

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 195

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE RETAIL SALE OF LIQUOR BY THE DRINK; AMENDING SECTION 23-903,  
2 IDAHO CODE, TO PROVIDE FOR THE ISSUANCE OF A CERTAIN LICENSE TO THE  
3 OWNER, OPERATOR OR LESSEE OF A RESTAURANT LOCATED WITHIN THE INCOR-  
4 PORATED LIMITS OF A RESORT CITY UPON CERTAIN CONDITIONS AND TO MAKE  
5 TECHNICAL CORRECTIONS.  
6

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

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

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

1       (2) Nothing herein contained shall prohibit the issuance of a license  
2 to the owner, operator, or lessee of an actual, bona fide golf course whether  
3 located within or without the limits of any city, or located on premises also  
4 operated as a winery, or ski resort, or to the lessee of any premises situate  
5 thereon, whether located within or without the limits of any city. For the  
6 purpose of this section, a golf course shall comprise an actual, bona fide  
7 golf course, which is regularly used for the playing of the game of golf, and  
8 having not less than nine (9) tees, fairways and greens laid out and used in  
9 the usual and regular manner of a golf course. Nine (9) hole courses must  
10 have a total yardage of at least one thousand (1,000) yards, and eighteen  
11 (18) hole courses must have a total yardage of at least two thousand (2,000)  
12 yards as measured by totaling the tee-to-green distance of all holes. The  
13 course must be planted in grass except that it may provide artificial tee  
14 mats. Where any such golf course is owned or leased by an association of  
15 members and is used or enjoyed by such members, or their guests, none of the  
16 disqualifications contained in section 23-910, Idaho Code, shall apply to  
17 such association as a licensee where such disqualifications, or any of them,  
18 would apply only to a member of such association where such member has no in-  
19 terest therein except as a member thereof.

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

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

1 censed premises shall be permitted at any equestrian facility or within an  
2 area comprising such a facility. The license shall be solely for the eques-  
3 trian facility and shall not be transferred to any other location. The fees  
4 for licenses granted to equestrian facilities shall be the same as those pre-  
5 scribed for golf courses as set forth in section 23-904, Idaho Code.

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

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

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

1 year from the date of its issuance. The fee for any license issued to a qual-  
2 ifying convention center shall be as prescribed in subsection (3) of section  
3 23-904, Idaho Code. No license issued to a convention center hereunder shall  
4 be transferable to another location or facility, nor shall the holder of a  
5 convention center license be eligible for the issuance of a license in the  
6 same city pursuant to any other provision of this chapter. For purposes of  
7 this section, the term "holder" shall include an owner, operator or lessee  
8 and shall include a stockholder, director, or officer of a corporation, or a  
9 partner in a partnership, which corporation or partnership has been issued  
10 a convention center license pursuant to this chapter. Not more than one (1)  
11 licensed premises shall be permitted on any convention center or within the  
12 area comprising the same, including convention centers that also comprise  
13 golf courses or ski resorts as herein defined.

14 (8) Nothing in this chapter shall prohibit the issuance of a license  
15 to the owner, operator or lessee of a food, beverage and/or lodging facil-  
16 ity that has been in continuous operation in the same location for at least  
17 seventy-five (75) years, except for temporary closings for refurbishing or  
18 reconstruction, or a food, beverage and lodging facility serving the pub-  
19 lic by reservation only, having a minimum of five (5) rooms operating in a  
20 structure that has been in existence for at least seventy-five (75) years and  
21 has been on the historic register for a minimum of ten (10) years, is situ-  
22 ated within five hundred (500) yards of a natural lake containing a minimum  
23 of thirty-six thousand (36,000) acre feet of water when full with a minimum  
24 of thirty-two (32) miles of shoreline, and is located in a county with a min-  
25 imum population of sixty-five thousand (65,000). The provisions of section  
26 23-910, Idaho Code, shall apply to licenses issued to continuous operation  
27 facilities. The fees shall be the same as those prescribed for golf courses  
28 as set forth in section 23-904, Idaho Code. Licenses issued to continuous  
29 operation facilities are not transferable.

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

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

43 (11) Subject to the passage of an authorizing ordinance by a resort  
44 city, as defined in section 50-1044, Idaho Code, nothing in this chapter  
45 shall prohibit the issuance of a license to the owner, operator or lessee of  
46 a restaurant that is located within the incorporated limits of such resort  
47 city and that can show through recordkeeping that at least sixty percent  
48 (60%) of the gross revenue to the restaurant is derived from the sale of meals  
49 on-site. Restaurants holding a license issued under this section may sell  
50 liquor by the drink only during hours that meals are served, but in no event

1 shall any liquor be sold or served before 12:00 p.m. nor after 11:00 p.m.  
2 Licenses issued to restaurants under this subsection are not transferable.

3 (12) Subject to approval of the mayor and city council, nothing in this  
4 chapter shall prohibit the issuance of a license to the owner, operator or  
5 lessee of a food, conference and lodging facility constructed after May 1,  
6 2000, containing a minimum of thirty-five thousand (35,000) square feet and  
7 fifty-five (55) guest rooms with a minimum taxable value of three million  
8 dollars (\$3,000,000) in a city with a population of less than five thousand  
9 (5,000) according to the most recent census.

10 (13) The provisions of section 23-910, Idaho Code, shall apply to li-  
11 censes issued under the provisions of this section. The fees shall be the  
12 same as those prescribed for golf courses as set forth in section 23-904,  
13 Idaho Code. Licenses issued under the provisions of this section are not  
14 transferable.