

IN THE SENATE

SENATE BILL NO. 1047

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 23-903, IDAHO CODE, TO AU-  
2 THORIZE THE ISSUANCE OF A LIQUOR LICENSE TO CERTAIN ESTABLISHMENTS IN  
3 A RESORT CITY AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMER-  
4 GENCY AND PROVIDING AN EFFECTIVE DATE.  
5

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

7 SECTION 1. That Section 23-903, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 23-903. LICENSE TO RETAIL LIQUOR. (1) The director of the Idaho state  
10 police is hereby empowered, authorized, and directed to issue licenses to  
11 qualified applicants, as herein provided, whereby the licensee shall be  
12 authorized and permitted to sell liquor by the drink at retail and, upon  
13 the issuance of such license, the licensee therein named shall be autho-  
14 rized to sell liquor at retail by the drink, but only in accordance with the  
15 rules promulgated by the director and the provisions of this chapter. No  
16 license shall be issued for the sale of liquor on any premises outside the  
17 incorporated limits of any city except as provided in this chapter and the  
18 number of licenses so issued for any city shall not exceed one (1) license  
19 for each one thousand five hundred (1,500) of population of said city or  
20 fraction thereof, as established in the last preceding census, or any sub-  
21 sequent special census conducted by the United States bureau of the census  
22 or by an estimate that is statistically valid including adding the number  
23 of new residential utility connections or including adding the population  
24 of areas annexed into the city after the last census or special census was  
25 conducted, except that upon proper application thereof not more than two  
26 (2) licenses may be issued for each incorporated city with a population of  
27 one thousand five hundred (1,500) or less, unless the retail licensing of  
28 liquor by the drink has been previously disapproved under the provisions of  
29 sections 23-917, 23-918, 23-919, 23-920 and 23-921, Idaho Code; provided  
30 however, that any license heretofore issued may be renewed from year to year  
31 without regard to the population or status of the city for which such license  
32 is issued. Any license issued ~~and which~~ that has remained in effect at its  
33 location for a consecutive period of ten (10) years or more shall be deemed  
34 to have been validly issued and may be renewed from year to year provided  
35 however, that the applicant for the renewal of such license is not otherwise  
36 disqualified for licensure pursuant to section 23-910, Idaho Code, and, if  
37 the premises required special characteristics for original licensure, other  
38 than being either within or without the incorporated limits of a city, that  
39 said premises continue to have such special characteristics at the time of  
40 the application for renewal.

41 (2) Nothing herein contained shall prohibit the issuance of a license  
42 to the owner, operator or lessee of an actual bona fide golf course whether

1 located within or without the limits of any city, or located on premises also  
2 operated as a winery or ski resort, or to the lessee of any premises situ-  
3 ate thereon, whether located within or without the limits of any city. For  
4 the purpose of this section, a golf course shall comprise an actual bona fide  
5 golf course, ~~which~~ that is regularly used for the playing of the game of golf,  
6 and having not less than nine (9) tees, fairways and greens laid out and used  
7 in the usual and regular manner of a golf course. Nine (9) hole courses must  
8 have a total yardage of at least one thousand (1,000) yards, and eighteen  
9 (18) hole courses must have a total yardage of at least two thousand (2,000)  
10 yards as measured by totaling the tee-to-green distance of all holes. The  
11 course must be planted in grass except that it may provide artificial tee  
12 mats. Where any such golf course is owned or leased by an association of  
13 members and is used or enjoyed by such members or their guests, none of the  
14 disqualifications contained in section 23-910, Idaho Code, shall apply to  
15 such association as a licensee where such disqualifications, or any of them,  
16 would apply only to a member of such association where such member has no in-  
17 terest therein except as a member thereof.

18 (3) Also for the purpose of this section, a ski resort shall comprise  
19 real property of not less than ten (10) acres in size, exclusive of the ter-  
20 rain used for skiing, and upon which the owner, operator or lessee of the ski  
21 resort has made available himself or through others, including~~r~~ but not lim-  
22 ited to~~r~~ the owners of condominiums, permanent bona fide overnight accom-  
23 modations available to the general public for one hundred (100) persons or  
24 more, and which real property is contiguous to or located within the area in  
25 which skiing occurs, and which real property is regularly operated as a ski  
26 resort in the wintertime, and where the owner, operator or lessee of the ski  
27 resort is also the owner, operator or lessee of the area served by a bona fide  
28 chair ski lift facility or facilities. Alternatively, for the purpose of  
29 this section, a ski resort may also be defined as a downhill ski area, open to  
30 the public, comprising real property of not less than two hundred fifty (250)  
31 skiable acres, operating two (2) or more chairlifts with a vertical lift of  
32 one thousand (1,000) feet or more, and capable of transporting a minimum of  
33 one thousand eight hundred (1,800) skiers per hour. A ski resort qualifying  
34 under this definition shall also have on the premises a lodge facility pro-  
35 viding shelter and food service to the public, the operator of which shall  
36 also be the valid owner or lessee of the grounds and facilities upon which the  
37 ski resort offers downhill skiing services to the public. The fees for li-  
38 censes granted to ski resorts shall be the same as those prescribed for golf  
39 courses as set forth in section 23-904, Idaho Code. Not more than one (1) li-  
40 censed premises shall be permitted on any golf course or any ski resort or  
41 within the area comprising the same.

42 (4) Nothing herein contained shall prohibit the issuance of a license  
43 to the owner, operator or lessee of an actual bona fide equestrian facil-  
44 ity located on not less than forty (40) contiguous acres, with permanently  
45 erected seating of not less than six thousand (6,000) seats, no part of which  
46 equestrian facility or the premises thereon is situate within the incorpo-  
47 rated limits of any city, and which facility shall have at least three (3)  
48 days per year of a professionally sanctioned rodeo. Not more than one (1)  
49 licensed premises shall be permitted at any equestrian facility or within  
50 an area comprising such a facility. The fees for licenses granted to eques-

1 trian facilities shall be the same as those prescribed for golf courses as  
2 set forth in section 23-904, Idaho Code.

3 (5) Nothing herein contained shall prohibit the issuance of a license  
4 to the owner, operator or lessee of a restaurant operated on an airport owned  
5 or operated by a county or municipal corporation or on an airport owned or  
6 operated jointly by a county and municipal corporation, and which said air-  
7 port is served by a trunk or local service air carrier holding a certificate  
8 of public convenience and necessity issued by the civil aeronautics board of  
9 the United States of America. Not more than one (1) license shall be issued  
10 on any airport.

11 (6) Nothing herein contained shall prohibit the issuance of one (1)  
12 club license to a club as defined in section 23-902, Idaho Code. The holder  
13 of a club license is authorized to sell and serve alcoholic beverages for  
14 consumption only within the licensed establishment owned, leased or occu-  
15 pied by the club, and only to bona fide members of the club, and to serve and  
16 to sell alcoholic beverages for consumption to bona fide members' guests.  
17 A club license issued pursuant to the provisions of this section is not  
18 transferable and may not be sold. Any club license issued pursuant to the  
19 provisions of this section will revert to the director when, in his judgment,  
20 the licensee ceases to operate as a bona fide club as defined in section  
21 23-902, Idaho Code. No club may hold a liquor license and a club license si-  
22 multaneously. A club ~~which~~ that on July 1, 1983, holds a liquor license, may  
23 continue to possess that license. Any club that possesses a liquor license  
24 on January 1, 1983, or thereafter, and then sells that liquor license, may  
25 not obtain a club license, and the director shall not issue a club license  
26 to that club for a period of five (5) years following such sale. The fee for  
27 any license issued to a qualifying club within an incorporated municipality  
28 shall be as prescribed in subsections (1), (2) and (3) of section 23-904,  
29 Idaho Code. The fee for any license issued to a qualifying club not situate  
30 within an incorporated municipality shall be as specified for golf courses  
31 under section 23-904(6), Idaho Code. The provisions of section 23-916,  
32 Idaho Code, regarding county and city licenses, shall pertain to club li-  
33 censes. The burden of producing sufficient documentation of qualifications  
34 for club licensure shall be with the club applicant.

35 (7) Nothing in this chapter to the contrary shall prohibit the issuance  
36 of a license to the owner, operator or lessee of an actual bona fide conven-  
37 tion center that is within the incorporated limits of a city having a popula-  
38 tion of three thousand (3,000) or greater, ~~and which city that~~ does not have  
39 located therein a convention center with a valid convention center license  
40 to sell liquor by the drink. For the purpose of this section, a convention  
41 center means a facility having at least thirty-five thousand (35,000) square  
42 feet of floor space or a facility having at least one hundred twenty (120)  
43 sleeping rooms and an adjoining meeting room that will accommodate not less  
44 than three hundred fifty (350) persons, whether or not such room may be par-  
45 titioned into smaller rooms, and provided that such meeting room shall con-  
46 tain at least three thousand (3,000) square feet of floor space. Such li-  
47 cense must be placed in actual use in said convention center within one (1)  
48 year from the date of its issuance. The fee for any license issued to a qual-  
49 ifying convention center shall be as prescribed in subsection (3) of section  
50 23-904, Idaho Code. The holder of a convention center license shall not be

1 eligible for the issuance of a license in the same city pursuant to any other  
2 provision of this chapter. For purposes of this section, the term "holder"  
3 shall include an owner, operator or lessee and shall include a stockholder,  
4 director or officer of a corporation or a partner in a partnership, which  
5 corporation or partnership has been issued a convention center license pur-  
6 suant to this chapter. Not more than one (1) licensed premises shall be per-  
7 mitted on any convention center or within the area comprising the same, in-  
8 cluding convention centers that also comprise golf courses or ski resorts as  
9 herein defined.

10 (8) Nothing in this chapter shall prohibit the issuance of a license  
11 to the owner, operator or lessee of a food, beverage and/or lodging facil-  
12 ity that has been in continuous operation in the same location for at least  
13 seventy-five (75) years, except for temporary closings for refurbishing or  
14 reconstruction, or a food, beverage and lodging facility serving the pub-  
15 lic by reservation only, having a minimum of five (5) rooms operating in a  
16 structure that has been in existence for at least seventy-five (75) years and  
17 has been on the historic register for a minimum of ten (10) years, is situ-  
18 ated within five hundred (500) yards of a natural lake containing a minimum  
19 of thirty-six thousand (36,000) acre feet of water when full with a minimum  
20 of thirty-two (32) miles of shoreline, and is located in a county with a min-  
21 imum population of sixty-five thousand (65,000). The provisions of section  
22 23-910, Idaho Code, shall apply to licenses issued to continuous operation  
23 facilities. The fees shall be the same as those prescribed for golf courses  
24 as set forth in section 23-904, Idaho Code.

25 (9) Nothing in this chapter shall prohibit the issuance of a license  
26 to a federally recognized Indian tribe as defined in section 67-4001, Idaho  
27 Code, which is an owner, operator or lessee of a food, conference and lodging  
28 facility located within the boundaries of the Indian tribe's reservation and  
29 containing a minimum of thirty-five thousand (35,000) square feet and fifty  
30 (50) guest rooms. Licenses issued to Indian tribes are not transferable.

31 (10) Nothing in this chapter shall prohibit the issuance of a license  
32 to the owner, operator or lessee of the lodging, dining and entertainment  
33 facilities owned by a gondola resort complex and operated in conjunction  
34 with the other public services provided by a gondola resort complex located  
35 within the ownership/ or leasehold boundaries of a gondola resort complex. A  
36 gondola resort complex means an actual bona fide gondola capable of trans-  
37 porting people for recreational and/or entertainment purposes at least  
38 three (3) miles in length with a vertical rise of three thousand (3,000)  
39 feet, portions of which may be located within or over the limits of one (1) or  
40 more cities.

41 (11) Nothing in this chapter shall prohibit the issuance of a license to  
42 the owner, operator or lessee of a winery also operating a golf course on the  
43 premises.

44 (12) Subject to approval of the mayor and city council, nothing in this  
45 chapter shall prohibit the issuance of a license to the owner, operator or  
46 lessee of a food, conference and lodging facility constructed after May 1,  
47 2000, containing a minimum of thirty-five thousand (35,000) square feet and  
48 fifty-five (55) guest rooms with a minimum taxable value of three million  
49 dollars (\$3,000,000) in a city with a population of less than five thousand  
50 (5,000) according to the most recent census.

1 (13) Nothing contained in this chapter shall prohibit the issuance of  
2 a license to the owner, operator or lessee of a conference and event center  
3 that is within the city limits of a resort city as defined in section 50-1044,  
4 Idaho Code, that has enacted local option nonproperty taxes in accordance  
5 with section 50-1046, Idaho Code, including, at the time of issuance, a re-  
6 sort city tax on sales of liquor by the drink, wine and beer sold at retail for  
7 consumption on the licensed premises. There shall be only one (1) confer-  
8 ence and event center license to sell liquor by the drink issued per resort  
9 city pursuant to this subsection. For the purposes of this section, a con-  
10 ference and event center means facilities situated on premises consisting of  
11 a building or buildings and the contiguous property owned or leased and under  
12 common ownership or control by the licensee. Such facilities must provide  
13 not less than four thousand (4,000) square feet of enclosed space for confer-  
14 ence and event purposes, exclusive of space dedicated by the licensee to the  
15 commercial kitchen. The commercial kitchen must include a type 1 commercial  
16 hood and cooking equipment, exclusive of microwave ovens and grills. The  
17 fee for any license issued to a qualifying licensee shall be as prescribed  
18 in section 23-904(1), (2) or (3), Idaho Code, depending on the population of  
19 the resort city in which the conference and event center is located and as  
20 prescribed in section 23-916, Idaho Code. A license issued pursuant to this  
21 ~~section~~ subsection may be renewed without regard to the population or sta-  
22 tus of the city for which the license was issued and without regard for the  
23 continuation of local option nonproperty taxes by the city, provided the ap-  
24 plicant for renewal is not otherwise disqualified from licensure pursuant to  
25 section 23-910, Idaho Code. Not more than one (1) license shall be issued to  
26 a conference and event center. A conference and event center license shall  
27 not be transferable and may not be sold. For the purpose of issuance and  
28 maintenance of a license under this subsection, such facilities may serve  
29 liquor only while such facilities are hosting a conference or event. Nothing  
30 in this subsection shall excuse a conference and event center from complying  
31 with actual use standards in title 23, Idaho Code, or administrative rules  
32 promulgated pursuant to statutory authority granted under this title.

33 (14) Nothing in this chapter shall prohibit the issuance of a license  
34 to the owner, operator, or lessee of a food and beverage facility operating  
35 in a structure that has been in existence for at least one hundred ten (110)  
36 years and is located within the boundaries of and listed as contributing to a  
37 national historic district that is within the city limits of a resort city as  
38 described in section 50-1044, Idaho Code, that has enacted local-option non-  
39 property taxes in accordance with section 50-1046, Idaho Code, including, at  
40 the time of issuance, a resort city tax on sales of liquor by the drink, wine,  
41 and beer sold at retail for consumption on the licensed premises. There  
42 shall be only one (1) historic district food and beverage facility license to  
43 sell liquor by the drink issued per resort city pursuant to this subsection.  
44 For the purposes of this section, "historic district food and beverage fa-  
45 facility" means facilities situated on premises consisting of a building owned  
46 or leased and under common ownership or control by the licensee. Such build-  
47 ing must be not less than six thousand (6,000) square feet of enclosed space  
48 and must include a commercial kitchen. The commercial kitchen must include  
49 a type 1 commercial hood and cooking equipment, exclusive of microwave ovens  
50 and grills. The fee for any license issued to a qualifying licensee shall be

1 as prescribed in section 23-904(1), (2), or (3), Idaho Code, depending on the  
2 population of the resort city in which the historic district food and bev-  
3 erage facility is located and as prescribed in section 23-916, Idaho Code.  
4 A license issued pursuant to this subsection may be renewed without regard  
5 to the population or status of the city for which the license was issued and  
6 without regard for the continuation of local-option nonproperty taxes by  
7 the city, provided the applicant for renewal is not otherwise disqualified  
8 from licensure pursuant to section 23-910, Idaho Code. Not more than one (1)  
9 liquor license shall be issued to a historic district food and beverage fa-  
10 cility. No establishment that currently holds a license issued pursuant to  
11 subsection (1) of this section, or that has been issued such a license within  
12 the last two (2) years, shall be eligible for issuance of a license pursuant  
13 to this subsection. A historic district food and beverage facility license  
14 shall not be transferable and may not be sold. Nothing in this subsection  
15 shall excuse a historic district food and beverage facility from complying  
16 with actual use standards in this title or administrative rules promulgated  
17 pursuant to statutory authority granted under this title.

18 ~~(14)~~ (15) The provisions of section 23-910, Idaho Code, shall apply to  
19 licenses issued under the provisions of this section. The fees shall be the  
20 same as those prescribed for golf courses as set forth in section 23-904,  
21 Idaho Code. Except for licenses issued pursuant to subsection (1) of this  
22 section, licenses issued under the provisions of this section are not trans-  
23 ferable to any other location, facility or premises.

24 SECTION 2. An emergency existing therefor, which emergency is hereby  
25 declared to exist, this act shall be in full force and effect on and after  
26 July 1, 2023.