

Dear Senators DARRINGTON, Jorgenson & Kelly, and
Representatives CLARK, Leon Smith & Boe:

The Legislative Services Office, Research and Legislation, has received the enclosed
rules of the Idaho State Police:

IDAPA11.05.01 - Rules Governing Alcohol Beverage Control - Fee Rule

(Docket #11-0501-0901).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 10-29-09. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 11-27-09.

_____The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Judiciary and Rules Committee and the House Judiciary, Rules and Admin. Committee

FROM: Brooke Murdoch, Research Analyst

DATE: October 9, 2009

SUBJECT: Idaho State Police

IDAPA 11.05.01 – Rules Governing Alcohol Beverage Control – Fee Rule (Docket #11-0501-0901)

The Idaho State Police submits notice of proposed rulemaking at IDAPA 11.05.01 – Rules Governing Alcohol Beverage Control. According to the Idaho State Police, the purposes of the rule changes are to increase fingerprint fees from \$34.00 to \$45.00, which could provide approximately \$22,000 in additional revenue. The proposed rule defines the term “multipurpose arena” and establishes an annual fee of \$2,500 for a multipurpose arena license endorsement. The Idaho State Police states that the proposed rule also requires submission of additional information for licensees to ensure compliance with regulations and allow more consistent enforcement of alcohol beverage laws. Finally, the proposed rule specifies circumstances when minors are permitted or prohibited from entering certain premises and requires the display of suspension notices.

We note the following comments:

1. Subsection 010.06. of the rule, on pages 219-220, defines “Multipurpose arena,” which includes a requirement that such facility be endorsed by the director. The proposed rule further specifies certain qualifications that must be met in order for a multipurpose arena to receive and maintain an annual endorsement on its alcohol beverage license. Finally, the proposed rule provides that if the premises subsequently cease to meet the qualifications of a multipurpose arena as provided in rule, then provisions relating to multipurpose arenas in Subsection 23-944(3), Idaho Code, do not apply.

Multipurpose arenas are addressed in Subsection 23-944(3), Idaho Code, which provides, in relevant part, that, “It shall not be unlawful for...any person under the age of twenty-one (21) years from entering or being...in any...multipurpose arena...notwithstanding that such premises or any portion thereof may be licensed for the sale of liquor by the

drink, wine or beer for consumption on the premises or that such products are dispensed and served and consumed therein; provided, that the person under the age of twenty-one (21) years is attending a lawful activity, show, exhibition, performance or event on the premises....”

“Multipurpose arena” is not defined in statute nor is there a statutory requirement for a license endorsement. Notably, there is an endorsement requirement in Section 23-946, Idaho Code, relating to premises operating as restaurants. Subsection 010.06. of the proposed rule and Section 23-946, Idaho Code, contain similar language, and in some instances the same language. Also, the term “restaurant” is defined in Subsection 23-942(c). Restaurants, like multipurpose arenas, are included as an exception listed in Section 23-944, Idaho Code. Given that this type of license endorsement is provided in statute for restaurants, there may be a question as to whether the Idaho State Police has the authority to establish an endorsement requirement for multipurpose arenas through the rulemaking process.

The Idaho State Police states that its action is authorized pursuant to Sections 67-2901 and 49-901, Idaho Code. Section 67-2901, Idaho Code, creates the Idaho State Police and Section 49-901, Idaho Code, relates to the director’s authority to adopt standards and specifications relating to vehicle equipment. Neither code section provides the appropriate rulemaking authority.

In light of the above, we pose the question as to whether this change would be better brought through legislation to amend the Idaho Code, rather than through the rulemaking process.

2. In Subsection 012.02., it appears that reference to Subsection 013.02., should read Subsection 014.02.
3. In Subsection 012.05., reference to Section 23-1308, Idaho Code, seems to be misplaced as the language contained in that code section does not include or relate to a fingerprint based criminal history check.
4. In Subsection 013.03.a., we note that it may make the rule more clear if it is specified that the signed affidavit must be submitted within ten days *of the event* and the application submitted within ninety days *of the event*.
5. In Subsection 014.07., it appears that reference to Subsection 013.03. should read Subsection 014.03.
6. In Subsection 016.03., it appears that reference to Subsection 010.04., which defines licensed premises, should be replaced with Subsection 010.09., which further defines the term “restaurant.”
7. In Subsection 021.02.c., the following italicized language appears to be misplaced: “The Alcohol Beverage Control Bureau reserves the right to impose *reduced* penalties based

on *aggravating* circumstances involved in each violation.” We suggest changing either the word “reduced” to “enhanced” or the word “aggravating” to “mitigating,” depending on the intended meaning.

8. Section 022. of the proposed rule contains penalties and penalty schedules for violations of certain provisions in Chapters 6, 9, 10, 11 and 13, Title 23. Penalties include suspension or a monetary fine, or both suspension and a monetary fine, or revocation. Some of the proposed penalties may not be consistent with statutory provisions; therefore, further review is recommended.

For example, the proposed rule provides for license revocation upon a fourth violation of Section 23-603, Idaho Code. However, Section 23-603, Idaho Code, specifically sets forth the administrative action that may be taken. That code section provides, in relevant part, that “the director may take administrative action...including suspension of the license for not to exceed six (6) months, a fine, or both such suspension and fine.” The authority to revoke is not mentioned in that code section and one may read the provisions as a limit to the director’s authorized administrative action.

A second example, Section 23-933, Idaho Code, authorizes the director to “suspend, revoke or refuse to renew a license” for any violation of the provisions of Chapter 9. Subsection (2) provides that when the director determines to suspend a license, the affected licensee may request that a monetary payment be allowed *in lieu of* the suspension. If the director determines that a payment is consistent with the purpose of the law, he is required to establish a monetary payment not to exceed \$5,000. The licensee may then choose between the monetary penalty and the suspension. If the licensee chooses to pay the amount established, the director is required to cancel the suspension period upon payment. Turning to the proposed rule, Subsections 022.01.-.03., provide instances whereupon a licensee found to have violated a provision of Chapter 9 could be subject to a license suspension *and* a monetary penalty. One may view this penalty to be inconsistent with the provisions of Section 23-933(2), Idaho Code, which permit a monetary payment *in lieu of* suspension.

We do not conclude that the Idaho State Police does not have the authority to impose the penalties in the proposed rule, only that it has not cited the authority to do so in some instances. Again, we recommend further review of the penalty provisions listed in the proposed rule as some may be inconsistent with the penalty provisions in Idaho Code.

9. Also in Section 022., subsection numbers appear to be out of order. Subsection 022.04. is followed by Subsections 022.02. and 022.03.

Aside from these comments, the proposed rule appears to be within the authority granted to the Idaho State Police in Sections 23-932, 23-946 and 23-1330, Idaho Code.

cc: Idaho State Police
Colonel G. Jerry Russell, Director
Lt. Bob Clements

IDAPA 11 - IDAHO STATE POLICE

11.05.01 - RULES GOVERNING ALCOHOL BEVERAGE CONTROL

DOCKET NO. 11-0501-0901 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 67-2901 and 49-901 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 increases fingerprint fees, establishes definitions and fees for multi-purpose arenas, clarifies existing rules by providing additional information for licensees to ensure compliance with regulations and allow more consistent enforcement of alcohol beverage laws. Provides specific circumstances when minors are permitted or prohibited on premises, considering modern business concepts and the specific types of establishments. Proposes rules requiring display of suspension notices providing notification to the public.

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

Provides increased fingerprint fees for staff processing and verification for license applicant qualifications. The current fee is thirty-four dollars (\$34) deposited into the miscellaneous revenues account, an increase of eleven dollars (\$11) is proposed to cover the approximately one hour ABC staff time needed to track, process, and review fingerprint qualification results. The new fee would be forty-five dollars (\$45), and could provide approximately \$22,000 in additional revenue. Provides for a definition of multi-purpose arena and a designated endorsement to the alcohol beverage license. Provides for an annual fee of \$2,500 for the multi-purpose arena license endorsement.

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: No negative fiscal impact will result from this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because all stakeholders were involved or invited to participate in discussions resulting in these rules changes and will receive copies for review.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lt. Bob Clements, (208) 884-7060 or robert.clements@isp.idaho.gov.

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

DATED this 21st day of August, 2009.

Colonel G. Jerry Russell, Director
Idaho State Police
700 S. Stratford Drive
Meridian, ID 83643
(208) 884-7003 / (208) 884-7090 fax

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 11-0501-0901

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 11.05.01, "Rules Governing Alcohol Beverage Control." (2-20-01)

02. Scope. The rules relate to the governance and operation of Alcohol Beverage Control. Unless a specific reference herein limits application of a rule to a particular kind of alcoholic beverage, these rules apply to ~~and implement Idaho Code Sections for liquor (all licensees of alcoholic beverages governed by Title 23, Chapter 9, Idaho Code), beer (Title 23, Chapter 10, Idaho Code), and wine (Title 23, Chapter 13, Idaho Code).~~ (2-20-01)()

(BREAK IN CONTINUITY OF SECTIONS)

004. MAILING ADDRESS AND OFFICE HOURS.

The mailing address is Idaho State Police, Bureau of Alcohol Beverage Control, ~~P.O. Box 700 S. Stratford Drive, Meridian, ID 83680-0700~~ 83642-6202. Lobby hours are Monday through Friday, 8 a.m. to 4:30 p.m. (3-6-07)()

005. PUBLIC RECORDS AVAILABILITY.

Public Records are available during normal working hours for inspection and copying at the Idaho State Police, Bureau of Alcohol Beverage Control, 700 South Stratford Drive, Meridian, ID ~~83680-0700~~ 83642-6202. (2-20-01)()

006. WEBSITE.

Alcohol Beverage Control information including licensing, applicable statutes, and these rules is available at: <http://www.isp.state.id.us/abc>. ()

~~007.~~ -- **009. (RESERVED).**

010. DEFINITIONS.

01. Bona Fide Owner. For the purposes of Section 23-1010(2)(a), Idaho Code, the bona fide owner of a business engaged in the sale of alcoholic beverages is the genuine or actual person or entity exercising exclusive control over the privileges of selling alcoholic beverages. ()

a. Applicant shall disclose the interest of any person or entity in the business through tax records, bank statements, personnel records, or any other business records pursuant to Section 23-905, Idaho Code. ()

02. Goodwill. For the purposes of Section 23-908(5), Idaho Code, goodwill is the current fair market value of the liquor license privilege in the incorporated city where the license is transferred. ()

~~013.~~ **Licensee.** Any person who has received a license from the Director under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. (7-1-93)

024. Licensed Premises. Any premises for which a license has been issued under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. All areas included on the floor plan submitted to the Director with the licensee's application for a license constitute the licensed premises. ~~In the event of loss or move of the physical licensed premises, the licensee has ninety (90) days to secure and occupy a new premises in which to display the license.~~ All licenses must be prominently displayed in a suitable premises and remain in actual use by the licensee and available for legitimate sales of alcoholic beverages by the drink. ~~An additional sixty (60) days may be granted by the Director, upon petition by the license holder, who is the bona fide owner of the business and available for legitimate sales of alcoholic beverages by the drink.~~ (3-6-07)()

a. A suitable premises includes an establishment primarily engaged in food or beverage sales, or both, that is in compliance with all city, county, state and federal laws and regulations and includes, but is not limited to, one (1) or more of the following characteristics: ()

i. Separate and distinct entrance and physical address; ()

ii. Accessible restroom and washing facilities; ()

iii. Suitable facilities or equipment for sanitation of glasses and bar ware. ()

b. In the event of loss, move, or closure of the physical licensed premises, the licensee has ninety (90) days to reopen or secure and occupy a new premises in which to display the license and begin actual sales of alcoholic beverages, or the licensee shall return the alcohol beverage license to the state. An additional sixty (60) days may be granted by the Director, upon petition by the license holder. ()

035. New Licenses. For purposes of Section 23-908(4), Idaho Code, a “new license” is one that has become available as an additional license within a city’s limits under the quota system after July 1, 1980. ()

a. The requirement of Section 23-908(4), Idaho Code, that a new license be placed into actual use by the original licensee and remain in use for at least six (6) consecutive months is satisfied if the license is prominently displayed in a suitable premises and the licensee makes actual sales of liquor by the drink during at least eight (8) hours per day, no fewer than six (6) days per week. (-3-6-07)()

b. A new license shall be forfeited back to the state without the provisions of Chapter 52, Title 67, Idaho Code, for failure to place that license into actual use as required by Section 23-908(4), Idaho and these rules. A forfeiture of an alcohol beverage license does not affect the licensee’s qualification to secure an alcohol beverage license in the future. ()

06. Multipurpose Arena.

a. For purposes of Section 23-944(3), Idaho Code, a Multipurpose Arena is a: ()

i. Publicly or privately owned or operated arena, coliseum, stadium, or other facility where sporting events, concerts, live entertainment, community events, and other functions are presented for a ticketed price of admission or one whose premises are leased for private events such as receptions; ()

ii. Facility that is licensed to sell liquor by the drink at retail for consumption upon the premises; and ()

iii. Facility that has been endorsed by the director. ()

b. A Multipurpose Arena facility must apply annually for an endorsement on its alcohol beverage license. The fee for a Multipurpose Arena endorsement is two thousand five hundred dollars (\$2,500) per year. ()

c. To receive a Multipurpose Arena endorsement under this Section will require the facility to have food available including, but not limited to, hamburgers, sandwiches, salads, or other snack food. The director may also restrict the type of events at a Multipurpose Arena facility at which beer, wine, and liquor by the drink may be served. The Director will also consider the seating accommodations, eating facilities, and circulation patterns in such a facility, and other amenities available at a Multipurpose Arena facility before the director will endorse the license. ()

d. A licensee that applies for a Multipurpose Arena endorsement must submit with the application an operating/security plan to the director and the local law enforcement agency for review and approval. Once approved, the plan remains in effect until the licensee requests a change or the director determines that a change is necessary due to demonstrated problems or conditions not previously considered or adequately addressed in the original plan. The plan must be submitted in a format designated by the director and must contain all of the following elements: ()

i. How the Multipurpose Arena facility will prevent the sale and service of alcohol to persons under twenty-one (21) years of age and those who appear to be intoxicated. ()

ii. The ratio of alcohol service staff and security staff to the size of the audiences at events where alcohol is being served. ()

iii. Training provided to staff who serve, regulate, or supervise the service of alcohol. ()

iv. The facility's policy on the number of alcoholic beverages that will be served to an individual patron during one (1) transaction. ()

v. A list of event type/categories to be held in the facility at which alcohol service is planned, along with a request for the level of alcohol service at each event. ()

vi. Diagrams and designation of alcohol service areas for each type of event category with identified restrictions of minors. ()

e. Prior to the first of each month, the licensee must provide a schedule of events for the upcoming month to the director and local law enforcement office. This schedule must show the date and time of each event during which alcohol service is planned. The licensee must notify the director and local law enforcement at least twenty-four (24) hours in advance of any events where alcohol service is planned that were not included in the monthly schedule. ()

f. To prevent persons who are under twenty-one (21) years of age or who appear intoxicated from gaining access to alcohol, the director may require that an operating plan include additional mandatory requirements if it is determined that the plan does not effectively prevent violations of liquor laws and regulations, particularly those that prevent persons under twenty-one (21) years of age or who are apparently intoxicated from obtaining alcohol. ()

g. If premises, licensed as a Multipurpose Arena, subsequently ceases to meet the qualifications of a Multipurpose Arena, the restrictions contained in Section 23-943, Idaho Code, shall apply and the posting of signs as provided for in Section 23-945, Idaho Code, shall be required. The licensee shall advise the director, by mail, that his premises no longer constitute a Multipurpose Arena, so that the license may be modified accordingly. ()

047. Partition. A partition, as used in Section 23-944 Idaho Code, is defined as a structure separating the place from the remainder of the premises. Access through the structure to the place will be controlled to prevent minors from entering the place. The structure must be: (3-6-07)

a. Permanently fixed from the premises ceiling to the premises floor. (3-6-07)

b. Made or constructed of solid material such as glass, wood, metal or a combination of those products. (3-6-07)

c. Designed to prevent an alcoholic beverage from being passed over, under or through the structure. (3-6-07)

d. All partitions must be approved by the Director. (3-6-07)

058. Place. For the purposes of Section 23-943, Idaho Code, "Place" as defined by Section 23-942(b), for a one (1) room restaurant without a barrier or partition, refers to the immediate bar area wherein there is seating alongside a counter or barrier that encloses bar supplies and equipment that are kept, and where alcoholic beverages are mixed, poured, drawn or served for consumption. (3-6-07)

069. Restaurant. The term Restaurant, as defined by Section 23-942(c), Idaho Code, is further defined as an establishment maintained, advertised and held out to the public as primarily a food eating establishment, where individually priced meals are prepared and regularly served to the public, primarily for on-premises consumption.

The establishment must also have a dining room or rooms, kitchen and cooking facilities for the preparation of food, and the number, and type of employees normally used in the preparing, cooking and serving of meals. Primarily as defined for the purposes of Section 010, also includes that the licensee must show to the director the following:

(3-6-07)

- a. An established menu identifying the individually priced meals for consumption; (3-20-04)
- b. Food service and preparation occurs on the premises by establishment employees; (3-20-04)
- c. Stoves, ovens, refrigeration equipment or such other equipment usually and normally found in restaurants are located on the premises of the establishment; (3-20-04)
- d. The licensee must demonstrate to the satisfaction of the Director, through appropriate business records, that ~~the establishment is advertised and held out to the public as primarily a food eating establishment, or that~~ at least forty percent (40%) of the establishment's consumable purchases are derived from purchases of food and non-alcoholic beverages. ~~(3-20-04)~~()

0710. Stock Transfer. For the purposes of Section 23-908, Idaho Code, the sale or exchange of stock in a closely held corporation holding a license is deemed a transfer of the license. However, the sale or exchange of shares in a family corporation among family members, is not a transfer. A transfer among family members means between two (2) or more members of the same immediate family, not from one (1) or more individuals to an entity created by that individual or individuals. ~~(3-6-07)~~()

011. GENERAL PROVISIONS.

01. Repeal of Prior Rules. The Director intends to promulgate a uniform and consistent set of alcoholic beverage rules. Accordingly, all rules adopted before the effective date of this chapter (Sections 000 through 021), which concern or involve the licensing of alcoholic beverages, specifically rules 1-L; 2-L; 3-L; 4-L; 6-L; 10-L; 11-L; 1-B; 2-B; 3-B; 5-B; 6-B; 7-B; 9-B; 11.05.A,1.0; 11.05.A,1.1; and 11.05.A,1.2, are hereby repealed and declared null and void. (7-1-93)

02. Delegation of Authority to License Alcoholic Beverages. The Director hereby delegates his authority for the licensing of establishments which sell alcoholic beverages, as contained in Title 23, Chapters 9, 10, and 13, Idaho Code, to the, Alcohol Beverage Control Bureau, Idaho State Police. All applications and inquiries concerning alcoholic beverage licenses must be directed to the Alcohol Beverage Control Bureau at P.O. Box 700, Meridian, Idaho 83680. The Alcohol Beverage Control Bureau provides forms for all applications and inquiries. Nothing contained herein shall interfere with the Director's supervisory authority for alcoholic beverage licensing. (Section 67-2901(4), Idaho Code). (3-6-07)

012. LICENSING AND APPLICATIONS.

031. Authority to Stagger the Renewal of Licenses to Sell Alcohol. For the purposes of Sections 23-908, 23-1010 and 23-1316, Idaho Code, the Director may adjust the renewal month to accommodate population increases. The following table sets out the notification months and renewal months established to renew licenses to sell alcohol:

Renewal Notices	County	Renewal Month
January	Kootenai	1-Mar
January	Benewah	1-Mar
February	Ada	1-May
March	Ada	1-May
April	Canyon	1-Jun
April	Owyhee	1-Jun

Renewal Notices	County	Renewal Month
April	Payette	1-Jun
May	Twin Falls	1-Jul
May	Gooding	1-Jul
May	Camas	1-Jul
May	Lincoln	1-Jul
May	Jerome	1-Jul
June	Cassia	1-Aug
June	Minidoka	1-Aug
June	Butte	1-Aug
June	Blaine	1-Aug
June	Power	1-Aug
July	Lemhi	1-Sep
July	Custer	1-Sep
July	Boise	1-Sep
July	Valley	1-Sep
August	Elmore	1-Oct
August	Clark	1-Oct
August	Fremont	1-Oct
August	Jefferson	1-Oct
August	Madison	1-Oct
August	Teton	1-Oct
August	Bonneville	1-Oct
September	Bingham	1-Nov
September	Bannock	1-Nov
September	Caribou	1-Nov
September	Oneida	1-Nov
September	Franklin	1-Nov
September	Bear Lake	1-Nov
October	Boundary	1-Dec
October	Bonner	1-Dec
October	Shoshone	1-Dec
November	Adams	1-Jan
November	Gem	1-Jan
November	Washington	1-Jan

Renewal Notices	County	Renewal Month
December	Latah	1-Feb
December	Nez Perce	1-Feb
December	Idaho	1-Feb
December	Lewis	1-Feb
December	Clearwater	1-Feb
Renewal Notices	Certs of Approval	Renewal Month
November	Out of State	1-Jan

(5-3-03)

02. Expiration of Licenses. Pursuant to Sections 23-927 and/or 23-1012, Idaho Code, when a county has passed an ordinance extending the hours of sale of liquor or beer, or both, to 2 a.m., all liquor and beer licenses in that county expire at 2 a.m., on the first of the month of the year following their issuance. (Section 23-908(1), Idaho Code). ()

03. Failure to Renew. When a licensee has failed to renew his valid alcohol beverage license and the thirty-one (31) day extended time period granted in Sections 23-908, 23-1010 and 23-1316, Idaho Code, has elapsed, the licensee has no further rights to renew that same license and the license shall be offered in writing to the applicant whose is first on the priority list as provided in Subsection 013.02 of these rules. ()

04. Changes in Information. ()

a. On the annual renewal application, the licensee must sign an affidavit verifying that the information contained in the original application is unchanged, or if there are material changes, indicating such changes. ()

b. At anytime during the licensing period if the licensee, or a partner of the licensee, has a license revoked, or is convicted of any violation of any local ordinance, law of the state of Idaho or the United States regulating, governing, or prohibiting the sale of alcoholic beverages, the licensee must notify the director in writing within thirty (30) days of the revocation or conviction. ()

c. Failure to notify the director of any material changes that would have disqualified the licensee from the privilege of selling alcohol beverages at the time the disqualification was entered, may result in administrative proceedings to recover any proceeds obtained by the sale of alcoholic beverages during the period of time the licensee was disqualified and withheld that information from the director. ()

05. Fingerprinting. Pursuant to Sections 23-907, 23-1003, 23-1010, 23-1307, 23-1308, 23-1308A Idaho Code, all persons applying for an alcohol beverage license must have a fingerprint based criminal history check. ()

a. Existing licensees. Any person that currently holds a valid alcohol beverage license shall be re-fingerprinted for a criminal history check every five (5) years. ()

b. New applicants. Any person that applies for an alcohol beverage license and is not currently licensed must have a fingerprint based criminal history check prior to a license being issued. ()

c. Fee. There is a forty-five dollar (\$45) fee for processing the fingerprint card/criminal history check. ()

0123. TRANSFER OF ALCOHOLIC BEVERAGE LICENSES.

01. Transfer of License Subject to Sanctions. The Director of the Idaho State Police may deny the

transfer of an alcoholic beverage license which is subject to possible disqualification, revocation or suspension under the provisions of Title 23, Chapters 9, 10, and 13, Idaho Code, or these rules, when an action has been filed to such effect before the Idaho State Police pursuant to Sections 23-933, 23-1037 or 23-1331, Idaho Code. (7-1-93)

02. **Transfer Fees.** For the purposes of Section 23-908(5), Idaho Code, the calculation of a transfer fee is based on the actual sales price or goodwill, whichever is greater. For applications for transfers that allow collection of a transfer fee, but do not reflect the sales price of the alcohol beverage license, the transfer fee is based on goodwill. ()

023. **Death or Incapacity of Licensee.** In the event of the incapacity, death, receivership, bankruptcy, or assignment for the benefit of creditors of a licensee, his guardian, executor, administrator, receiver, trustee in bankruptcy, or assignee for benefit of creditors may, upon written authorization from the Alcohol Beverage Control Bureau, continue the business of the licensee on the licensed premises for the duration of the license or until the business is terminated except; ()

a. Any person operating the licensed premises under this ~~regulation rule~~ must submit a signed ~~agreement affidavit~~ within ten (10) days that he will assume all of the responsibilities of the licensee for operation of the premises in accordance with law. Any person operating licensed premises under ~~the regulation this rule~~ must submit an alcohol beverage license application within ninety (90) days and demonstrate to the satisfaction of the Alcohol Beverage Control Bureau that he is qualified to hold an alcoholic beverage license. ()

b. A guardian, executor, administrator, receiver, trustee in bankruptcy, or assignee for benefit of creditors may renew or transfer a license so held, in the same manner as other licensees, subject to the approval of the Alcohol Beverage Control Bureau. (Sections 23-908(1), 23-1005A, and 23-1317, Idaho Code). ~~(3-31-95)~~()

034. **Authorization to Transfer and Assignment of Privilege to Renew.** Any person applying to renew a liquor license who was not the licensee at the applicable premises for the preceding year, must submit with the application to renew, a written Authorization to Transfer and Assignment of Privilege to Renew signed by the current licensee. (7-1-93)

045. **Temporary Permits.** When application for transfer of an alcoholic beverage license has been made, the Alcohol Beverage Control Bureau, in its discretion, may authorize issuance of a temporary permit during the review of the application, during which time the applicant for transfer may conduct business as a temporary permit holder. The permit holder, in accepting the temporary permit, is responsible for complying with all statutes and rules pertinent to the sale of alcoholic beverages. Sanctions against such permit holder, whether civil, administrative, or criminal lies with the permittee, and acceptance of the permit constitutes a waiver of any defenses by permit holder based upon the fact that the permit holder is not, technically, a licensee. The Alcohol Beverage Control Bureau may withdraw a temporary permit it has issued pursuant to this rule at any time without hearing or notice. (3-6-07)

05. **Product Replacement and Credit.** ~~Any beer or wine products removed from the licensed retailer's premises by a wholesaler/distributor for quality control or public health are not considered to be a violation of Section 23-1033 or 23-1325, Idaho Code, which prohibit aid to the retailer or of Sections 23-1031 or 23-1326, Idaho Code, which prohibit extension of credit to a retailer, if:~~ (3-6-07)

a. ~~The packages or kegs are replaced with identical product and quantity; or~~ (8-1-95)

b. ~~In the instance of replacement of a partial keg of beer or wine, a credit to be redeemed on subsequent alcoholic beverage purchases by the retailer is given for the value of the unused portion; or~~ (3-6-07)

c. ~~In the instance of removal of product for which the identical product or quantity thereof is not immediately available to the wholesaler/distributor at the time of removal of the product, a credit is given. The credit shall be redeemed on subsequent alcoholic beverage purchases by the retailer; or~~ (8-1-95)

d. ~~In the case of a licensed establishment which is in operation no less than two (2) months and no more than nine (9) months of each year, prior to its period of closure, it is apparent that product will become outdated or spoiled before the date of re-opening, a wholesaler/distributor may remove product from the retailer's premises and may give a credit to the retailer. Such credit shall be redeemed on subsequent alcoholic beverage purchases by~~

~~the same retailer.~~

~~(8-1-95)~~

~~e. Credit is given to a retailer for the amount paid by the retailer at the time of purchase of the product being removed by the wholesaler/distributor.~~

~~(3-6-07)~~

~~06. **Expiration of Licenses.** When a county has, pursuant to Sections 23-927 and/or 23-1012, Idaho Code, passed an ordinance extending the hours of sale of liquor and/or beer to two o'clock a.m. (2:00 a.m.), all liquor and/or beer licenses in that county expire at two a.m. (2 a.m.), on the first of the month of the year following their issuance. (Section 23-908(1), Idaho Code).~~

~~(3-6-07)~~

~~07. **Maintenance of Keg Receipts.** Licensees shall retain a copy of all completed keg receipts required by Section 23-1018, Idaho Code, for a period of six (6) months.~~

~~(3-6-07)~~

0134. PRIORITY LISTS.

01. Priority Lists for Incorporated City Liquor Licenses. The Alcohol Beverage Control Bureau maintains a priority list of applicants for those cities in which no incorporated city liquor license is available. A separate list is maintained for each city. A person, partnership, or corporation desiring to be placed on a priority list shall file a completed application for an incorporated city liquor license, accompanied by payment of one-half (1/2) of the annual license fee. Such application need not show any particular building or premises upon which the liquor is to be sold, nor that the applicant is the holder of any license to sell beer. Priority Placement on the list is determined by the earliest application, each succeeding application is placed on the list in the order received. ~~(3-6-07)~~()

02. Written Notification.

()

a. When an incorporated city liquor license becomes available, Alcohol Beverage Control offers it in writing to the applicant whose name appears first ~~on the priority list.~~ in the following priority order: ()

i. An applicant who has an existing, currently operating business establishment and who holds a beer or wine by the drink license. ()

ii. An applicant who has an existing, currently operating business establishment with a suitable premises to be licensed for alcoholic beverages, but does not currently hold a beer or wine by the drink license. ()

iii. An applicant who does not have an existing or currently operating business establishment. ()

b. If the applicant does not notify the Alcohol Beverage Control Bureau in writing within ten (10) days of receipt of the notice of his intention to accept the license, the license is offered to the next applicant in priority. An applicant accepting the license shall have a period of one hundred eighty (180) days from the date of receipt of Notice of License Availability in which to complete all requirements necessary for the issuance of the license. Provided, however, that upon a showing of good cause the Director of the Idaho State Police may extend the time period in which to complete the necessary requirements for a period not to exceed ninety (90) days.

~~(3-6-07)~~()

03. Refusal to Accept Offer of License or Failure to Complete Application for License or Meet Requirements. An applicant refusing a license offered under this rule or an applicant who fails to complete his application or does not meet licensing requirements may have his name placed at the end of the priority list upon his written request. ~~Should~~ If the applicant holding first priority refuses or fails to accept the license or to complete the application within the time specified, or does not meet licensing requirements, the applicant shall be dropped from the priority list, the deposit refunded, and the license offered to the applicant appearing next ~~on the list in priority, unless~~ a written request is made to be placed at the end of the priority list. ~~(3-6-07)~~()

04. Cost for Investigation. An applicant who has notified the Alcohol Beverage Control Bureau of his intention to proceed with the application process, and cannot place the license in a suitable premises within the maximum time period allowed by these rules, shall have his application denied and the license fee returned, less the costs and expenses of investigation. ()

045. Limitations on Priority Lists. An applicant shall hold only one position at a time on each incorporated city priority list. An applicant must be able to demonstrate to the Director the ability to place an awarded license into actual use as required by Section 23-908(4), Idaho Code and these rules. An applicant for a place on an incorporated city liquor license priority list may not ~~execute an inter vivos transfer or assignment of his substitute, assign or change his place on the priority lists, except for the creation of a legal entity in which the applicant is the sole owner, manager or member. For the purposes of this rule, "inter vivos transfer or assignment" means the substitution of any individual; partnership; corporation, including a wholly owned corporation; organization; association; or any other entity for the original applicant on the waiting list. An attempt to assign inter vivos a place on an incorporated city liquor license priority list shall result in the removal of the name of the applicant from the lists. An applicant, however, may assign his or her place on an alcoholic liquor license priority list by devise or bequest in a valid will. A place on an incorporated city liquor license priority list becomes part of an applicant's estate upon his or her death.~~ (3-6-07)(____)

056. Priority Lists Where Licenses Are Available. The Alcohol Beverage Control Bureau shall not maintain a list for a city in which a liquor license is available, nor for a city that does not permit retail sale of liquor. If, prior to the promulgation of this rule, the Alcohol Beverage Control Bureau has maintained a priority list for any such city, the list shall be abolished and all license fees returned to the respective applicants. (3-31-95)

07. Withdrawal of Name from Priority List. When an applicant files an application to be on an incorporated city's priority list under more than one (1) individual, partnership or corporation, or other entity and one (1) of those entities withdraws its name, or has its name withdrawn, the remaining applicants must amend the application with only the names of those entities that wish to be considered for an incorporated city liquor license. An amendment to the application may not include additional entities, but may only be a change to those previously named entities. Failure to amend the application, or if an applicant fails to devise or bequest his place on the priority list, before the offering of an incorporated city liquor license to the original applicant, the applicant shall be dropped from the priority list as provided in Subsection 013.03 of these rules. (____)

015. WHOLESALEERS/DISTRIBUTORS.

01. Price Posting. Sections 23-1029 and 23-1329, Idaho Code, require all wholesalers, distributors, wineries, breweries, importers and dealers to file a written schedule of prices with the director. Prices and product information must be submitted electronically through the price posting program located at: <http://www.isp.state.id.us/PricePosting2/toPricePostSearch.action>. (____)

02. Product Replacement and Credit. Removal of any beer or wine products from a licensed retailer's premises by a wholesaler/distributor for quality control or public health reasons is not considered to be a violation of Sections 23-1033 or 23-1325, Idaho Code, which prohibit aid to the retailer, or of Sections 23-1031 or 23-1326, Idaho Code, which prohibit extension of credit to a retailer, if: (____)

a. The packages or kegs are replaced with identical product and quantity; or (____)

b. In the instance of replacement of a partial keg of beer or wine, a credit to be redeemed on subsequent alcoholic beverage purchases by the retailer is given for the value of the unused portion; or (____)

c. In the instance of removal of product for which the identical product or quantity thereof is not immediately available to the wholesaler/distributor at the time of removal of the product, a credit is given. The credit shall be redeemed on subsequent alcoholic beverage purchases by the retailer; or (____)

d. In the case of a licensed establishment that is in operation no less than two (2) months and no more than nine (9) months of each year, if prior to its period of closure it is apparent that product will become outdated or spoiled before the date of re-opening, a wholesaler/distributor may remove product from the retailer's premises and may give a credit to the retailer. Such credit shall be redeemed on subsequent alcoholic beverage purchases by the same retailer. (____)

e. Credit is given to a retailer for the amount paid by the retailer at the time of purchase of the product being removed by the wholesaler/distributor. (____)

016. AGE RESTRICTION REQUIREMENTS.

01. Over/Under Clubs. Minors shall not enter, remain or loiter in any licensed establishment that sells alcohol by the drink except for those premises listed as exceptions in Section 23-944, Idaho Code. ()

02. Posting of Age Restriction Signs. Section 23-945, Idaho Code, requires alcoholic beverage licensees to post an age restriction sign in certain premises. In those certain premises, such sign must contain the following words in lettering of at least one (1) inch in height: "Admittance of persons under 21 years of age prohibited by law." Such sign must be placed conspicuously over, beside, or on the door of each entrance to the licensed premises and must be clearly visible from the exterior when approaching such premises. ()

03. Restaurants - When Minors Prohibited. For licensees that maintain a restaurant endorsement pursuant to Section 23-944(1), Idaho Code, and Subsection 010.04 of these rules, and wish to operate primarily serving alcoholic beverages after 9:00 p.m., the licensee must notify the Alcohol Beverage Control Bureau of his intention of operating as a dual premises before operating in such a manner. ()

a. The licensee must post an age restriction sign as required in Subsection 016.02 of these rules containing the following words in lettering of at least one (1) inch in height: "Persons under twenty-one (21) years of age prohibited after 9:00 p.m." ()

b. The licensee shall comply with Section 23-943, Idaho Code, restriction of minors, after 9:00 p.m. ()

04. Licensed Movie Theaters - When Minors Permitted. ()

a. A movie theater that is licensed to sell alcoholic beverages by the drink, except for those theaters that qualify under Section 23-944(7), Idaho Code, during the times the movie theater is showing films may permit minors upon the premises. No age restriction posting is required and all alcoholic beverages must be secured, locked up and not available for sale or consumption. ()

b. If the licensed movie theater chooses to have events other than the showing of films, such as comedy shows, theatrical plays, or concerts, age restriction signs must be posted as required in Subsection 016.02 of these rules and persons under twenty-one (21) years of age must be prohibited from entering the premises during the times alcoholic beverages are sold, served, and consumed. ()

05. Counterfeit or Altered Age Documents. If alcoholic beverage licensees, their employees, or agents receive age identification documents that have been lost or voluntarily surrendered, they must deliver the documents to an agent or investigator of the Alcohol Beverage Control Bureau or to other law enforcement officials within fifteen (15) days from the date they were received, found, or voluntarily surrendered. When identification documents that appear to be mutilated, altered, or fraudulent are presented to a licensee, their employees or agents, they must contact law enforcement or refuse service, or both. ()

017. CONDUCT OF LICENSED PREMISES.

01. Produce Records. Upon request of an agent of the director, a licensee, or anyone acting on his behalf, must produce any records required to be kept pursuant to Title 23, Chapters 9, 10, or 13, Idaho Code, and permit the agent of the director or peace officer to examine them and permit an inspection of the licensee's premises in accordance with Sections 23-930 and 23-1006, Idaho Code. ()

02. Premises Inspections. Upon request by a peace officer, a licensee, their employees, agents, or anyone acting on his behalf, must permit an inspection of the licensee's premises. Any inspection performed pursuant to this rule must occur in accordance with Section 23-1011A, Idaho Code. ()

03. Maintenance of Keg Receipts. Licensees must retain a copy of all completed keg receipts required by Section 23-1018, Idaho Code, for a period of six (6) months. ()

04. Violations. The failure to produce such records or to permit such inspection on the part of any licensee is a violation of these rules. A violation of these rules, federal or state law or local code or ordinance may subject the licensee to administrative sanctions pursuant to Sections 23-933, 23-1037 and 23-1331, Idaho Code. This rule is not intended to eliminate the protection provided in Section 23-807, Idaho Code. ()

0158. -- 020. (RESERVED).

021. AGE RESTRICTION REQUIREMENTS.

01. ~~Over/Under Clubs.~~ ~~Minors shall not enter, remain or loiter in any licensed establishment that sells alcohol by the drink except for those premises listed in Section 23-944, Idaho Code.~~ (3-6-07)

02. ~~Posting of Age Restriction Signs.~~ ~~Sections 23-945 and 23-1026, Idaho Code, require every alcoholic beverage licensee to post an age restriction sign. Such sign must contain the following words in lettering of at least one (1) inch in height: "Admittance of persons under twenty-one (21) years of age prohibited by law." Such sign must be placed conspicuously over or on the door of each entrance to the licensed premises and must be clearly visible from the exterior approached to such premises.~~ (3-6-07)

03. ~~Counterfeit or Altered Age Documents.~~ ~~If alcoholic beverage licensees, their employees, or agents receive age identification documents which have been lost or voluntarily surrendered, they shall deliver the documents to an agent or investigator of the Alcohol Beverage Control Bureau or to other law enforcement officials within fifteen (15) days from the date they were received, found or voluntarily surrenders. When identification documents that appear to be mutilated, altered or fraudulent are presented to a licensee, their employees or agents, they must contact law enforcement and/or refuse service.~~ (3-6-07)

021. RESPONSIBLE RETAILER PROGRAM (RRP).

01. ~~Seller/Server Training Program.~~ Licensees operating establishments where alcoholic beverages are sold, dispensed, served or consumed on the premises are encouraged to ensure that each seller/server of alcoholic beverages employed on the premises completes an approved seller/server training program within sixty (60) days after the date the seller/server begins employment at the establishment. Participation in the RRP allows licensees to seek reduced penalties upon complying with seller/server training when the licensee has been issued an administrative violation that include Sections 23-603, 23-605, 23-615, 23-943, 23-1013, Idaho Code. ()

02. ~~Voluntary Server Training -- Verification Records -- Reduced Penalties.~~ ()

a. ~~A seller/server of alcoholic beverages may complete an approved seller/server training program within sixty (60) days after the date the alcoholic beverage seller/server begins employment at a licensed establishment unless the seller/server has already completed an approved server-training program within the last three (3) years.~~ ()

b. ~~Only the seller/server training programs listed here in Subsection 021.02.b., or otherwise approved by the director, will be recognized as complying with the provisions of these rules.~~ ()

i. ~~"ServSafe Alcohol" programs of the National Restaurant Association Educational Foundation.~~ ()

ii. ~~"TIPS" Training for Intervention Procedures programs of Health Communications, Inc.~~ ()

iii. ~~Idaho State Police Alcohol Beverage Control Bureau training programs.~~ ()

iv. ~~Internal licensee training programs with prior approval by the director.~~ ()

c. ~~The licensee may seek reduced penalties upon documentation of approved training in accordance with the penalty schedule contained in these rules. The Alcohol Beverage Control Bureau reserves the right to impose reduced penalties based on aggravating circumstances involved in each violation.~~ ()

- d.** To remain compliant with the RRP, licensees must: ()
- i.** Maintain records of their sellers and servers approved training; ()
- ii.** Show proof of training upon request of the Alcohol Beverage Control Bureau; ()
- iii.** Require any server/seller of alcoholic beverages to complete an approved server-training program every three (3) years; ()
- iv.** Have less than (3) three violations within a (3) three year period. ()

022. PENALTIES AND PENALTY SCHEDULES.

Pursuant to Sections 23-603, 23-614, 23-804, 23-901, 23-905, 23-932, 23-933, 23-933A, 23-1037 and 23-1331, Idaho Code, the following schedules are meant to serve as guidelines and are not an all-inclusive list of violations. Based on mitigating or aggravating circumstances, Alcohol Beverage Control Bureau may impose a different penalty, unless specified by statute, than the standard penalties outlined in these schedules. Penalties are calculated on violations that occur within a three-year (3) period and the mitigating or aggravating factors of each violation. More than four (4) violations in any category within a three-year (3) period may result in revocation. ()

01. Category One Violations. The following violations directly concern public safety and are considered the most serious.

<u>VIOLATION</u>	<u>FIRST VIOLATION</u>	<u>SECOND VIOLATION</u>	<u>THIRD VIOLATION</u>	<u>FOURTH VIOLATION</u>
<u>Sale/dispensing to intoxicated person.</u> 23-605, 23-615, IC	<u>10 days suspension or \$1,000 monetary penalty</u> <u>RRP: \$500</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u> <u>RRP: \$2,000</u>	<u>180 days suspension or 90 days suspension and \$5,000 monetary penalty</u> <u>RRP: \$5,000</u>	<u>Revocation</u>
<u>Sale/dispensing to person under 21 years of age.</u> 23-603, 23-615, 23-949, 23-1013, IC	<u>10 days suspension or \$1000 monetary penalty</u> <u>RRP: \$500</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u> <u>RRP: \$2,000</u>	<u>180 days suspension or 90 days suspension and \$5,000 monetary penalty</u> <u>RRP: \$5,000</u>	<u>Revocation</u>
<u>Allowing a person under 21 years of age to loiter.</u> 23-943, IC	<u>10 days suspension or \$1,000 monetary penalty</u> <u>RRP: \$500</u>	<u>30 days suspension or 15 days suspension and \$1500 monetary penalty</u> <u>RRP: \$2000</u>	<u>90 days suspension or 45 days suspension and \$4500 monetary penalty</u> <u>RRP: \$5,000</u>	<u>180 days suspension or 90 days suspension and \$5000 monetary penalty</u>
<u>Failure to Admit Officer.</u> 23-930, 23-1011A, IC	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>90 days suspension</u>	<u>180 days suspension or 90 days suspension and \$5,000 monetary penalty</u>

<u>VIOLATION</u>	<u>FIRST VIOLATION</u>	<u>SECOND VIOLATION</u>	<u>THIRD VIOLATION</u>	<u>FOURTH VIOLATION</u>
<u>Allowing after hours consumption.</u> <u>23-927, 23-1012, IC</u>	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>90 days suspension or 45 days suspension and \$4,500 monetary penalty</u>	<u>180 days suspension or 90 days suspension and \$5,000 monetary penalty</u>
<u>Prohibited Acts of 23-614, IC.</u>	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>180 days suspension or 90 days suspension and \$5,000 monetary penalty</u>	<u>Revocation</u>
<u>Conviction of Obscenity Laws.</u> <u>23-933A, 23-1037A IC</u>	<u>6 months suspension required</u>	<u>Revocation required</u>		
<u>Gambling on licensed premises.</u> <u>23-928, IC</u>	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>180 days suspension or 90 days suspension and \$5,000 monetary penalty</u>	<u>Revocation</u>
<u>Possession/sale of liquor not purchased from the state liquor dispensary.</u> <u>23-914, IC</u>	<u>Revocation</u>			
<u>Re-pouring or reuse of liquor container.</u> <u>23-926, IC</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>180 days suspension or 90 days suspension and \$5,000 monetary penalty</u>	<u>Revocation</u>	
<u>Possession or use of Alcohol without liquid device.</u> <u>23-616, IC</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>180 days suspension or 90 days suspension and \$5,000 monetary penalty</u>	<u>Revocation</u>	

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02. Category Two Violations. The following violations concern conduct of the licensed premises that could indirectly involve public safety.

<u>VIOLATION</u>	<u>FIRST VIOLATION</u>	<u>SECOND VIOLATION</u>	<u>THIRD VIOLATION</u>	<u>FOURTH VIOLATION</u>
<u>Failure to lock up liquor.</u> 23-927, IC	<u>5 days suspension or \$500 monetary penalty</u>	<u>20 days suspension or 10 days suspension and \$1,000 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension or 90 days suspension and \$5,000 monetary penalty</u>
<u>Failure to deface government or state stamp/label.</u> 23-926, IC	<u>5 days suspension or \$500 monetary penalty</u>	<u>20 days suspension or 10 days suspension and \$1,000 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension days suspension or 90 days suspension and \$5,000 monetary penalty</u>
<u>Keg Sale violation.</u> 23-1018, IC	<u>5 days suspension or \$500 monetary penalty</u>	<u>20 days suspension or 10 days suspension and \$1,000 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension days suspension or 90 days suspension and \$5,000 monetary penalty</u>
<u>Sale of Liquor by the bottle.</u> 23-921, IC	<u>30 days suspension or \$3,000 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension days suspension or 90 days suspension and \$5,000 monetary penalty</u>	<u>Revocation</u>
<u>Failure to Post Premises.</u> 23-945, IC	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>180 days suspension days suspension or 90 days suspension and \$5,000 monetary penalty</u>	<u>Revocation</u>
<u>Submitting false application/hidden ownership.</u> 23-905, 23-1010, 23-1306, IC	<u>Revocation</u>			
<u>Employing a minor under 19 years of age to sell, serve or dispense.</u> 23-943, IC	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension days suspension or 90 days suspension and \$5,000 monetary penalty</u>
<u>Selling liquor without a license.</u> 23-938, IC	<u>Revocation</u>			

<u>VIOLATION</u>	<u>FIRST VIOLATION</u>	<u>SECOND VIOLATION</u>	<u>THIRD VIOLATION</u>	<u>FOURTH VIOLATION</u>
<u>Alcoholic Beverage sales away from licensed premises.</u> <u>23-928, IC & IDAPA 11.05.01.010.03</u>	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension days suspension or 90 days suspension and \$5,000 monetary penalty</u>
<u>Sanitation rules for retailers.</u> <u>23-1034, IC</u>	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension days suspension or 90 days suspension and \$5,000 monetary penalty</u>
<u>Keep or maintain unlicensed room.</u> <u>23-934, IC</u>	<u>180 days suspension or 90 days and a \$5,000 monetary penalty</u>	<u>Revocation</u>		
<u>Selling alcoholic beverages during the 31-day grace period after the license has expired.</u> <u>23-908, 23-1010(7), 23-1316, IC</u>	<u>10 days suspension or \$1000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1500 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3000 monetary penalty</u>	<u>180 days suspension days suspension or 90 days suspension and \$5000 monetary penalty</u>

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03. Category Three Violations. The following are violations of administrative requirements and are required to comply with licensing in Title 23, Idaho Code.

<u>VIOLATION</u>	<u>FIRST VIOLATION</u>	<u>SECOND VIOLATION</u>	<u>THIRD VIOLATION</u>	<u>FOURTH VIOLATION</u>
<u>Illegal Advertising/Signs/ Brand.</u> <u>23-607, 23-931, 23-1035, IC</u>	<u>Written warning</u>	<u>10 days suspension or 5 days suspension and \$500 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>
<u>Purchasing beer from other than a wholesaler.</u> <u>23-1055, IC</u>	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension days suspension or 90 days suspension and \$5,000 monetary penalty</u>

<u>VIOLATION</u>	<u>FIRST VIOLATION</u>	<u>SECOND VIOLATION</u>	<u>THIRD VIOLATION</u>	<u>FOURTH VIOLATION</u>
<u>Purchasing Wine from other than a distributor.</u> <u>23-1313, IC</u>	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension or 90 days suspension and \$5,000 monetary penalty</u>
<u>Failure to sign/post license.</u> <u>23-908, 23-916, 23-1009, 23-1306, IC</u>	<u>Warning</u>	<u>10 days suspension or 5 days suspension and \$500 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>
<u>Failure to obtain required city/county licenses.</u> <u>23-916, 23-1009, 23-1315, 23-1318, IC</u>	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension or 90 days suspension and \$5,000 monetary penalty</u>
<u>Tap markers.</u> <u>23-1037, IC</u>	<u>5 days suspension or \$500 monetary penalty</u>	<u>20 days suspension or 10 days suspension and \$1,000 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension or 90 days suspension and \$5,000 monetary penalty</u>

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04. Category Four Violations. The following are violations of the wholesaler, distributor, dealer, supplier and importer licensing requirements in Title 23, Idaho Code.

<u>VIOLATION</u>	<u>FIRST VIOLATION</u>	<u>SECOND VIOLATION</u>	<u>THIRD VIOLATION</u>	<u>FOURTH VIOLATION</u>
<u>Financial aid giving/receiving.</u> <u>23-1033, 23-1325, IC</u>	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension or 90 days suspension and \$5,000 monetary penalty</u>
<u>Extension of credit.</u> <u>23-1031, 23-1326, IC</u>	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension or 90 days suspension and \$5,000 monetary penalty</u>

<u>VIOLATION</u>	<u>FIRST VIOLATION</u>	<u>SECOND VIOLATION</u>	<u>THIRD VIOLATION</u>	<u>FOURTH VIOLATION</u>
<u>Restrictions on importation and distribution.</u> <u>23-1028, 23-1309, 23-1310, 23-1311, IC</u>	<u>5 days suspension or \$500 monetary penalty</u>	<u>20 days suspension or 10 days suspension and \$1000 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3000 monetary penalty</u>	<u>180 days suspension days suspension or 90 days suspension and \$5000 monetary penalty</u>
<u>Size of containers.</u> <u>23-1030, 23-1327, IC</u>	<u>5 days suspension or \$500 monetary penalty</u>	<u>20 days suspension or 10 days suspension and \$1,000 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension days suspension or 90 days suspension and \$5,000 monetary penalty</u>
<u>Violation of trade practices.</u> <u>23-1033A, 23-1328A, IC</u>	<u>5 days suspension or \$500 monetary penalty</u>	<u>20 days suspension or 10 days suspension and \$1,000 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension days suspension or 90 days suspension and \$5,000 monetary penalty</u>
<u>Prohibited Acts of 23-1103, IC.</u>	<u>5 days suspension or \$500 monetary penalty</u>	<u>20 days suspension or 10 days suspension and \$1,000 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>	<u>180 days suspension days suspension or 90 days suspension and \$5,000 monetary penalty</u>
<u>Failure to submit required reports.</u> <u>23-1006, 23-1314, IC</u>	<u>Written warning</u>	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>60 days suspension or 30 days suspension and \$3,000 monetary penalty</u>
<u>Direct Shipper wine violations.</u> <u>23-1309A, IC</u>	<u>10 days suspension or \$1,000 monetary penalty</u>	<u>30 days suspension or 15 days suspension and \$1,500 monetary penalty</u>	<u>90 days suspension or 45 days suspension \$5,000 monetary penalty</u>	<u>Revocation</u>

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02. Public Information About Alcohol Beverage License Suspensions. On the date an alcohol beverage license suspension goes into effect, the licensee will post the suspension notice that has been issued by the Alcohol Beverage Control Bureau in a conspicuous place on or about the licensed premises. The notice will state that the license has been suspended by order of the Alcohol Beverage Control Bureau due to a violation of law or rule.

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a. During the period of alcohol beverage license suspension, the licensee and employees: ()

i. May not remove, alter, or cover the posted suspension notice and may not permit anyone else to do

so.

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ii. May not place or permit the placement of any statement on the licensed premises indicating the premises have been closed for any reason other than as stated in the suspension notice. ()

03. Emergency Administrative Proceedings. Pursuant to Section 67-5247, Idaho Code, upon competent evidence that there is an immediate danger to public health, safety or welfare at a licensed premises that requires immediate action, Alcohol Beverage Control shall issue an order to a licensee to cease and desist the sale of alcoholic beverages. The order shall include a brief, reasoned statement to justify both the decision that an immediate danger exists and the decision to cease and desist the sale of alcohol by the licensee. The order is effective when issued and reasonable notice shall be given to the licensee required to comply. ()

0223. -- 999. (RESERVED).