

**TRANSPORTATION & DEFENSE COMMITTEE**

**ADMINISTRATIVE RULES REVIEW**

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***2010 Legislative Session***

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# IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

## 39.02.22 - RULES GOVERNING REGISTRATION AND PERMIT FEE ADMINISTRATION

DOCKET NO. 39-0222-0901

### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 49-201, Idaho Code, as applied to the provisions for registration and permit fee administration in Sections 49-434 and 49-439, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**This rulemaking will allow the cancellation of future installment payment plan privileges after two or more suspensions, whether in the same or different years. Upon written request for consideration by the customer and subsequent approval by the department, it will provide for the reinstatement of installment payment plan privileges after 12 consecutive months of no suspensions of any type on their account. The rulemaking provides for the collection of a \$50 installment payment plan fee for each plan to cover administrative costs.**

**The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 440 through 443.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased.

**This fee or charge is being imposed pursuant to Section 49-201(5), Idaho Code: A fee of \$50 is being imposed by this rulemaking to cover the administrative cost of setting up each installment payment plan.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than then thousand dollars (\$10,000) during the fiscal year: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions on this pending fee rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 5th day of November, 2009.

Linda L. Emry  
Office of Governmental Affairs  
Idaho Transportation Department

3311 West State Street  
P O Box 7129, Boise ID 83707-1129  
Phone - 208-334-8810 / FAX - 208-332-4107

***THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED FEE RULE***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking procedures. The action is authorized pursuant to Section 49-201, Idaho Code, as applied to the provisions for registration and permit fee administration in Sections 49-434 and 49-439, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This rulemaking will allow the cancellation of future installment payment plan privileges after two or more suspensions, whether in the same or different years. Upon written request for consideration by the customer and subsequent approval by the department, it will provide for the reinstatement of installment payment plan privileges after 12 consecutive months of no suspensions of any type on their account. The rulemaking provides for the collection of a \$50 installment payment plan fee for each plan to cover administrative costs.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased.

**A fee of \$50 is being imposed by this rulemaking to cover the administrative cost of setting up each installment payment plan, as authorized under Section 49-201(5), Idaho Code.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ((\$10,000) during the fiscal year resulting from this rulemaking: There is no fiscal impact to the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the changes in this rulemaking are based on recommendations by the 2009 Legislature to be more lenient regarding suspensions and

reinstatements of installment payment plan privileges and to make sure the administrative costs of this program are covered.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and delivered on or before October 28, 2009.

DATED this 19th day of August, 2009.

***THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE***

**000. LEGAL AUTHORITY.**

This rule, governing registration and permit fee administration as provided for in Sections 49-434 and 49-439, Idaho Code, is adopted under authority of Sections 49-201, ~~49-434, and 49-439,~~ Idaho Code. (3-19-07)(\_\_\_\_)

***(BREAK IN CONTINUITY OF SECTIONS)***

**005. OFFICE -- OFFICE HOURS – MAILING AND STREET ADDRESS – PHONE NUMBERS.**

**01. Street and Mailing Address.** The Idaho Transportation Department maintains a central office in Boise at 3311 W State Street with a mailing address of PO Box 7129, Boise ID 83707-1129. (3-19-07)

**02. Office Hours.** Daily office hours are ~~8:00~~ 7:30 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. (3-19-07)(\_\_\_\_)

**03. Telephone and Fax Numbers.** The central office may be contacted during office hours by phone at 208-334-8611 or by Fax at 208-334-2006. (3-19-07)(\_\_\_\_)

***(BREAK IN CONTINUITY OF SECTIONS)***

**200. INSTALLMENT PAYMENTS FOR COMMERCIAL VEHICLE REGISTRATION.**

The department offers a Payment Plan for registrants in compliance with Sections 49-434, Idaho Code. (3-19-07)

**01. Requirements to Participate in Installment Payments.** (3-19-07)

- a. Participant must sign participation contract agreement. (3-19-07)
- b. Only Full Fee and Idaho IRP registration fees are included in the payment plan. Other jurisdictions' IRP fees shall not be included. (3-19-07)
- c. Only full annual registration fees shall be included in payment plan. Registrations for less than one full year shall not be included. (3-19-07)
- d. Vehicles not registered within thirty (30) days after the previous year registration has expired shall not be eligible for the installment payment option. Submitted applications for registration that have been invoiced, but not paid for, by the due date stated on the fee summary sheet shall not be eligible for the installment payment option. (~~3-19-07~~)( )
- e. Installment contract requirements do not provide opportunity for registrant to opt out of any remaining installment payments. The balance of the payment plan shall continue to be paid even if the truck is not being operated. (3-19-07)
- f. If registrant ~~sells vehicle or otherwise disposes of vehicle, and the applicant provides proof of sale, upon returning the license plate, registration certificate, and validation sticker,~~ meets the criteria in Section 300 of this rule, the prorated portion of the Idaho fee shall be credited toward the installment plan or refunded if the plan has been paid in full. (~~3-19-07~~)( )
- g. Registrant shall not participate in installment payment plan if the registrant's account has previously been suspended ~~due to non-payment of previous payment plan as stated in Subsection 200.06 of this rule.~~ (~~3-19-07~~)( )
- h. The contract shall stipulate the payment periods and the installment confirmation letter shall stipulate the due dates of each subsequent payment. (3-19-07)
- i. An installment payment plan fee of fifty dollars (\$50) shall be required and collected at the time of setup for each installment payment plan created. ( )
- 02. Billings, Payments and Due Dates of Installment Plan.** (3-19-07)
- a. The department shall upon acceptance of the contract by the registrant, receive one-quarter of the annual registration ~~payment~~ fee along with the installment payment plan fee, and then shall bill the registrant for three (3) equal installments based upon the previously set payment periods outlined in the contract, which are due by the end of the third, sixth, and ninth months after the effective date of the registration. (~~3-19-07~~)( )
- b. ~~All installment payments are due no later than the last day of the month in which the billing is due.~~ Courtesy billing notices for the next installment payment due will be mailed approximately one (1) month prior to the due date. (~~3-19-07~~)( )
- c. US Postal Service postmark shall be used to determine if payment is received on time. If the envelope is postmarked on or before the last day of the month, the payment shall be considered "on time." (3-19-07)

**d.** If the last day of the month falls on a Saturday, Sunday or legal holiday, the next business day shall be considered the due date. (3-19-07)

**e.** Non receipt of the department's billing notice does not relieve the burden of the registrant to pay the installment amount by the due date. (3-19-07)

**03. Failure to Pay Installment Payment by Due Date.** (3-19-07)

**a.** The department shall send out courtesy pre-suspension notices approximately five (5) days after the due date to registrants who have failed to remit payment by the due date printed on the quarterly billing. ~~(3-19-07)~~( )

**b.** The pre-suspension letter shall contain a late penalty fee of ten percent (10%) of the amount due and an additional one percent (1%) for each month or portion of a month that the payment is past due. (3-19-07)

**c.** Registrant shall pay installment amount portion that is due, plus assessed penalties and interest. (3-19-07)

**04. Suspension of Registrant's Account Due to Non-Payment of Payment Plan.** Approximately two (2) weeks after pre-suspension notices are mailed to the registrant, the department shall suspend accounts of registrant's that have failed to remit installment payment and/or interest and penalty. (3-19-07)

**05. Reinstatement Fee for Payment Plan Registration.** (3-19-07)

**a.** A forty dollar (\$40) reinstatement fee shall be applied to all payment plan accounts that have been suspended. (3-19-07)

**b.** Registrant must pay quarterly payment portion, penalty and interest, if applicable, and reinstatement fee before suspension shall be cleared from account. (3-19-07)

**06. Repetitive Suspensions Result.** ( )

**a.** After the registrant's accounts ~~of registrant's have~~ has been suspended for delinquent installment payments two (2) or more times ~~in one (1) payment plan year~~, the registrant shall not be allowed to participate in future payment plan programs: unless; ~~(3-19-07)~~( )

**i.** Customer has twelve (12) consecutive months of no suspensions related to the account starting from the month the account is cleared; and ( )

**ii.** Customer requests in writing to the department to participate in future installment payment plans and will be allowed to do so. ( )

**201. -- 299. (RESERVED).**

**300. REFUNDS.**

- 01. Fees Eligible for Refund.** (3-19-07)
- a.** Commercial vehicle registration is eligible for refund when the criteria in Section 49-434, Idaho Code, are met. (3-19-07)
- b.** If account has been overpaid, and no other fees are owed to the department. (3-19-07)
- c.** Unexpired portion of Idaho based fees are refundable for: (3-19-07)
- i. A vehicle that has been sold or repossessed; ~~(3-19-07)~~( )
- ii. A vehicle that has been damaged beyond repair; or (3-19-07)
- iii. A vehicle on which the lease has been terminated. (3-19-07)
- 02. Fees Not Eligible for Refunds:** (3-19-07)
- a.** Other jurisdiction's fees are not refundable by Idaho. (3-19-07)
- b.** Temporary trip permits are issued for specific vehicles only and fees are not refundable, nor transferable to other vehicles. (3-19-07)
- 03. Request for Refunds:** (3-19-07)
- a.** Registrant can make a request for refund of fees from the department. The refund request must include: (3-19-07)
- i. Proof of sale or repossession of the vehicle; ~~(3-19-07)~~( )
- ii. Proof from the insurance company or law enforcement agency that the vehicle has been damaged beyond repair; or (3-19-07)
- iii. Proof of lease termination from the leasing company. (3-19-07)
- b.** Request shall be subject to audit as provided in Idaho Code. (3-19-07)
- c.** All refund requests shall be reviewed by a Commercial Vehicle Services supervisor to ensure that all requests are valid and eligible. The Revenue Operations supervisor shall also approve/disapprove refunds. If the refund amount is greater than or equal to one thousand (\$1,000) dollars, a Financial Services manager shall also review and approve/disapprove the request before refund is processed. (3-19-07)
- d.** Approval/disapproval shall be indicated by either signature, or electronic approval by means of the department's financial management system. (3-19-07)

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.02.41 - RULES GOVERNING SPECIAL PROVISIONS APPLICABLE TO FEES FOR SERVICES

DOCKET NO. 39-0241-0901

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 49-201, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

**This rulemaking removes fixed rates and replaces them with a reference to charges now specified in Section 49-202(2)(h), Idaho Code. It also updates technology references to currently used terms (“microfilm” to “imaged” and “magnetic tapes” to “electronic media”).**

**The pending rule is being adopted as proposed. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Volume 09-10, pages 444 through 446.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased.

**This fee or charge is being imposed pursuant to Section 49-202, Idaho Code, as modified by House Bill 334, 2009, effective January 1, 2010: This rulemaking does not impose or increase a fee or charge but has been amended to refer to fee increases imposed in statute, in the above referenced House Bill 334, 2009.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than then thousand dollars (\$10,000) during the fiscal year: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact Ed Pemble, Driver Services Manager, 332-7830.

DATED this 5th day of November, 2009.



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***THE FOLLOWING NOTICE PUBLISHED WITH THE  
TEMPORARY AND PROPOSED FEE RULE***

**EFFECTIVE DATE:** The effective date of the temporary rule is **August 1, 2009.**

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 49-201, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This rulemaking removes fixed rates and replaces them with a reference to charges now specified in Section 49-202(2)(h), Idaho Code. It also updates technology references to currently use terms. (“microfilm” to “imaged” and “magnetic tapes” to “electronic media”)**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

**Compliance with changes to Idaho Code in HB334, 2009, effective January 1, 2010.**

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

**This rulemaking does not impose or increase a fee or charge, but has been amended to refer to the fee increase imposed in HB334, 2009, effective January 1, 2010.**

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:  
N/A

**NEGOTIATED RULEMAKING:** In compliance with Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because rulemaking is necessary for compliance with changes to Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Ed Pemble, Driver Services Manager, 332-7830.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 19th day of August, 2009.

***THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE***

**000. LEGAL AUTHORITY.**

This rule is adopted under the authority of Sections 49-201(1), ~~49-202(2), and 67-2510~~, Idaho Code. ~~(9-4-91)( )~~

***(BREAK IN CONTINUITY OF SECTIONS)***

**100. ADMINISTRATION.**

Idaho Code provides for the collection of fees for related services. This rule provides for automation considerations and a fee schedule to uniformly apply the ~~ten dollar (\$10) per hour~~ fee provided by Section 49-202(2)(h), Idaho Code. The following fees apply for services and copies of files regarding motor vehicle or other registration, motor vehicle titles, drivers' licenses or commercial drivers licenses, and are based on ~~a ten dollar (\$10) the~~ per hour ~~photocopying~~ charge: specified in Section 49-202(2)(h), Idaho Code. ~~(12-26-90)( )~~

**01. Paper or ~~Microfilm~~ Imaged Records.** Copies of supporting driver's license, registration, or title records from paper or ~~microfilm~~ imaged records, based on an average of twenty-four (24) minutes to fully process these requests: ~~Fee per document, four dollars (\$4) at~~ the per-hour rate specified in Section 49-202(2)(h), Idaho Code, and rounded to the nearest whole dollar. ~~(9-4-91)( )~~

**02. Automated Records.** Idaho Code does not provide a fee for complete county or

statewide automated copies of registration or title files. A fee has been based on the costs to produce special file requests. (4-11-06)

**a.** A base charge for programs requiring: One (1) to three (3) sorts, seventy-five dollars (\$75). Each additional sort, twenty-five (\$25). (12-26-90)

**b.** In addition to the above, the computer cost, printer cost and tape access cost, as established by the information technology section will be charged. (4-11-06)

**c.** Any mailing, shipping or special handling costs will also be added to the charges. (12-26-90)

**03. ~~Magnetic Tapes~~ Electronic Media Must Be Provided.** Requestors must provide ~~magnetic tapes~~ electronic media for this purpose, unless the file can be transmitted electronically. Data is provided in a standard department format. Vehicle or driver history information is not included. The only selection criterion is by counties. (~~4-11-06~~)(    )

**04. Records Provided Free of Charge.** Motor vehicle and driver records will be provided free of charge to the following: (9-4-91)

**a.** State Agencies. (9-4-91)

**b.** County Assessors. (9-4-91)

**c.** County Sheriffs. (9-4-91)

**d.** Peace Officers requesting records in the performance of their duties as per Section 49-202(3), Idaho Code. (9-4-91)

**05. Rules for Providing Records Free of Charge.** The Division of Motor Vehicles shall observe the following guidelines when providing records free of charge: (4-11-06)

**a.** Records will be provided free of charge only if they are a standard computer run that does not require special programming and/or sorting. Records requiring special handling will be provided for a fee equal to the cost of the additional handling. (9-4-91)

**b.** Records will be provided free of charge electronically or on ~~computer tapes~~ electronic media supplied by the requestor, or as a standard computer printout. All other formats will be provided for a fee equal to the cost of the additional materials. (~~9-4-91~~)(    )

**c.** The Assessor's Clearinghouse and the Sheriff's Clearinghouse shall each establish a single standardized computer printout that will be used for all motor vehicle and driver requests from their respective agencies. (9-4-91)

**d.** Records access agreements between the Division of Motor Vehicles and government agencies requesting motor vehicle and driver records shall be negotiated and renewed annually, and shall contain a list of all personnel who will have access to the records and/or on-line terminals. (4-11-06)

e. On-line computer installation and equipment shall be charged at a rate defined in the annual agreement. (9-4-91)

**101. -- 199. (RESERVED).**

**200. LAW ENFORCEMENT INQUIRIES.**

The Department provides full access to motor vehicle files by Law Enforcement at no charge through the Idaho Law Enforcement Telecommunication Systems (ILETS). There is also no charge to Law Enforcement for certified ~~MVR~~ motor vehicle or driver record packets to peace officers. For additional services beyond access to motor vehicle records (special reports, etc...), actual costs incurred by the Department will be charged. (~~12-26-90~~)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**203. MISCELLANEOUS.**

The fee for vehicle inquiries by name will be based on the proper fee per vehicle record. Commercial vehicle inquiries shall be based on a per vehicle record fee. (~~12-26-90~~)(    )