATUTE, IT IS LEGAL.

IDAHO GUN LAW



"The people have the right to keep and bear arms, which right shall not be abridged..."

Idaho Constitution, Article I, Section 11

A Quick Reference for Idaho Citizens

The Legality of Self-Defense

I.C. §19-202A, LEGAL JEOPARDY IN CASES OF SELF-DEFENSE...

No person in this state shall be placed in legal jeopardy of any kind whatsoever for protecting himself or his family by **reasonable means necessary**, or when coming to the aid of another whom he reasonably believes to be in imminent danger of or the victim of aggravated assault, robbery, rape, murder or other heinous crime.

I.C. §18-4009, JUSTIFIABLE HOMICIDE BY ANY PERSON

2. When committed in defense of habitation, property or person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors, in a violent, riotous or tumultuous manner, to enter the habitation of another for the purpose of offering violence to any person therein.

State Preemption Law

I.C. §18-3302J(2), PREEMPTION OF FIREARMS REGULATION.

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.

County and city regulations which purport to restrict carrying or possession of firearms (such as in a public library) are invalid. Subsections 3-4 of I.C. §18-3302J provide that counties and cities may regulate only the **discharge** of firearms in their boundaries, and even then cannot regulate certain discharges (such as a person discharging a firearm in the lawful defense of persons or property).

Subsection (5)(c) makes an exception so that §18-3302J does not effect the "authority" of the board of regents/boards of trustees of state colleges and universities "to regulate in matters relating to firearms,"

although no state law or judicial decision has ever granted this power to universities. **If you are an Idaho college student and you carry a firearm on your campus, you may face expulsion or other disciplinary action!** Universities have no police power and cannot discipline a non-student, but may demand an armed non-student leave the campus and charge him with trespassing if he does not comply.

Concealed Weapons Law

Concealed Weapons License: Idaho is a "shall-issue" state. Under I.C. §18-3302, county sheriffs must issue a concealed weapons license to any citizen at least 21 years of age who applies for one, unless prohibited by I.C. §18-3302, as in the case of felons, the mentally ill, those dishonorably discharged from the military, those subject to a protective order for domestic violence, and drug addicts.

National website and discussion forum dedicated to promoting the lawful open carrying of firearms.



WWW.OPENCARRY.ORG

Places Where Concealed Carry Is Allowed: On any state or local government property except for courthouses, jails, and public or private schools. On private property unless the property owner does not allow it. It is not a crime to carry concealed weapons on private property, but if a property owner demands you leave because you are armed and you do not, you may be charged with trespassing.

Places Where Concealed Carry Is Not Allowed: Any person obtaining a license under the provisions of section 18-3302, Idaho Code, shall not carry a concealed weapon in a **court-house, juvenile detention facility or jail, public or private school** ~ I.C. §18-3302C(1)

When Concealed Carry Is Not Allowed: 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. ~ I.C. §18-3302B

In Vehicles: While in any motor vehicle, inside the limits or confines of any city, a person shall not carry a concealed weapon on or about his person without a license to carry a concealed weapon. This shall not apply to any firearm located in plain view whether it is loaded or unloaded. A firearm may be concealed legally in a motor vehicle so long as the weapon is disassembled or unloaded. ~ I.C. §18-3302(9)

In your home, property, or business: Except in the person's place of abode or fixed place of business, or on property in which the person has any ownership or leasehold interest, a person shall not carry a concealed weapon without a license to carry a concealed weapon. ~ I.C. §18-3302(7)

Exhibition/Use Restrictions

Every person who, not in necessary self-defense, in the presence of two (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. ~ I.C. §18-3303

Useful links

Idaho Code Chapter 33 - Firearms

<http://www.legislature.idaho.gov/idstat/Title18/T18CH33.htm>

USAcarry - Open/Concealed Carry Information

<http://www.usacarry.com/>

"Under these constitutional provisions, the legislature has no power to prohibit a citizen from bearing arms in any portion of the state of Idaho, whether within or without the corporate limits of cities, towns, and villages."

~ Idaho Supreme Court,
In re Brickey, 70 P. 609 (Idaho 1902).