

IN THE SENATE

SENATE BILL NO. 1358

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO PEACE OFFICERS STANDARDS AND TRAINING; PROVIDING LEGISLATIVE  
2 INTENT; AMENDING SECTION 19-5101, IDAHO CODE, TO PROVIDE DEFINITIONS;  
3 AMENDING SECTION 19-5109, IDAHO CODE, TO REVISE POWERS OF THE COUNCIL  
4 AND TO REVISE A CODE REFERENCE; AMENDING SECTION 31-3201B, IDAHO CODE,  
5 TO ESTABLISH PROVISIONS RELATING TO THE DISTRIBUTION OF FEES; AMENDING  
6 SECTION 22-1910A, IDAHO CODE, TO REVISE A CODE REFERENCE; AND AMENDING  
7 SECTION 49-117, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.  
8

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

10 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Idaho Legisla-  
11 ture to enhance the ability of local entities to train peace officers and de-  
12 tention deputies in regional academies, reducing the cost to both the state  
13 and to local entities. Regional academies will be open campuses without the  
14 need to house attendees at or near the academy site. The Legislature directs  
15 the Peace Officers Standards and Training Academy to partner with the in-  
16 stitutions of higher learning throughout Idaho to establish and operate re-  
17 gional academies for the training of peace officers and detention deputies.  
18 The basic curriculum for all academies will be the same, however any regional  
19 academy may add additional training as the local advisory board may deem ap-  
20 propriate. Regional academies may extend the training period, but in no case  
21 shall the training period be less than the minimum number of hours as estab-  
22 lished by the Peace Officers Standards and Training Council.

23 SECTION 2. That Section 19-5101, Idaho Code, be, and the same is hereby  
24 amended to read as follows:

25 19-5101. DEFINITIONS. As used in this act:

26 (a) "Academy" means the Idaho peace officers standards and training ba-  
27 sic patrol or detention academy or a similar program structured and taught in  
28 the same manner provided by an institution of higher learning, excluding vo-  
29 catational-technical education programs.

30 (b) "Council" means the Idaho peace officer standards and training  
31 council.

32 (bc) "County detention officer" means an employee in a county jail who  
33 is responsible for the safety, care, protection, and monitoring of county  
34 jail inmates.

35 (ed) "Law enforcement" means any and all activities pertaining to crime  
36 prevention or reduction and law enforcement, including police, courts,  
37 prosecution, corrections, probation, rehabilitation, and juvenile delin-  
38 quency.

39 (e) "Local advisory board" means the police chiefs and sheriffs or  
40 their designees from the law enforcement entities served by a regional acad-  
41 emy.

1 (df) "Peace officer" means any employee of a police or law enforcement  
 2 agency which is a part of or administered by the state or any political sub-  
 3 division thereof and whose duties include and primarily consist of the pre-  
 4 vention and detection of crime and the enforcement of penal, traffic or high-  
 5 way laws of this state or any political subdivision. "Peace officer" also  
 6 means an employee of a police or law enforcement agency of a federally recog-  
 7 nized Indian tribe who has satisfactorily completed the peace officer stan-  
 8 dards and training academy and has been deputized by a sheriff of a county or  
 9 a chief of police of a city of the state of Idaho.

10 (eg) "Political subdivision" means any city or county.

11 SECTION 3. That Section 19-5109, Idaho Code, be, and the same is hereby  
 12 amended to read as follows:

13 19-5109. POWERS OF THE COUNCIL -- STANDARDS OF TRAINING, EDUCATION AND  
 14 EMPLOYMENT OF PEACE OFFICERS -- CERTIFICATION -- PENALTIES. (1) It shall be  
 15 the duty of and the council shall have the power:

16 (a) To establish the requirements of minimum basic training which peace  
 17 officers shall complete in order to be eligible for permanent employ-  
 18 ment as peace officers, and the time within which such basic training  
 19 must be completed. One (1) component of minimum basic training shall be  
 20 a course in the investigation of and collection of evidence in cases in-  
 21 volving an allegation of sexual assault or battery.

22 (b) To establish the requirements of minimum education and training  
 23 standards for employment as a peace officer in probationary, temporary,  
 24 part-time, and/or emergency positions.

25 (c) To establish the length of time a peace officer may serve in a proba-  
 26 tionary, temporary, and/or emergency position.

27 (d) To approve, deny approval or revoke the approval of any non-academy  
 28 institution or school established by the state or any political subdivi-  
 29 sion or any other party for the training of peace officers.

30 (e) To establish the minimum requirements of courses of study, atten-  
 31 dance, equipment, facilities of all approved schools, and the scholas-  
 32 tic requirement, experience and training of instructors at all approved  
 33 schools.

34 (f) To establish such other requirements for employment, retention and  
 35 promotion of peace officers, including minimum age, physical and men-  
 36 tal standards, citizenship, moral character, experience and such other  
 37 matters as relate to the competence and reliability of peace officers.

38 (g) To certify peace officers as having completed all requirements es-  
 39 tablished by the council in order to be eligible for permanent employ-  
 40 ment as peace officers in this state.

41 (h) To receive and file for record copies of merit regulations or local  
 42 ordinances passed by any political subdivision.

43 (i) To maintain permanent files and transcripts for all peace officers  
 44 certified by the council to include any additional courses or advanced  
 45 courses of instruction successfully completed by such peace officers  
 46 while employed in this state and to include the law enforcement em-  
 47 ployment history by agency and dates of service of the officer. Such  
 48 information shall be made available to any law enforcement agency upon

1 request when a person applies for employment at the requesting law en-  
2 forcement agency.

3 (j) To allow a peace officer of a federally recognized Indian tribe  
4 within the boundaries of this state to attend the peace officer stan-  
5 dards and training academy if said peace officer meets minimum physical  
6 and educational requirements of the academy. The Indian tribal law  
7 enforcement agency shall reimburse the peace officer standards and  
8 training academy for the officer's training. Upon satisfactory com-  
9 pletion of the peace officer standards and training academy, the tribal  
10 peace officer shall receive a certificate of satisfactorily completing  
11 the academy.

12 (k) To assure that all academies receive the same basic curriculum,  
13 testing materials and other necessary educational materials.

14 (2) After January 1, 1974, any peace officer as defined in section  
15 19-5101(d), Idaho Code, employed after January 1, 1974, except any elected  
16 official or deputy serving civil process, the deputy director of the Idaho  
17 state police, or any person serving under a temporary commission with any  
18 law enforcement agency in times of natural or man-caused disaster declared  
19 to be an emergency by the board of county commissioners or by the governor  
20 of the state of Idaho, or those peace officers whose primary duties involve  
21 motor vehicle parking and animal control pursuant to city or county ordi-  
22 nance, or any peace officer acting under a special deputy commission from the  
23 Idaho state police, shall be certified by the council within one (1) year of  
24 employment; provided, however, that the council may establish criteria dif-  
25 ferent than that required of other peace officers for certification of city  
26 police chiefs or administrators within state agencies having law enforce-  
27 ment powers, who, because of the number of full-time peace officers they  
28 supervise, have duties which are primarily administrative. Any such chief  
29 of police or state agency administrator employed in such capacity prior to  
30 July 1, 1987, shall be exempt from certification.

31 (3) No peace officer shall have or exercise any power granted by any  
32 statute of this state to peace officers unless such person shall have been  
33 certified by the council within one (1) year of the date upon which such per-  
34 son commenced employment as a peace officer, except in cases where the coun-  
35 cil, for good cause and in writing, has granted additional time to complete  
36 such training. The council shall decertify any officer who is convicted of  
37 any felony or offense which would be a felony if committed in this state. The  
38 council may decertify any officer who:

39 (a) Is convicted of any misdemeanor;

40 (b) Willfully or otherwise falsifies or omits any information to obtain  
41 any certified status; or

42 (c) Violates any of the standards of conduct as established by the coun-  
43 cil's code of ethics, as adopted and amended by the council.

44 All proceedings taken by the council shall be conducted in accordance with  
45 chapter 52, title 67, Idaho Code.

46 (4) Any law enforcement agency as defined in section 19-5101(e), Idaho  
47 Code, in which any peace officer shall resign as a result of any disciplinary  
48 action or in which a peace officer's employment is terminated as a result  
49 of any disciplinary action, shall, within fifteen (15) days of such action,  
50 make a report to the council.

1 (5) The council shall, pursuant to the requirements of this section,  
2 establish minimum basic training and certification standards for county de-  
3 tention officers that can be completed within one (1) year of employment as a  
4 county detention officer.

5 (6) The council may, upon recommendation of the juvenile training coun-  
6 cil and pursuant to the requirements of this section, implement minimum ba-  
7 sic training and certification standards for juvenile detention officers,  
8 juvenile probation officers, and employees of the Idaho department of juve-  
9 nile corrections who are engaged in the direct care and management of juve-  
10 niles.

11 (7) The council may, upon recommendation of the correction standards  
12 and training council, and pursuant to the requirements of this section, es-  
13 tablish minimum basic training and certification standards for state cor-  
14 rection officers and for adult probation and parole officers.

15 (8) The council may, upon recommendation of a probation training advi-  
16 sory committee and pursuant to the requirements of this section, establish  
17 minimum basic training, continuing education and certification standards  
18 for misdemeanor probation officers whether those officers are employees of  
19 or by private sector contract with a county.

20 (9) The council may reject any applicant for certification who has been  
21 convicted of a misdemeanor, and the council shall reject an applicant for  
22 certification who has been convicted of a felony, the punishment for which  
23 could have been imprisonment in a federal or state penal institution.

24 (10) As used in this section, "convicted" means a plea or finding of  
25 guilt, notwithstanding the form of judgment or withheld judgment, regard-  
26 less of whether the sentence is imposed, suspended, deferred or withheld,  
27 and regardless of whether the plea or conviction is set aside or withdrawn or  
28 the case is dismissed or reduced under section 19-2604, Idaho Code, or any  
29 other comparable statute or procedure where the setting aside of the plea or  
30 conviction, or dismissal or reduction of the case or charge, is based upon  
31 lenity or the furtherance of rehabilitation rather than upon any defect in  
32 the legality or factual basis of the plea, finding of guilt or conviction.

33 SECTION 4. That Section 31-3201B, Idaho Code, be, and the same is hereby  
34 amended to read as follows:

35 31-3201B. PEACE OFFICERS STANDARDS AND TRAINING -- FEE. (1) The court  
36 shall charge a fee of fifteen dollars (\$15.00) for peace officers standards  
37 and training purposes to be paid by each person found guilty of any felony  
38 or misdemeanor, or found to have committed an infraction or any minor traf-  
39 fic, conservation or ordinance violation, except for cars unlawfully left or  
40 parked or when the court orders such fee waived because the person is indi-  
41 gent and unable to pay such fee; provided, however, that the judge or magis-  
42 trate may in his discretion consolidate separate nonmoving traffic offenses  
43 into one (1) offense for purposes of assessing such fee. Such fees shall be  
44 in addition to all other fines and fees levied. Such fees shall be paid to the  
45 county treasurer who shall, within five (5) days after the end of the month,  
46 pay such fees to the state treasurer for deposit in the peace officers stan-  
47 dards and training fund.

48 (2) Distribution of fees into the peace officers standards and train-  
49 ing fund will use the following method: after June 30 but no later than July

1 10 of each year, the peace officers standards and training academy shall pro-  
2 duce a report for the period of time from July 1 of the previous year through  
3 June 30 of the current year for each governmental entity that sends peace of-  
4 ficers to the basic patrol academy or detention academy. The report shall  
5 list the number of officers in total and the number of weeks that they at-  
6 tended academy training. The list shall indicate the officers who attended  
7 training at the academy in Meridian, Idaho, and those who attended an acad-  
8 emy in another location in the state of Idaho. All fees collected from each  
9 entity and deposited into the peace officers standards and training fund as  
10 provided for in section 19-5118, Idaho Code, will be distributed proportion-  
11 ately as to the number of weeks that the entity's personnel attended each  
12 academy. For example, if a public entity had twenty-four (24) weeks of basic  
13 academy training that occurred at the Meridian academy and twenty-nine (29)  
14 weeks of basic academy training that occurred at the Post Falls academy for a  
15 total of fifty-three (53) weeks of academy training, then the Meridian acad-  
16 emy would receive forty-five percent (45%) of the funds generated by that en-  
17 tity and the Post Falls academy would receive fifty-five percent (55%) of the  
18 funds generated by that entity.

19 SECTION 5. That Section 22-1910A, Idaho Code, be, and the same is hereby  
20 amended to read as follows:

21 22-1910A. LAW ENFORCEMENT. (1) It shall be the duty of all peace offi-  
22 cers within the state of Idaho, as defined by section 19-5101(d), Idaho Code,  
23 to enforce the provisions of this chapter by making a complaint or citation  
24 as described in section 19-3901, Idaho Code.

25 (2) Peace officers within the state of Idaho, upon reasonable suspicion  
26 that a conveyance is infested with quagga mussels or zebra mussels, may re-  
27 quire a driver of a vehicle to stop and submit to an inspection of the exte-  
28 rior of any conveyance(s) in plain view.

29 (3) If the peace officer has probable cause to believe that the con-  
30 veyance(s) are contaminated with quagga mussels or zebra mussels, or when  
31 a conveyance is found to be contaminated or otherwise carrying quagga mus-  
32 sels or zebra mussels, the peace officer shall detain the vehicle and con-  
33 veyance(s) and immediately summon a tow truck to transport the conveyance(s)  
34 to the nearest available impound yard.

35 (4) Upon impoundment, the director shall issue a hold order as provided  
36 in this chapter specifying the conditions for release.

37 SECTION 6. That Section 49-117, Idaho Code, be, and the same is hereby  
38 amended to read as follows:

39 49-117. DEFINITIONS -- P. (1) "Park" or "parking" means the standing  
40 of a vehicle, whether occupied or not, other than temporarily for the pur-  
41 pose of and while actually engaged in loading or unloading property or pas-  
42 sengers.

43 (2) "Park trailer." (See "Trailer," section 49-121, Idaho Code)

44 (3) "Part-time salesman" means any person employed as a vehicle sales-  
45 man on behalf of a dealer less than thirty (30) hours per week.

46 (4) "Peace officer." (See section 19-5101(d), Idaho Code)

1 (5) "Pedestrian" means any person afoot and any person operating a  
2 wheelchair or a motorized wheelchair or an electric personal assistive mo-  
3 bility device.

4 (6) "Pedestrian path" means any path, sidewalk or way set-aside and  
5 used exclusively by pedestrians.

6 (7) (a) "Person" means every natural person, firm, fiduciary, copart-  
7 nership, association, corporation, trustee, receiver or assignee for  
8 the benefit of creditors, political subdivision, state or federal gov-  
9 ernmental department, agency, or instrumentality, and for the purposes  
10 of chapter 22 of this title shall include a private, common or contract  
11 carrier operating a vehicle on any highway of this state.

12 (b) "Person with a disability" means:

13 (i) A person who is unable to walk two hundred (200) feet or more  
14 unassisted by another person;

15 (ii) A person who is unable to walk two hundred (200) feet or more  
16 without the aid of a walker, cane, crutches, braces, prosthetic  
17 device or a wheelchair; or

18 (iii) A person who is unable to walk two hundred (200) feet or  
19 more without great difficulty or discomfort due to the following  
20 impairments: neurological, orthopedic, respiratory, cardiac,  
21 arthritic disorder, blindness, or the loss of function or absence  
22 of a limb.

23 (iv) For the purposes of chapters 3 and 4 of this title, a person  
24 with a permanent disability is one whose physician certifies that  
25 the person qualifies as a person with a disability pursuant to this  
26 subsection (7) (b), and further certifies that there is no expecta-  
27 tion for a fundamental or marked change in the person's condition  
28 at any time in the future.

29 (8) "Personal information" means information that identifies an indi-  
30 vidual, including an individual's photograph or computerized image, social  
31 security number, driver identification number, name, address, telephone  
32 number, and medical or disability information, but does not include infor-  
33 mation on vehicular accidents, driving or equipment-related violations,  
34 the five-digit zip code of the person's address, or status of the driver's  
35 license or motor vehicle registration.

36 (9) "Pneumatic tire." (See "Tires," section 49-121, Idaho Code)

37 (10) "Pole trailer." (See "Trailer," section 49-121, Idaho Code)

38 (11) "Possessory lien" means a lien dependent upon possession for com-  
39 pensation to which a person is legally entitled for making repairs or per-  
40 forming labor upon, and furnishing supplies or materials for, and for the  
41 towing, storage, repair, or safekeeping of, any vehicle of a type subject to  
42 registration.

43 (12) "Possessory lienholder" means any person claiming a lien, that  
44 lien claimed to have accrued on a basis of services rendered to the vehicle  
45 which is the subject of the lien.

46 (13) "Preceding year" means, for the purposes of section 49-4354, Idaho  
47 Code, a period of twelve (12) consecutive months fixed by the department,  
48 prior to July 1 of the year immediately preceding the commencement of the  
49 registration or license year for which proportional registration is sought.  
50 The department in fixing the period shall make it conform to the terms, con-

1     ditions and requirements of any applicable agreement or arrangement for the  
2     proportional registration of vehicles.

3     (14) "Pressure regulator valve" means a device or system which governs  
4     the load distribution and controls the weight borne by a variable load sus-  
5     pension axle in accordance with a predetermined valve setting.

6     (15) "Principal place of business" means an enclosed commercial struc-  
7     ture located within the state, easily accessible and open to the public at  
8     all reasonable times, with an improved display area large enough to display  
9     five (5) or more vehicles of the type the dealer is licensed to sell, imme-  
10    diately adjoining the building, and at which the business of a dealership,  
11    including the display and repair of vehicles, may be lawfully carried on  
12    in accordance with the terms of all applicable building codes, zoning and  
13    other land-use regulatory ordinances, and in which building the public shall  
14    be able to contact the dealer or his salesmen in person or by telephone at  
15    all reasonable times. The books, records and files necessary to conduct  
16    the business of the dealership must be kept or reproduced electronically at  
17    the dealership's licensed location(s). A dealership keeping its physical  
18    books, records and files at an off-site location must notify the department  
19    in writing of such location at least thirty (30) days in advance of moving  
20    such books, records and files off-site. Physical books, records and files  
21    must be made available to the department upon request within three (3) busi-  
22    ness days of such request. The principal place of business shall display  
23    an exterior sign permanently affixed to the land or building, with letters  
24    clearly visible to the major avenue of traffic. In no event shall a room or  
25    rooms in a hotel, rooming house, or apartment house building or a part of any  
26    single or multiple unit dwelling house be considered a "principal place of  
27    business" within the terms and provisions of this title unless the entire  
28    ground floor of that hotel, apartment house, or rooming house building or  
29    dwelling house be devoted principally to and occupied for commercial pur-  
30    poses, and the office or offices of the dealer be located on the ground floor.

31    (16) "Private property open to the public" means real property not owned  
32    by the federal government or the state of Idaho or any of its political sub-  
33    divisions, but is available for vehicular traffic or parking by the general  
34    public with the permission of the owner or agent of the real property.

35    (17) "Private road" means every way or place in private ownership and  
36    used for vehicular travel by the owner and those having express or implied  
37    permission from the owner, but not by other persons.

38    (18) "Proof of financial responsibility" means proof of ability to re-  
39    spond in damages for liability, on account of accidents occurring subsequent  
40    to the effective date of the proof, arising out of the ownership, mainte-  
41    nance or use of a motor vehicle, in the amount of twenty-five thousand dol-  
42    lars (\$25,000) because of bodily injury to or death of one (1) person in any  
43    one (1) accident, and, subject to the limit for one (1) person, in the amount  
44    of fifty thousand dollars (\$50,000) because of bodily injury to or death of  
45    two (2) or more persons in any one (1) accident, and in the amount of fifteen  
46    thousand dollars (\$15,000) because of injury to or destruction of property  
47    of others in any one (1) accident.

48    (19) "Proper authority" means a public highway agency.

1           (20) "Public highway agency" means the state transportation depart-  
2 ment, any city, county, highway district or any other state agency which has  
3 jurisdiction over public highway systems and public rights-of-way.

4           (21) "Public right-of-way" means a right-of-way open to the public and  
5 under the jurisdiction of a public highway agency, where the public highway  
6 agency has no obligation to construct or maintain said right-of-way for ve-  
7 hicular traffic.

8           (22) "Public road jurisdiction" means a public highway agency.

9           (23) "Purchase." (See "Sell," "sold," and "buy," section 49-120, Idaho  
10 Code)