



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Judiciary & Rules Committee and the House Judiciary, Rules & Administration Committee

**FROM:** Senior Legislative Research Analyst - Ryan Bush

**DATE:** November 06, 2015

**SUBJECT:** Idaho State Police

IDAPA 11.05.01 - Rules Governing Alcohol Beverage Control (Fee Rule) - Temporary and Proposed Rule (Docket No. 11-0501-1501)

IDAPA 11.10.03 - Rules Governing the Sex Offender Registry - Temporary and Proposed Rule (Docket No. 11-1003-1501)

IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed Rule (Docket No. 11-1101-1501)

IDAPA 11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers - Proposed Rule (Docket No. 11-1104-1501)

**(1) 11.05.01 - Rules Governing Alcohol Beverage Control (Fee Rule) - Temporary and Proposed Rule (Docket No. 11-0501-1501)**

The Idaho State Police (ISP) submits notice of temporary and proposed rulemaking at IDAPA 11.05.01 - Rules Governing Alcohol Beverage Control (Fee Rule). This rule change provides for growlers sold to consumers. Specifically, this rulemaking defines a growler as a refillable container, securely covered and used to transport beer or wine sold to a consumer at retail; provides for the sale of growlers by an employee of a licensed retailer for consumption off premises; and provides that a growler must be sealed at the point of sale with tamper-proof tape supplied by the Director for a fee of twenty dollars per box.

The ISP states that negotiated rulemaking was not conducted because input was sought from stakeholders. The ISP states that there is no fiscal impact associated with this rulemaking because the fee is expected to cover the cost of tape and shipping.

The temporary and proposed rulemaking appears to be within the statutory authority granted to the ISP in Section 23-932 and 23-1330, Idaho Code.

**(2) 11.10.03 - Rules Governing the Sex Offender Registry - Temporary and Proposed Rule (Docket No. 11-1003-1501)**

The Idaho State Police submits notice of temporary and proposed rulemaking at IDAPA 11.10.03 - Rules Governing the Sex Offender Registry - Temporary and Proposed Rule. This rule change provides a mechanism

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

for the ISP to determine what convictions in other jurisdictions are "substantially equivalent" to a conviction under Idaho law that requires a person to register as a sex offender. Specifically, this rulemaking expands the determination to those who work in or become a student in Idaho; provides for documents that may be used in a determination of substantially equivalent; and provides that a person seeking a substantially equivalent determination shall submit a completed application along with the documents used in the determination.

The ISP states that negotiated rulemaking was not conducted because there is no substantive change to the rule. There is no fiscal impact associated with this rulemaking.

The temporary and proposed rulemaking appears to be within the statutory authority granted to the ISP in Section 18-8304, Idaho Code.

**(3) 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed Rule (Docket No. 11-1101-1501)**

The Idaho State Police submits notice of proposed rulemaking at IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed Rule. This rulemaking accomplishes the following:

- (1) Revises terminology;
- (2) Makes all academies open campuses;
- (3) Removes language relating to class attendance and school directors;
- (4) Removes reference to the physical readiness test;
- (5) Adds language relating to decertification investigations; and

(6) Revises instructor and school certification rules, including procedures for high liability instructor and school endorsements, approval of formal schools and required documentation for school or course approval.

The ISP states that negotiated rulemaking was not conducted because representatives of the affected interests were involved in the drafting and approval of the rule. There is no fiscal impact associated with this rulemaking.

The proposed rulemaking appears to be within the statutory authority granted to the ISP in Section 19-5107, Idaho Code.

**(4) 11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers - Proposed Rule (Docket No. 11-1104-1501)**

The Idaho State Police submits notice of proposed rulemaking at IDAPA 11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers - Proposed Rule. This rule change updates fingerprint requirements to reflect current standards, revises terminology, provides for the disclosure of decertification information and removes reference to the physical agility test and replaces it with a firearms qualification course.

The ISP states that negotiated rulemaking was not conducted because the rule is simple in nature and representatives of the affected interests were involved in the drafting and approval of the rule. There is no fiscal impact associated with this rulemaking.

The proposed rulemaking appears to be within the statutory authority granted to the ISP in Section 19-5107, Idaho Code.

cc: Idaho State Police  
Teresa Baker

# PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

**Department or Agency: Idaho State Police**

**Agency Contact: Teresa Baker Phone: 208.884.7122**

**Date: July 15, 2015**

**IDAPA, Chapter and Title Number and Chapter Name:**

**11.05.01. – Rules Governing Alcohol Beverage Control**

**Fee Rule Status: X Proposed X Temporary**

**Rulemaking Docket Number: 11-0501-1501**

## STATEMENT OF ECONOMIC IMPACT:

The rule defines the term “growler” and creates a requirement that retail alcohol establishments that engage in the sale of growlers affix a tamperproof tape to each growler sold. To ensure the tape is tamperproof and is consistent for all alcohol licensees, Idaho State Police Alcohol Beverage Control will procure the tape. Alcohol licensees that wish to sell growlers will purchase this tape from ABC for \$20 per box. This \$20 fee will cover all expenses of ABC procuring the tamperproof tape and shipping it to licensees around the state.

Licensees that choose to engage in the sale of growlers will bear the costs as a “user” type fee as it is tied to the number of “growlers” that are sold by each licensee.

Each box of tamperproof tape will contain approximately 210 three inch strips. Each growler will only require one strip of tamperproof tape. Each strip of tape will cost an alcohol retailer approximately nine cents (.09) per growler.

Alcohol Beverage Control licenses 163 establishments that currently hold an endorsement to sell growlers, however this number is expected to increase. Many different types of establishments sell growlers for beer or wine including grocery stores, gas stations, restaurants, bars, breweries and wineries.

At a minimum each licensee will need to purchase one box of tamperproof tape. It is expected that some licensees will require additional boxes of tamperproof tape based on the number of sales. Below is an estimate of the revenue that will be generated based upon the number of current licensees purchasing one, two, or three boxes of tamperproof tape.

Number of Boxes	Number of Current Licensees	Fee per Box	Total Revenue
1	163	\$20.00	\$3,260
2	163	\$20.00	\$6,520
3	163	\$20.00	\$9,780