

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 343

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO WINE; AMENDING SECTION 23-1303, IDAHO CODE, TO DEFINE TERMS;
2 AMENDING SECTION 23-1306, IDAHO CODE, TO REQUIRE LICENSING TO STORE
3 AND HANDLE WINE AS A BONDED WINE WAREHOUSE, TO PROVIDE REQUIREMENTS
4 FOR BONDED WINE WAREHOUSES, AND TO MAKE TECHNICAL CORRECTIONS; AMEND-
5 ING SECTION 23-1307, IDAHO CODE, TO PROVIDE FOR BONDED WINE WAREHOUSE
6 LICENSES, TO PROVIDE THAT BONDED WINE WAREHOUSE LICENSES SHALL NOT BE
7 ISSUED TO AN APPLICANT THAT HAS HAD A BONDED WINE WAREHOUSE LICENSE
8 REVOKED WITHIN THREE YEARS FROM THE DATE OF APPLICATION, AND TO MAKE A
9 TECHNICAL CORRECTION; AMENDING SECTION 23-1310, IDAHO CODE, TO PROVIDE
10 THAT DISTRIBUTORS MAY STORE OR PURCHASE WINE FOR CERTAIN PURPOSES IF
11 RECEIVED FROM PERSONS HOLDING A VALID BONDED WINE WAREHOUSE LICENSE;
12 AMENDING SECTION 23-1314, IDAHO CODE, TO PROVIDE FOR CERTAIN RECORDS
13 AND INSPECTION OF BONDED WINE WAREHOUSES AND TO PROVIDE FOR NOTIFICA-
14 TION OF PLACE OF BUSINESS; AMENDING SECTION 23-1315, IDAHO CODE, TO
15 PROVIDE FOR LICENSE FEES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
16 SECTION 23-1317, IDAHO CODE, TO REQUIRE APPROVAL OF THE DIRECTOR OF
17 THE IDAHO STATE POLICE PRIOR TO THE TRANSFER OF A BONDED WINE WAREHOUSE
18 LICENSE, TO PROVIDE FOR TRANSFER FEES, TO PROVIDE FOR APPLICATION TO
19 TRANSFER A BONDED WINE WAREHOUSE LICENSE FROM ONE LOCATION TO ANOTHER,
20 AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION 23-1331, IDAHO
21 CODE, TO PROVIDE THAT THE DIRECTOR MAY SUSPEND, REVOKE, OR REFUSE TO
22 RENEW CERTAIN BONDED WINE WAREHOUSE LICENSES AND TO MAKE A TECHNICAL
23 CORRECTION.
24

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

26 SECTION 1. That Section 23-1303, Idaho Code, be, and the same is hereby
27 amended to read as follows:

28 23-1303. DEFINITIONS. (1) The following terms as used in this chapter
29 are hereby defined as follows:

30 (a) "Bonded wine warehouse" means a licensed warehouse within the state
31 of Idaho that is solely authorized to store and handle wine.

32 (b) "Bonded wine warehouse license" means a license that authorizes a
33 bonded wine warehouse to solely store and handle wine. Handling of wine
34 as provided for in this chapter includes the loading, unloading, and de-
35 livery of wine from a vintner or winery to a bonded wine warehouse, from
36 a bonded wine warehouse to a vintner or winery, from a bonded wine ware-
37 house to another bonded wine warehouse, or from a bonded wine warehouse
38 to a distributor. A bonded wine warehouse license does not authorize
39 the distribution or sale of wine.

40 (c) "Dessert wine" means only those wines that contain more than six-
41 teen percent (16%) alcohol by volume, but do not exceed twenty-four
42 percent (24%) alcohol by volume, are grape-based, and are fortified

1 through the addition of wine-based spirits or brandy made from grapes.
2 Dessert wine as defined herein shall not be deemed to be a spirit-based
3 beverage for the purposes of paragraph (e*ji*) of this subsection. Dessert
4 wine as defined in this section shall not include aromatized wines such
5 as vermouth, quinquina, and americano.

6 (~~bd~~) "Director" means the director of the Idaho state police.

7 (~~ee~~) "Distributor" means a person to whom a wine distributor's license
8 has been issued.

9 (~~df~~) "Domestic produced product" means wine at least seventy-five
10 percent (75%) of which by volume is derived from fruit or agricultural
11 products grown in Idaho.

12 (~~eg~~) "Importer" means a person to whom a wine importer's license has
13 been issued.

14 (~~fh~~) "Live performance" means a performance occurring in a theater and
15 not otherwise in violation of any provision of Idaho law.

16 (~~gi~~) "Low proof spirit beverages" means any alcoholic beverage con-
17 taining not more than fourteen percent (14%) alcohol by volume obtained
18 by distillation mixed with drinkable water, fruit juices and/or other
19 ingredients in solution. These products shall be considered and taxed
20 as wine. Spirit-based beverages exceeding fourteen percent (14%) al-
21cohol by volume shall be considered as liquor and sold only through the
22 division system.

23 (~~hj~~) "Person" includes an individual, firm, copartnership, associa-
24 tion, corporation, or any group or combination acting as a unit, and
25 includes the plural as well as the singular unless the intent to give a
26 more limited meaning is disclosed by the context in which it is used.

27 (~~ik~~) "Retailer" means a person to whom a retail wine license has been
28 issued.

29 (~~jl~~) "Retail wine license" means a license issued by the director au-
30 thORIZING a person to sell table wine and/or dessert wine at retail for
31 consumption off the licensed premises.

32 (~~km~~) "Table wine" shall mean any alcoholic beverage containing not more
33 than sixteen percent (16%) alcohol by volume obtained by the fermenta-
34 tion of the natural sugar content of fruits or other agricultural prod-
35 ucts containing sugar whether or not other ingredients are added.

36 (~~ln~~) "Theater" means a room, place or outside structure for perfor-
37 mances or readings of dramatic literature, plays or dramatic represen-
38 tations of an art form not in violation of any provision of Idaho law.

39 (~~mo~~) "Vintner" means a person who manufactures, bottles, or sells ta-
40 ble wine or dessert wine to importers for resale within this state other
41 than a licensed "winery" as herein defined.

42 (~~np~~) "Wine" includes table wine and dessert wine, unless the context
43 requires otherwise.

44 (~~oq~~) "Wine by the drink license" means a license to sell table wine or
45 dessert wine by the individual glass or opened bottle at retail, for
46 consumption on the premises only.

47 (~~pr~~) "Wine distributor's license" means a license issued by the di-
48 rector to a person authorizing such person to distribute table wine or
49 dessert wine to retailers within the state of Idaho.

1 (¶s) "Wine importer's license" means a license issued by the director
2 to a person authorizing such person to import table wine or dessert wine
3 into the state of Idaho and to sell and distribute such wines to a dis-
4 tributor.

5 (¶t) "Winery" means a place, premises or establishment within the state
6 of Idaho for the manufacture or bottling of table wine or dessert wine
7 for sale. Two (2) or more wineries may use the same premises and the same
8 equipment to manufacture their respective wines, to the extent permit-
9 ted by federal law.

10 (¶u) "Winery license" means a license issued by the director authoriz-
11 ing a person to maintain a winery.

12 (2) All other words and phrases used in this chapter, the definitions of
13 which are not herein given, shall be given their ordinary and commonly under-
14 stood and accepted meanings.

15 SECTION 2. That Section 23-1306, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 23-1306. LICENSES REQUIRED -- APPLICATION -- ISSUANCE OR RE-
18 FUSAL. (1) Before any person shall manufacture, import into this state,
19 ~~manufacture,~~ bottle or broker for resale within this state, possess for re-
20 sale, store and handle wine as a bonded wine warehouse, or distribute or sell
21 wine within the state of Idaho, he shall apply to the director for a license
22 ~~to so do~~. The application form shall be prescribed and furnished by the di-
23 rector and require that the applicant therein show that he possesses all of
24 the qualifications and none of the disqualifications of a licensee. A person
25 may apply for and receive a license as both a distributor and importer, if
26 otherwise qualified therefor, and shall pay the license fee required pur-
27 suant to this chapter for each license. A winery licensed under this chapter
28 shall also be considered as holding, for the purposes of selling a product
29 processed and bottled by or for that winery, a current retail wine license
30 and wine by the drink license for the licensed premises and for use at func-
31 tions and events identified in section 23-1338, Idaho Code, and a current
32 wine distributor's and importer's license, without further application or
33 fee. If the director is satisfied that the applicant possesses the qualifi-
34 cations and none of the disqualifications for such license, he shall issue a
35 license for each classification applied for, subject to the restrictions of
36 and upon the conditions specified in this chapter. The license or licenses
37 issued shall be at all times prominently displayed in the place of business
38 of the licensee. If the director determines that the applicant is not prop-
39 erly qualified, he shall refuse to issue a license and shall forthwith so
40 notify the applicant and shall return to the applicant with such notifica-
41 tion, three-fourths (3/4) of the license fee remitted with the application.
42 A separate retail wine by the drink license, and wine distributor's license
43 shall be required for each premises. Provided, however, nothing herein
44 shall prohibit a distributor or retailer or wine by the drink licensee from
45 possessing licenses for more than one (1) premises.

46 (2) A bonded wine warehouse licensed under this chapter shall solely be
47 authorized to store and handle wine produced by vintners and wineries. A li-
48 license applicant shall hold a federal permit for a bonded wine cellar and may
49 be required to post a continuing wine tax bond of such an amount and in such a

1 form as may be required prior to the issuance of a bonded wine warehouse li-
 2 icense. All wine shipped to and from a bonded wine warehouse shall remain un-
 3 der bond and no tax imposed shall be due, unless the wine is removed from bond
 4 and delivered to a licensed distributor.

5 SECTION 3. That Section 23-1307, Idaho Code, be, and the same is hereby
 6 amended to read as follows:

7 23-1307. QUALIFICATIONS FOR RETAIL WINE LICENSE, WINE BY THE DRINK LI-
 8 CENSE, BONDED WINE WAREHOUSE LICENSE, AND DISTRIBUTOR'S LICENSE. (1) No re-
 9 tail wine license, wine by the drink license, bonded wine warehouse license,
 10 or wine distributor's license shall be issued to an applicant who at the time
 11 of making the application:

12 (a) If a corporation, has not qualified as required by law to do busi-
 13 ness in the state of Idaho;

14 (b) Has had a wine distributor's license, retail wine license, wine by
 15 the drink license, bonded wine warehouse license, or wine importer's
 16 license revoked by the director within three (3) years from the date of
 17 making such application;

18 (c) Has been convicted of a violation of the laws of this state or of the
 19 United States governing the sale of alcoholic beverages, wine, or beer,
 20 within three (3) years from the date of making such application;

21 (d) Has been convicted of a felony or been granted a withheld judgment
 22 following an adjudication of guilt of a felony within five (5) years
 23 from the date of making such application;

24 (e) If an individual or partnership, either the individual or at least
 25 one (1) of the partners of a partnership is not nineteen (19) years of
 26 age or older.

27 (2) Licensed wineries shall not be required to possess a retail beer li-
 28 cense to sell wine on the winery's original licensed premises or at locations
 29 other than the winery's original licensed premises.

30 (3) To determine qualification for a license, the director shall also
 31 cause an investigation ~~which~~ that shall include a fingerprint-based crimi-
 32 nal history check of the Idaho ~~central~~ criminal history database and the fed-
 33 eral bureau of investigation criminal history database. Each person listed
 34 as an applicant on an initial application shall submit a full set of finger-
 35 prints and the fee to cover the cost of the criminal history background check
 36 for such person with the application.

37 SECTION 4. That Section 23-1310, Idaho Code, be, and the same is hereby
 38 amended to read as follows:

39 23-1310. STORAGE OR PURCHASE BY DISTRIBUTOR -- FROM WHOM PURCHASED. No
 40 distributor may store or purchase wine for purposes of storage or resale un-
 41 less said wine has been received from persons holding a valid wine importer's
 42 license, a valid wine distributor's license, ~~or~~ a valid winery license, or a
 43 valid bonded wine warehouse license.

44 SECTION 5. That Section 23-1314, Idaho Code, be, and the same is hereby
 45 amended to read as follows:

1 23-1314. RECORDS AND INSPECTION OF WINERIES, IMPORTERS, BONDED WINE
 2 WAREHOUSES, AND DISTRIBUTORS. (1) Every winery, distributor, bonded wine
 3 warehouse, and importer shall have, and notify the director of, a place of
 4 business within the state of Idaho.

5 (2) Each winery, distributor and importer shall keep at its place of
 6 business a record of its imports into, and sales of wine within, the state of
 7 Idaho. The import record shall include the date and quantity of import and
 8 the identity of the import seller and the import carrier or transporter. The
 9 sale record shall consist of a copy of the monthly report to the state tax
 10 commission required pursuant to section 23-1322, Idaho Code. Each winery,
 11 distributor and importer shall keep the record of each sale or import for a
 12 period of four (4) years thereafter and shall, on or before the fifteenth day
 13 of each month, file the report with the director. The director may require
 14 such additional information to be included in such returns as shall assist
 15 him in determining whether or not such licensee is complying with this act
 16 and whether or not all taxes and fees provided for by this act are being fully
 17 paid.

18 (3) Each bonded wine warehouse shall keep at its place of business a
 19 record of its storage and handling of wine. The record shall include the date
 20 and quantity of wine stored and handled for each vintner and winery, and the
 21 identity of the carrier or transporter handling and storing the wine.

22 (4) The director shall have the right at any time to make an examination
 23 of each winery's, distributor's, bonded wine warehouse's, and importer's
 24 books, records and premises, and such other matters as may assist him in ver-
 25 ifying the accuracy of such reports.

26 SECTION 6. That Section 23-1315, Idaho Code, be, and the same is hereby
 27 amended to read as follows:

28 23-1315. LICENSE FEES -- COUNTY RETAIL LICENSE FEES -- COUNTY LICENSE
 29 REQUIRED FOR RETAILERS. (a) Each importer shall pay to the state of Idaho an
 30 annual license fee of three hundred dollars (\$300).

31 (b) Each distributor shall pay to the state of Idaho an annual license
 32 fee of three hundred dollars (\$300) for each separate warehouse used for the
 33 purpose of or in connection with the sale or distribution of wine within this
 34 state.

35 (c) Each winery shall pay to the state an annual license fee of three
 36 hundred dollars (\$300).

37 (d) Each retailer and ~~wine by the drink~~ wine by the drink licensee
 38 shall pay to the state of Idaho an annual license fee of one hundred dollars
 39 (\$100) for each premises for which a license is issued for the sale of wine.

40 (e) In addition to the fee required by subsection (d) of this section,
 41 each retailer and ~~wine by the drink~~ wine by the drink licensee shall pay an
 42 annual license fee of not to exceed one hundred dollars (\$100) to the county
 43 in which the licensed premises are located. If the licensed premises are lo-
 44 cated within the incorporated limits of a city, the licensee shall pay an an-
 45 nual license fee of not to exceed two hundred dollars (\$200) to such city.
 46 Each city and county within this state are hereby authorized and empowered to
 47 determine the license fees to be paid by each retailer and ~~wine by the drink~~
 48 wine by the drink licensee licensed pursuant to the terms and conditions of
 49 this act. No wine license issued by the ~~commissioner~~ director shall autho-

1 rize the sale of wine at retail unless such person possesses a county and city
2 license as may be required by the governing board thereof.

3 (f) Each bonded wine warehouse shall pay to the state of Idaho an annual
4 license fee of three hundred dollars (\$300) for each separate warehouse used
5 for the sole purpose of the storage and handling of wine within the state of
6 Idaho.

7 SECTION 7. That Section 23-1317, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 23-1317. TRANSFER OF LICENSES -- FEE -- APPLICATION FOR APPROVAL. (a)
10 No winery license, wine distributor's license, wine ~~by-the-drink~~ by the
11 drink license, bonded wine warehouse license, or retail wine license may
12 be transferred to another person, including an executor, administrator, or
13 trustee in bankruptcy of the estate of the licensee, unless the transferee
14 shall first have obtained the approval of the director to such transfer upon
15 application containing the substantially same information required of an
16 applicant for a winery license, wine distributor's license, bonded wine
17 warehouse license, or retail wine license, as the case may be. If the trans-
18 feree possesses all of the qualifications and none of the disqualifications
19 for such license, the director shall approve the transfer by issuing a li-
20 cense to the transferee. The fee for each transfer of a winery license, wine
21 distributor's license, ~~wine by-the-drink~~ wine by the drink license, bonded
22 wine warehouse license, or a retail wine license shall be twenty dollars
23 (\$20.00), which fee shall accompany the application for transfer.

24 (b) Application to transfer a winery license, wine distributor's
25 license, wine ~~by-the-drink~~ by the drink license, bonded wine warehouse li-
26 cence, or retail wine license from one location to another shall be made to
27 the director on forms prescribed and furnished by the director. The direc-
28 tor shall approve any such transfer upon submission of the application and
29 receipt by the director of a transfer fee of twenty dollars (\$20.00).

30 (c) The director, in his discretion, may deny the transfer of a license
31 during the ~~pendancy~~ pendency of any proceedings for suspension or revocation
32 instituted pursuant to the provisions of this chapter.

33 SECTION 8. That Section 23-1331, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 23-1331. SUSPENSION, REVOCATION, AND REFUSAL TO RENEW LICENSES AND
36 PERMITS -- MONETARY PENALTY. (1) The director may suspend, revoke, or refuse
37 to renew a retail wine license, wine by the drink license, wine distributor's
38 license, wine importer's license, winery license, bonded wine warehouse
39 license, wine direct shipper's permit or vintner's license issued pursuant
40 to the terms of this chapter for any violation of or failure to comply with
41 the provisions of this chapter or rules and regulations promulgated by the
42 director or the state tax commission pursuant to the terms and conditions of
43 this chapter. Manufacturing or bottling functions of a winery shall not be
44 subject to suspension, revocation or nonrenewal of a license, except for vi-
45 olations of law directly related to the manufacturing or bottling activities
46 of the winery. Procedures for the suspension, revocation or refusal to grant

1 or renew licenses issued under this chapter shall be in accordance with the
2 provisions of chapter 52, title 67, Idaho Code.

3 (2) When the director determines to suspend such license, the affected
4 licensee may petition the director prior to the effective date of the sus-
5 pension requesting that a monetary payment be allowed in lieu of the license
6 suspension. If the director determines such payment to be consistent with
7 the purpose of the laws of the state of Idaho and is in the public interest, he
8 shall establish a monetary payment in an amount not to exceed five thousand
9 dollars (\$5,000). The licensee may reject the payment amount determined by
10 the director, and instead be subject to the suspension provisions of subsec-
11 tion (1) of this section. Upon payment of the amount established, the direc-
12 tor shall cancel the suspension period. The director shall cause any payment
13 to be paid to the treasurer of the state of Idaho for credit to the state's
14 general account in the state operating fund.

15 (3) The suspension of a license for the sale of liquor or beer shall au-
16 tomatically result in the suspension of any license for the sale of wine held
17 by the same licensee and issued for the same premises or location. Such ad-
18 ditional suspension shall be equal in length to and run concurrently with the
19 period of the original suspension.

20 (4) When a proceeding to revoke or suspend a license has been or is about
21 to be instituted, during the time a renewal application of such license is
22 pending before the director, the director shall renew the license notwith-
23 standing the pending proceedings, but such renewed license may be revoked or
24 suspended without hearing if and when the previous license is, for any rea-
25 son, revoked or suspended.