

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 623

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO THE REGULATION OF ALCOHOLIC BEVERAGES; AMENDING SECTION 23-207,
2 IDAHO CODE, TO PROVIDE FOR RULEMAKING; AMENDING SECTION 23-608, IDAHO
3 CODE, TO PROVIDE DUTIES OF THE IDAHO STATE LIQUOR DIVISION; AMENDING
4 SECTION 23-805, IDAHO CODE, TO PROVIDE DUTIES OF THE IDAHO STATE LIQUOR
5 DIVISION; AMENDING SECTION 23-901, IDAHO CODE, TO PROVIDE DUTIES OF
6 THE IDAHO STATE LIQUOR DIVISION REGARDING RETAIL SALE OF LIQUOR AND TO
7 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-902, IDAHO CODE, TO
8 REVISE DEFINITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SEC-
9 TION 23-903, IDAHO CODE, TO PROVIDE DUTIES OF THE IDAHO STATE LIQUOR
10 DIVISION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-930,
11 IDAHO CODE, TO PROVIDE DUTIES OF THE IDAHO STATE POLICE; AMENDING SEC-
12 TION 23-934C, IDAHO CODE, TO PROVIDE DUTIES OF THE IDAHO STATE LIQUOR
13 DIVISION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-940,
14 IDAHO CODE, TO REVISE FOR WHAT MONEYS IN THE ALCOHOL BEVERAGE CONTROL
15 FUND MAY BE EXPENDED; AMENDING SECTION 23-1001, IDAHO CODE, TO REVISE
16 DEFINITIONS; AMENDING SECTION 23-1009, IDAHO CODE, TO PROVIDE DUTIES OF
17 THE STATE LIQUOR DIVISION AND TO MAKE A TECHNICAL CORRECTION; AMENDING
18 SECTION 23-1011, IDAHO CODE, TO PROVIDE DUTIES OF THE STATE LIQUOR DIVI-
19 SION REGARDING ISSUANCE OF LICENSES AND TO A MAKE TECHNICAL CORRECTION;
20 AMENDING SECTION 23-1018, IDAHO CODE, TO PROVIDE DUTIES OF THE STATE
21 LIQUOR DIVISION REGARDING SALE OF KEG BEER; AMENDING SECTION 23-1106,
22 IDAHO CODE, TO PROVIDE DUTIES OF THE STATE LIQUOR DIVISION; AMENDING
23 SECTION 23-1303, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION
24 23-1309A, IDAHO CODE, TO PROVIDE DUTIES OF THE STATE LIQUOR DIVISION AND
25 TO REMOVE REFERENCE TO THE ALCOHOL BEVERAGE CONTROL DIVISION; AMENDING
26 SECTION 23-1338, IDAHO CODE, TO REMOVE REFERENCE TO THE ALCOHOL BEV-
27 ERAGE CONTROL BUREAU AND TO PROVIDE DUTIES OF THE IDAHO STATE LIQUOR
28 DIVISION; AMENDING SECTION 23-1407, IDAHO CODE, TO PROVIDE DUTIES OF
29 THE STATE LIQUOR DIVISION; AND AMENDING SECTION 23-1408, IDAHO CODE, TO
30 PROVIDE DUTIES OF THE STATE LIQUOR DIVISION.
31

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

33 SECTION 1. That Section 23-207, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 23-207. SPECIFIC RULES AND REGULATIONS. Without attempting or intend-
36 ing to limit the general powers of the director of the division contained in
37 section 23-206, Idaho Code, such powers shall extend to and include the fol-
38 lowing:

39 (a) Subject to the provisions of chapter 53, title 67, Idaho Code, to
40 prescribe the qualifications of and to select personnel to conduct its busi-
41 ness and perform its functions; to require that those holding positions of
42 trust be bonded to the state of Idaho in the time, form and manner prescribed

1 by chapter 8, title 59, Idaho Code; to fix the compensation of all appointees
2 and employees, assign their duties, and to discharge them.

3 (b) To regulate the management, operation, bookkeeping, reporting,
4 equipment, records, and merchandise of state liquor stores and distribution
5 stations and warehouses.

6 (c) To regulate the importation, purchase, transportation, and storage
7 of alcoholic liquor and the furnishing of alcoholic liquor to state liquor
8 stores, distribution stations, and warehouses established under this act.

9 (d) To determine the classes, varieties, and brands of alcoholic
10 liquors to be kept in state warehouses and for sale at state liquor stores and
11 distribution stations.

12 (e) To determine the nature, form, and capacity of packages containing
13 liquor kept or sold.

14 (f) To prescribe the kinds and character of official seals or labels to
15 be attached to packages of liquor sold to a licensee as defined in chapter
16 9, title 23, Idaho Code. No official seals or labels shall be required to be
17 attached to packages of liquor sold to the general public, at a liquor store
18 or a distributing station.

19 (g) From time to time to fix the sale prices, which shall be uniform
20 throughout the state, of the different classes, varieties, or brands of al-
21 coholic liquor, and to issue and distribute price lists thereof.

22 (h) To prescribe, prepare, and furnish printed forms and information
23 blanks necessary or convenient for administering this act, and printed
24 copies of the regulations made thereunder. To contract for the printing
25 thereof and of all necessary records and reports.

26 (i) To regulate the issuance, suspension and revocation of permits and
27 licenses to purchase, manufacture and handle or traffic in alcoholic liquor.

28 (j) To prescribe the conditions and qualifications necessary for ob-
29 taining permits and licenses, and the conditions of use of privileges under
30 them; and to provide for the inspection of the records and the conduct of use
31 of permittees and licensees.

32 (k) To prescribe the kind, quality, and character of alcoholic liquors
33 which may be purchased or sold under any and all licenses and permits, in-
34 cluding the quantity which may be purchased or sold at any one (1) time or
35 within any specified period of time.

36 (l) To promulgate rules pertaining to the issuance or revocation of li-
37 licenses for any type of licensed beverage sales and/or distribution and the
38 regulation and education of the Idaho state alcohol laws. Such rules shall
39 be promulgated within the scope of chapter 52, title 67, Idaho Code.

40 SECTION 2. That Section 23-608, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 23-608. ADDED PENALTY -- FORFEITURE OF LICENSE OR PERMIT -- TRANSMIS-
43 SION OF RECORD. Whenever, in any court in this state, a defendant is con-
44 victed of a violation of title 23, Idaho Code, or of any law of this state
45 relating to alcohol beverages including distilled spirits, beer or wine, or
46 in any case in which it appears that the crime was committed while the defen-
47 dant was under the influence of alcohol beverages, it shall be the duty of the
48 court to include in its judgment the forfeiture of any license or permit is-
49 sued to the defendant by the ~~division or the~~ Idaho state ~~police~~ liquor divi-

1 sion pursuant to title 23, Idaho Code, and the court shall forthwith transmit
2 to the issuing authority a certified copy of its judgment.

3 SECTION 3. That Section 23-805, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 23-805. DUTIES OF PROSECUTING ATTORNEYS, SHERIFFS, AND OTHER OFFI-
6 CERS. It shall be the duty of the director of the division and every prose-
7 cuting attorney, sheriff, police or other peace officer to cooperate with
8 the Idaho state police in the enforcement of such laws, and any such officer
9 refusing to so cooperate or divulge any information he may have in any such
10 prosecution shall be subject to action against him as provided in chapter 41,
11 title 19, Idaho Code. Any such action may be brought in the name of the state
12 of Idaho by any resident of the county, or officer of the state or county.
13 Upon the conviction of a person for a violation of the provisions of the Idaho
14 liquor act, or of the provisions of chapter 9, title 23, Idaho Code, the judge
15 of the court imposing the judgment of conviction shall immediately send to
16 the director of the Idaho state police and to the director of the Idaho state
17 liquor division a statement setting forth the title of the court, the name
18 and residence of the defendants, the nature of the offense and the fine and
19 sentence or judgment imposed.

20 SECTION 4. That Section 23-901, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 23-901. DECLARATION OF POLICY -- RETAIL SALE OF LIQUOR. It is hereby
23 declared as the policy of the state of Idaho that it is necessary to further
24 regulate and control the sale and distribution within the state of alcoholic
25 beverages and to eliminate certain illegal traffic in liquor now existing
26 and to ~~insure~~ ensure the entire control of the sale of liquor it is advis-
27 able and necessary, in addition to the operation of the state liquor stores
28 now provided by law, that the director of the Idaho state ~~police~~ liquor di-
29 vision and the county commissioners and the councils of cities in the state
30 of Idaho be empowered and authorized to grant licenses to persons qualified
31 under this act to sell liquor purchased by them at state liquor stores at re-
32 tail posted prices in accordance with this act and under the rules promul-
33 gated by said director and under his strict supervision and control and to
34 provide severe penalty for the sale of liquor except by and in state liquor
35 stores and by persons licensed under this act. The restrictions, rules, and
36 provisions contained in this act are enacted by the legislature for the pro-
37 tection, health, welfare and safety of the people of the state of Idaho and
38 for the purpose of promoting and encouraging temperance in the use of alco-
39 holic beverages within the state of Idaho.

40 SECTION 5. That Section 23-902, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 23-902. DEFINITIONS. The following words and phrases used in this
43 chapter shall be given the following interpretation:

1 (1) "Club" includes any of the following organizations where the sale
2 of spirituous liquor for consumption on the premises is made to members and
3 to bona fide guests of members only:

4 (a) A post, chapter, camp or other local unit composed solely of vet-
5 erans and their duly recognized auxiliary, and which is a post, chap-
6 ter, camp or other local unit composed solely of veterans which has been
7 chartered by the congress of the United States for patriotic, fraternal
8 or benevolent purposes, and which has, as the owner, lessee or occupant,
9 operated an establishment for that purpose in this state; or

10 (b) A chapter, aerie, parlor, lodge or other local unit of an Ameri-
11 can national fraternal organization, which has as the owner, lessee
12 or occupant, operated an establishment for fraternal purposes in this
13 state and actively operates in not less than thirty-six (36) states or
14 has been in continuous existence for not less than twenty (20) years;
15 and which has not less than fifty (50) bona fide members in each unit,
16 and which owns, maintains or operates club quarters, and is autho-
17 rized and incorporated to operate as a nonprofit club under the laws of
18 this state, and which has recognized tax exempt status under section
19 501(c) (8) or 501(c) (10) of the Internal Revenue Code, and has been con-
20 tinuously incorporated and operating for a period of not less than one
21 (1) year. The club shall have had, during that period of one (1) year,
22 a bona fide membership with regular meetings conducted at least once
23 each month, and the membership shall be and shall have been actively en-
24 gaged in carrying out the objects of the club. The club membership shall
25 consist of bona fide dues paying members, recorded by the secretary of
26 the club, paying at least six dollars (\$6.00) per year in dues, payable
27 monthly, quarterly or annually; and the members at the time of applica-
28 tion for a club license shall be in good standing, having paid dues for
29 at least one (1) full year.

30 (2) "Convention" means a formal meeting of members, representatives,
31 or delegates, as of a political party, fraternal society, profession or in-
32 dustry.

33 (3) "Director" means the director of the Idaho state ~~police~~ liquor di-
34 vision.

35 (4) "Gaming" means any and all gambling or games of chance defined in
36 chapters 38 and 49, title 18, Idaho Code, or any section or sections thereof,
37 whether those games are licensed or unlicensed.

38 (5) "Interdicted person" means a person to whom the sale of liquor is
39 prohibited under law.

40 (6) "License" means a license issued by the director to a qualified per-
41 son, under which it shall be lawful for the licensee to sell and dispense
42 liquor by the drink at retail, as provided by law.

43 (7) "Licensee" means the person to whom a license is issued under the
44 provisions of law.

45 (8) "Liquor" means all kinds of liquor sold by and in a state liquor
46 store of the state of Idaho.

47 (9) "Live performance" means a performance occurring in a theater and
48 not otherwise in violation of any provision of Idaho law.

49 (10) "Municipal license" means a license issued by a municipality of the
50 state of Idaho under the provisions of law.

1 (11) "Party" means a social gathering especially for pleasure or amuse-
2 ment and includes, but is not limited to, such social events as weddings,
3 birthdays, and special holiday celebrations to include, but not be limited
4 to, New Year's celebrations, Super Bowl Sunday, St. Patrick's Day, the
5 Fourth of July and Labor Day.

6 (12) "Person" means every individual, partnership, corporation, organ-
7 ization, or association holding a retail liquor license, whether conducting
8 the business singularly or collectively.

9 (13) "Premises" means the building and contiguous property owned, or
10 leased or used under a government permit by a licensee as part of the business
11 establishment in the business of sale of liquor by the drink at retail, which
12 property is improved to include decks, docks, boardwalks, lawns, gardens,
13 golf courses, ski resorts, courtyards, patios, poolside areas or similar
14 improved appurtenances in which the sale of liquor by the drink at retail is
15 authorized under the provisions of law.

16 (14) "Rules" means rules promulgated by the director in accordance with
17 the provisions of law.

18 (15) "State liquor store" means a liquor store or distributor estab-
19 lished under and pursuant to the laws of the state of Idaho for the package
20 sale of liquor at retail.

21 (16) "Theater" means a room, place or outside structure for perfor-
22 mances or readings of dramatic literature, plays or dramatic representa-
23 tions of an art form not in violation of any provision of Idaho law.

24 (17) All other words and phrases used in this chapter, the definitions
25 of which are not herein given, shall be given their ordinary and commonly un-
26 derstood and acceptable meanings.

27 SECTION 6. That Section 23-903, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 23-903. LICENSE TO RETAIL LIQUOR. (1) The director of the Idaho state
30 ~~police liquor division~~ is hereby empowered, authorized, and directed to is-
31 sue licenses to qualified applicants, as herein provided, whereby the li-
32 censee shall be authorized and permitted to sell liquor by the drink at re-
33 tail and, upon the issuance of such license, the licensee therein named shall
34 be authorized to sell liquor at retail by the drink, but only in accordance
35 with the rules promulgated by the director and the provisions of this chap-
36 ter. No license shall be issued for the sale of liquor on any premises out-
37 side the incorporated limits of any city except as provided in this chapter
38 and the number of licenses so issued for any city shall not exceed one (1) li-
39 cense for each one thousand five hundred (1,500) of population of said city
40 or fraction thereof, as established in the last preceding census, or any sub-
41 sequent special census conducted by the United States bureau of the census
42 or by an estimate that is statistically valid including adding the number of
43 new residential utility connections or including adding the population of
44 areas annexed into the city after the last census or special census was con-
45 ducted, except that upon proper application thereof not more than two (2)
46 licenses may be issued for each incorporated city with a population of one
47 thousand five hundred (1,500) or less, unless the retail licensing of liquor
48 by the drink has been previously disapproved under the provisions of sec-
49 tions 23-917, 23-918, 23-919, 23-920 and 23-921, Idaho Code; provided how-

1 ever, that any license heretofore issued may be renewed from year to year
2 without regard to the population or status of the city for which such license
3 is issued. Any license issued and which has remained in effect at its lo-
4 cation for a consecutive period of ten (10) years or more shall be deemed to
5 have been validly issued and may be renewed from year to year provided how-
6 ever, that the applicant for the renewal of such license is not otherwise
7 disqualified for licensure pursuant to section 23-910, Idaho Code, and, if
8 the premises required special characteristics for original licensure, other
9 than being either within or without the incorporated limits of a city, that
10 said premises continue to have such special characteristics at the time of
11 the application for renewal.

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

31 (3) Also for the purpose of this section, a ski resort shall comprise
32 real property of not less than ten (10) acres in size, exclusive of the ter-
33 rain used for skiing and upon which the owner, operator or lessee of the ski
34 resort has made available himself or through others, including, but not lim-
35 ited to, the owners of condominiums, permanent bona fide overnight accom-
36 modations available to the general public for one hundred (100) persons or
37 more, and which real property is contiguous to or located within the area
38 in which skiing occurs, and which real property is regularly operated as a
39 ski resort in the ~~winter time~~ wintertime, and where the owner, operator or
40 lessee of the ski resort is also the owner, operator or lessee of the area
41 served by a bona fide chair ski lift facility or facilities. Alternatively,
42 for the purpose of this section, a ski resort may also be defined as a down-
43 hill ski area, open to the public, comprising real property of not less than
44 two hundred fifty (250) skiable acres, operating two (2) or more ~~chair lifts~~
45 chairlifts with a vertical lift of one thousand (1,000) feet or more, and ca-
46 pable of transporting a minimum of one thousand eight hundred (1,800) skiers
47 per hour. A ski resort qualifying under this definition shall also have on
48 the premises a lodge facility providing shelter and food service to the pub-
49 lic, the operator of which shall also be the valid owner or lessee of the
50 grounds and facilities upon which the ski resort offers downhill skiing ser-

1 vices to the public. The fees for licenses granted to ski resorts shall be
2 the same as those prescribed for golf courses as set forth in section 23-904,
3 Idaho Code. Not more than one (1) licensed premises shall be permitted on any
4 golf course or any ski resort or within the area comprising the same.

5 (4) Nothing herein contained shall prohibit the issuance of a license
6 to the owner, operator or lessee of an actual bona fide equestrian facil-
7 ity located on not less than forty (40) contiguous acres, with permanently
8 erected seating of not less than six thousand (6,000) seats, no part of which
9 equestrian facility or the premises thereon is situate within the incorpo-
10 rated limits of any city, and which facility shall have at least three (3)
11 days per year of a professionally sanctioned rodeo. Not more than one (1)
12 licensed premises shall be permitted at any equestrian facility or within
13 an area comprising such a facility. The fees for licenses granted to eques-
14 trian facilities shall be the same as those prescribed for golf courses as
15 set forth in section 23-904, Idaho Code.

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

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

48 (7) Nothing in this chapter to the contrary shall prohibit the issuance
49 of a license to the owner, operator or lessee of an actual bona fide conven-
50 tion center ~~which~~ that is within the incorporated limits of a city having a

1 population of three thousand (3,000) or greater, and ~~which that~~ city does
2 not have located therein a convention center with a valid convention cen-
3 ter license to sell liquor by the drink. For the purpose of this section,
4 a convention center means a facility having at least thirty-five thousand
5 (35,000) square feet of floor space or a facility having at least one hundred
6 twenty (120) sleeping rooms and an adjoining meeting room ~~which that~~ will ac-
7 commodate not less than three hundred fifty (350) persons, whether or not
8 such room may be partitioned into smaller rooms, and provided that such meet-
9 ing room shall contain at least three thousand (3,000) square feet of floor
10 space. Such license must be placed in actual use in said convention center
11 within one (1) year from the date of its issuance. The fee for any license is-
12 sued to a qualifying convention center shall be as prescribed in subsection
13 (3) of section 23-904, Idaho Code. The holder of a convention center license
14 shall not be eligible for the issuance of a license in the same city pursuant
15 to any other provision of this chapter. For purposes of this section, the
16 term "holder" shall include an owner, operator or lessee and shall include a
17 stockholder, director or officer of a corporation or a partner in a partner-
18 ship, which corporation or partnership has been issued a convention center
19 license pursuant to this chapter. Not more than one (1) licensed premises
20 shall be permitted on any convention center or within the area comprising the
21 same, including convention centers that also comprise golf courses or ski
22 resorts as herein defined.

23 (8) Nothing in this chapter shall prohibit the issuance of a license
24 to the owner, operator or lessee of a food, beverage and/or lodging facil-
25 ity that has been in continuous operation in the same location for at least
26 seventy-five (75) years, except for temporary closings for refurbishing or
27 reconstruction, or a food, beverage and lodging facility serving the pub-
28 lic by reservation only, having a minimum of five (5) rooms operating in a
29 structure that has been in existence for at least seventy-five (75) years and
30 has been on the historic register for a minimum of ten (10) years, is situ-
31 ated within five hundred (500) yards of a natural lake containing a minimum
32 of thirty-six thousand (36,000) acre feet of water when full with a minimum
33 of thirty-two (32) miles of shoreline, and is located in a county with a min-
34 imum population of sixty-five thousand (65,000). The provisions of section
35 23-910, Idaho Code, shall apply to licenses issued to continuous operation
36 facilities. The fees shall be the same as those prescribed for golf courses
37 as set forth in section 23-904, Idaho Code.

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

44 (10) Nothing in this chapter shall prohibit the issuance of a license
45 to the owner, operator or lessee of the lodging, dining and entertainment
46 facilities owned by a gondola resort complex and operated in conjunction
47 with the other public services provided by a gondola resort complex located
48 within the ownership/leasehold boundaries of a gondola resort complex.

49 A gondola resort complex means an actual bona fide gondola capable of
50 transporting people for recreational and/or entertainment purposes at least

1 three (3) miles in length with a vertical rise of three thousand (3,000)
 2 feet, portions of which may be located within or over the limits of one (1) or
 3 more cities.

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

7 (12) Subject to approval of the mayor and city council, nothing in this
 8 chapter shall prohibit the issuance of a license to the owner, operator or
 9 lessee of a food, conference and lodging facility constructed after May 1,
 10 2000, containing a minimum of thirty-five thousand (35,000) square feet and
 11 fifty-five (55) guest rooms with a minimum taxable value of three million
 12 dollars (\$3,000,000) in a city with a population of less than five thousand
 13 (5,000) according to the most recent census.

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

20 SECTION 7. That Section 23-930, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 23-930. OFFICERS MAY EXAMINE PREMISES. The director of the Idaho state
 23 police or his duly authorized representative, the sheriff of any county, a
 24 ~~constable~~, or other police officer, shall have the right at any time to make
 25 an examination of the premises of any licensee as to whether the laws of the
 26 state of Idaho, the rules ~~and regulations~~ of the director, and the ordinances
 27 of any city are being complied with and shall also have the right to inspect
 28 the cars of any railroad system licensed under this act.

29 SECTION 8. That Section 23-934C, Idaho Code, be, and the same is hereby
 30 amended to read as follows:

31 23-934C. REGULATORY AND PENALTY PROVISIONS APPLICABLE. All of the
 32 regulatory and penal provisions of title 23, Idaho Code, shall apply to the
 33 exercise of alcohol beverage catering permits, including the penalties for
 34 violations thereof, except such provisions declared to be inapplicable to
 35 alcohol beverage catering permits by rules prescribed by the director of
 36 the Idaho state ~~police~~ liquor division; provided, however, the director
 37 shall have no power to declare inapplicable any of the provisions of section
 38 23-927, Idaho Code.

39 SECTION 9. That Section 23-940, Idaho Code, be, and the same is hereby
 40 amended to read as follows:

41 23-940. ALCOHOL BEVERAGE CONTROL FUND. (1) There is hereby created in
 42 the state treasury the alcohol beverage control fund. All moneys from li-
 43 cense and transfer fees that are collected by the director pursuant to the
 44 provisions of this chapter shall be paid over to the state treasurer for de-
 45 posit in the alcohol beverage control fund. Expenditures of moneys in the

1 fund shall be subject to legislative appropriation for the use of the Idaho
2 state police ~~alcohol beverage control bureau~~ in carrying out the provisions
3 of title 23, Idaho Code, and the rules promulgated by the director thereun-
4 der. At the beginning of each fiscal year, those moneys in the alcohol bev-
5 erage control fund that exceed two hundred percent (200%) of that fiscal year
6 appropriation, as certified by the state treasurer, shall be transferred to
7 the general fund.

8 (2) All other moneys collected by the director pursuant to the provi-
9 sions of this chapter shall be paid over to the state treasurer for deposit in
10 the general fund.

11 SECTION 10. That Section 23-1001, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 23-1001. DEFINITIONS. As used in this chapter:

14 (a) The word "beer" means any beverage obtained by the alcoholic fer-
15 mentation of an infusion or decoction of barley, malt and/or other ingredi-
16 ents in drinkable water.

17 (b) The word "brewer" means a person licensed to manufacture beer.

18 (c) "Certificate of approval" means a license issued to a person whose
19 business is located outside of the state of Idaho, who sells beer to whole-
20 salers or brewers located within the state of Idaho.

21 (d) The term "dealer" means a person licensed to import beer into this
22 state for sale to a wholesaler.

23 (e) The word "director" means the director of the Idaho state ~~police~~
24 liquor division.

25 (f) The words "live performance" mean a performance occurring in a the-
26 ater and not otherwise in violation of any provision of Idaho law.

27 (g) The word "person" includes any individual, firm, copartnership,
28 association, corporation or any group or combination acting as a unit, and
29 the plural as well as the singular number unless the intent to give a more
30 limited meaning is disclosed by the context.

31 (h) The word "premises" means the building and contiguous property
32 owned, or leased or used under government permit by a licensee as part of
33 the business establishment in the business of sale of beer at retail, which
34 property is improved to include decks, docks, boardwalks, lawns, gardens,
35 golf courses, ski resorts, courtyards, patios, poolside areas or similar im-
36 proved appurtenances in which the sale of beer at retail is authorized under
37 the provisions of law.

38 (i) The word "retailer" means a person licensed to sell beer to con-
39 sumers at premises described in the license.

40 (j) The word "theater" means a room, place or outside structure for per-
41 formances or readings of dramatic literature, plays or dramatic representa-
42 tions of an art form not in violation of any provision of Idaho law.

43 (k) The word "wholesaler" means any person licensed to sell beer to
44 retailers, wholesalers, permittees or consumers and distribute beer from
45 warehouse premises described in the license.

46 (l) All other words and phrases used in this chapter, the definitions of
47 which are not herein given, shall be given their ordinary and commonly under-
48 stood and acceptable meanings.

1 SECTION 11. That Section 23-1009, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 23-1009. RETAILERS' LOCAL LICENSES. No retailer shall sell beer
4 within this state, until he or it shall be licensed therefor by a municipal-
5 ity, if the business is to be conducted therein, and by the county wherein
6 said business is to be conducted, and by the director. Applications for re-
7 tailer's licenses shall be made under oath first to the director of the Idaho
8 state ~~police~~ liquor division, and if the license be issued, to the county
9 and then to the municipality, upon forms to be supplied by each, which forms
10 shall require that the applicant show that the applicant possesses all of the
11 qualifications and none of the disqualifications of a retailer licensee un-
12 der this act, and, as to the municipal license, under any ordinance thereof.
13 Each application shall be accompanied with the required license fee. If the
14 applications conform hereto the director, county and municipality respec-
15 tively, shall each issue a retailer's license to the applicant, subject to
16 the restrictions and upon the conditions in this act specified, and, as to
17 the municipal license, in the ordinance aforesaid. Said licenses shall at
18 all times be prominently displayed in the place of business of the licensee,
19 and shall be issued only for the particular premises described therein, but
20 the municipality, county and director may permit a transfer to other par-
21 ticularly described premises. No license transferred by process of law or
22 otherwise shall authorize the transferee, including any executor, admin-
23 istrator or trustee in bankruptcy of the estate of the licensee, to retail
24 beer thereunder until the transferee shall have filed under oath applica-
25 tions therefor containing substantially the same information required of
26 an applicant for a license, and if the transferee possesses the qualifica-
27 tions and none of the disqualifications for a license as herein provided, the
28 director, county and municipality shall approve such transfer and issue a
29 license so to show. The transferee shall accompany the state application for
30 transfer with, and shall pay, the fee as set out in section 23-1005A, Idaho
31 Code. Such transferee shall accompany each such county and municipality ap-
32 plication for transfer with, and shall pay, the sum of five dollars (\$5.00).

33 SECTION 12. That Section 23-1011, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 23-1011. ISSUANCE OF LICENSES. Notwithstanding any other provision of
36 chapter 10, title 23, Idaho Code, all applications for retail sale of beer
37 licenses, renewals, or transfers thereof, shall be first presented to the
38 director of the Idaho state ~~police~~ liquor division for approval and issuance
39 of the state license required by state law. If the license, renewal or trans-
40 fer thereof is approved by the director, then such license, renewal or trans-
41 fer thereof may be issued by the city or county, or both, as the case may be.
42 Approval of such license, renewal or transfer thereof may be by endorsement
43 upon the state license or by the issuance of an additional license, at the op-
44 tion of the city or county.

45 SECTION 13. That Section 23-1018, Idaho Code, be, and the same is hereby
46 amended to read as follows:

1 23-1018. SALE OF KEG BEER -- PENALTIES. (1) Retail and wholesale li-
2 censees selling keg beer for consumption off licensed premises shall place
3 an identification tag onto all kegs of beer at the time of sale and require
4 the signing of a receipt therefor by the purchaser in order to allow kegs to
5 be traced if the contents are used in violation of this act. The keg identi-
6 fication shall be in the form of a numbered label prescribed and supplied by
7 the director of the Idaho state ~~police~~ liquor division, which identifies the
8 seller and which is removable or obliterated when the keg is processed for
9 refilling. The receipt shall be on a form prescribed and supplied by the di-
10 rector ~~of the Idaho state police~~ and shall include the name and address of the
11 purchaser and such other information as may be required by the director ~~of~~
12 ~~the Idaho state police~~.

13 (2) Any licensee selling keg beer for off-premises consumption who
14 fails to require the signing of a receipt at the time of sale and fails to
15 place a numbered identification label onto the keg shall be subject to having
16 his license suspended as set forth in section 23-1038, Idaho Code.

17 (3) Possession of a keg containing beer which is not identified as re-
18 quired by subsection (1) of this section is a misdemeanor.

19 (4) Any purchaser of keg beer who knowingly provides false information
20 on the receipt required by subsection (1) of this section shall be guilty of a
21 misdemeanor.

22 (5) As used in this section, "keg" means any brewery-sealed, individual
23 container of beer having a liquid capacity of five (5) gallons or more.

24 SECTION 14. That Section 23-1106, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 23-1106. SUPPLIER'S RIGHT TO DISCONTINUE DISTRIBUTION OF BRAND. (1) A
27 supplier may amend, modify, terminate, cancel, discontinue or fail to re-
28 new an agreement, with reference to a brand sold by a supplier, not less than
29 thirty (30) days after written notice is given by the supplier as provided in
30 section 23-1108, Idaho Code, if the supplier discontinues production or dis-
31 continues distribution in this state of a brand of beer sold by the supplier
32 to the distributor.

33 (2) Nothing in this section shall prohibit a supplier from conducting
34 test marketing of a product which is not currently being sold in this state,
35 provided that the supplier has notified the director, ~~Idaho state police~~ of
36 the Idaho state liquor division, in writing, of its plans to conduct test
37 marketing, which notice shall describe the market area in which the test
38 shall be conducted, the name or names of the distributor or distributors who
39 will be selling the product, the name or names of the product being tested,
40 and the period of time, not to exceed eighteen (18) months, during which the
41 testing will take place.

42 (3) If a supplier causes the discontinuance of distribution in this
43 state of a brand of beer, except a brand that is being test marketed pursuant
44 to subsection (2) of this section, then that brand cannot be reintroduced or
45 sold to distributors within this state by any supplier for a period of six (6)
46 months after providing the written notice required in the provisions of this
47 section. A supplier who is test marketing a brand or brands in this state, in
48 compliance with subsection (2) of this section, shall not be subject to the

1 six (6) month reintroduction limitation set forth in the provisions of this
2 subsection.

3 (4) Whenever a supplier discontinues distribution in this state of a
4 brand of beer, the supplier shall be required, at the distributor's request,
5 to purchase from the distributor any unsold inventory of that brand.

6 SECTION 15. That Section 23-1303, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 23-1303. DEFINITIONS. (1) The following terms as used in this chapter
9 are hereby defined as follows:

10 (a) "Dessert wine" means only those beverages that are designated
11 or labeled, pursuant to the federal alcohol administration act, as
12 "sherry," "madeira" or "port," which contain more than sixteen percent
13 (16%) alcohol by volume, but do not exceed twenty-one percent (21%)
14 alcohol by volume. Dessert wine as defined herein shall not be deemed
15 to be a spirit based beverage for the purposes of paragraph (g) of this
16 subsection.

17 (b) "Director" means the director of the Idaho state ~~police~~ liquor di-
18 vision.

19 (c) "Distributor" means a person to whom a wine distributor's license
20 has been issued.

21 (d) "Domestic produced product" means wine at least seventy-five per-
22 cent (75%) of which by volume is derived from fruit or agricultural
23 products grown in Idaho.

24 (e) "Importer" means a person to whom a wine importer's license has been
25 issued.

26 (f) "Live performance" means a performance occurring in a theater and
27 not otherwise in violation of any provision of Idaho law.

28 (g) "Low proof spirit beverages" means any alcoholic beverage contain-
29 ing not more than fourteen percent (14%) alcohol by volume obtained by
30 distillation mixed with drinkable water, fruit juices and/or other in-
31 gredients in solution. These products shall be considered and taxed as
32 wine. Spirit based beverages exceeding fourteen percent (14%) alcohol
33 by volume shall be considered as liquor and sold only through the divi-
34 sion system.

35 (h) "Person" includes an individual, firm, copartnership, associa-
36 tion, corporation, or any group or combination acting as a unit, and
37 includes the plural as well as the singular unless the intent to give a
38 more limited meaning is disclosed by the context in which it is used.

39 (i) "Retailer" means a person to whom a retail wine license has been is-
40 sued.

41 (j) "Retail wine license" means a license issued by the director, au-
42 thORIZING a person to sell table wine and/or dessert wine at retail for
43 consumption off the licensed premises.

44 (k) "Table wine" shall mean any alcoholic beverage containing not more
45 than sixteen percent (16%) alcohol by volume obtained by the fermenta-
46 tion of the natural sugar content of fruits or other agricultural prod-
47 ucts containing sugar whether or not other ingredients are added.

1 (l) "Theater" means a room, place or outside structure for performances
2 or readings of dramatic literature, plays or dramatic representations
3 of an art form not in violation of any provision of Idaho law.

4 (m) "Vintner" means a person who manufactures, bottles, or sells ta-
5 ble wine or dessert wine to importers for resale within this state other
6 than a licensed "winery" as herein defined.

7 (n) "Wine" includes table wine and dessert wine, unless the context re-
8 quires otherwise.

9 (o) "Wine by the drink license" means a license to sell table wine or
10 dessert wine by the individual glass or opened bottle at retail, for
11 consumption on the premises only.

12 (p) "Wine distributor's license" means a license issued by the director
13 to a person authorizing such person to distribute table wine or dessert
14 wine to retailers within the state of Idaho.

15 (q) "Wine importer's license" means a license issued by the director
16 to a person authorizing such person to import table wine or dessert wine
17 into the state of Idaho and to sell and distribute such wines to a dis-
18 tributor.

19 (r) "Winery" means a place, premises or establishment within the state
20 of Idaho for the manufacture or bottling of table wine or dessert wine
21 for sale. Two (2) or more wineries may use the same premises and the same
22 equipment to manufacture their respective wines, to the extent permit-
23 ted by federal law.

24 (s) "Winery license" means a license issued by the director authorizing
25 a person to maintain a winery.

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

29 SECTION 16. That Section 23-1309A, Idaho Code, be, and the same is
30 hereby amended to read as follows:

31 23-1309A. SHIPMENT AND RECEIPT OF WINE AUTHORIZED -- LABELING RE-
32 QUIREMENT. (1) Notwithstanding any other provision of law, rule or regula-
33 tion to the contrary, any holder of a winery license under section 23-1306,
34 Idaho Code, or any person holding a license to manufacture wine in another
35 state who obtains a wine direct shipper permit pursuant to this section may
36 sell and ship up to twenty-four (24) nine-liter cases of wine annually di-
37 rectly to a resident of Idaho, who is at least twenty-one (21) years of age,
38 for the resident's personal use and not for resale.

39 (2) Before sending any shipment to a resident of Idaho, the wine direct
40 shipper permit holder must:

41 (a) File an application with the director of the Idaho state liquor di-
42 vision;

43 (b) Pay a fifty dollar (\$50.00) annual registration fee if the winery is
44 not currently licensed by the director;

45 (c) Provide the director its Idaho winery license number or a true copy
46 of its current alcoholic beverage license issued by another state;

47 (d) Obtain from the director a wine direct shipper permit;

1 (e) Register with the state tax commission for the payment of sales and
2 use taxes and excise taxes on wine sold to residents of Idaho under the
3 wine direct shipper permit.

4 (3) A wine direct shipper permit authorizes the permit holder to do all
5 of the following:

6 (a) Sell and ship not more than twenty-four (24) nine-liter cases of
7 wine annually to any person twenty-one (21) years of age or older for his
8 or her personal use and not for resale;

9 (b) Ship wine directly to a resident in this state only in compliance
10 with subsections (8) and (9) of this section;

11 (c) Report to the director, no later than January 31 of each year, the
12 total amount of wine shipped during the preceding calendar year under
13 the wine direct shipper permit;

14 (d) If the permit holder is located outside this state, pay to the state
15 tax commission all sales and use taxes, and excise taxes on sales to
16 residents of Idaho under the wine direct shipper permit. For excise tax
17 purposes, all wine sold pursuant to a direct shipper permit shall be
18 deemed to be wine sold in this state;

19 (e) Permit the director and the state tax commission to perform an audit
20 of the wine direct shipper permit holder's records upon request;

21 (f) Be deemed to have consented to the jurisdiction of the ~~alcohol bev-~~
22 ~~erage control division of the~~ Idaho state police, or any other state
23 agency and the Idaho courts concerning enforcement of this section and
24 any related laws, rules or regulations.

25 (4) A wine direct shipper permit holder located outside the state may
26 annually renew its permit with the director by paying a twenty-five dollar
27 (\$25.00) renewal fee and providing the director a true copy of its current
28 alcoholic beverage license issued in another state. A wine direct shipper
29 permit holder located in Idaho shall renew its wine direct shipper permit in
30 conjunction with its license to manufacture wine. All registration fees and
31 renewal fees shall be shared equally by the state police and the state tax
32 commission.

33 (5) The director may enforce the requirements of this section by admin-
34 istrative proceedings or suspend or revoke a wine direct shipper permit, and
35 the director may accept payment of an offer in compromise in lieu of suspen-
36 sion, such payments to be determined by rule promulgated by the director.

37 (6) Sales and shipments of wine directly to consumers in Idaho from wine
38 manufacturers in Idaho or in another state who do not possess a current wine
39 direct shipper permit are prohibited. Any person who knowingly makes such a
40 shipment is guilty of a misdemeanor.

41 (7) A licensee who holds a license for the retail sale of wine for con-
42 sumption off the licensed premises may ship not more than two (2) cases of
43 wine, containing not more than nine (9) liters per case, per shipment, for
44 personal use and not for resale, directly to a resident of another state if
45 the state to which the wine is sent allows residents of this state to receive
46 wine sent from that state without payment of additional state tax, fees or
47 charges. The sale shall be considered to have occurred in this state.

48 (8) The shipping container of any wine shipped under this section must
49 be clearly labeled to indicate that the container contains alcoholic bever-

1 ages and cannot be delivered to a person who is not at least twenty-one (21)
2 years of age.

3 (9) For wine shipped under this section to an Idaho resident, the deliv-
4 ery person shall:

5 (a) Have the person who receives the wine shipment sign for it; and

6 (b) Not make deliveries to anyone who is under twenty-one (21) years of
7 age or to anyone who is visibly intoxicated; and

8 (c) Keep the signature record for one (1) year.

9 (10) Sales authorized under this section are sales made by a retailer
10 who is not authorized to sell at wholesale or sales by a winery of wine pro-
11 duced or bottled by the winery.

12 (11) The director and the state tax commission may promulgate rules to
13 effectuate the purposes of this section and are authorized to exchange nec-
14 essary information to implement the provisions of this section.

15 SECTION 17. That Section 23-1338, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 23-1338. WINE PRODUCT SERVICE AND SALES -- SPONSORED EVENTS. (1) Any
18 person who is the holder of an Idaho winery license is authorized to serve or
19 sell any wine product of that winery at events of seven (7) days' duration or
20 less sponsored by any group, organization, person or political subdivision.
21 Each participating winery must make its own arrangements with the sponsoring
22 group, organization, person or political subdivision. Service and sales un-
23 der the authority of this section may occur only in counties that permit the
24 sale of wine in accordance with section 23-1304, Idaho Code, and any service
25 or sales under the provisions of this section must comply with all applica-
26 ble limitations and requirements regarding day and hour of sale, age and con-
27 dition of purchasers and all other requirements of any regulatory ordinance
28 adopted pursuant to the authority of section 23-1318, Idaho Code, by the city
29 or county in whose jurisdiction the event is to take place.

30 (2) At least seven (7) days prior to the date on which the sponsored
31 event is to commence, the winery shall notify by electronic mail the Idaho
32 state liquor division, the Idaho state police, ~~alcohol beverage control bu-~~
33 ~~reau~~, and the chief of police of the incorporated city in which the sponsored
34 event will be held, if the event is to be held in an incorporated city, or the
35 sheriff of the county in which the sponsored event is to be held, if the event
36 will not be held in an incorporated city, that wine will be served or sold by
37 the winery at the sponsored event. The notice shall provide the following
38 information:

39 (a) The name and address of the winery and the number of its state winery
40 license;

41 (b) The dates and hours that wine will be served or sold;

42 (c) The name of the group, organization, person or political subdivi-
43 sion sponsoring the event; and

44 (d) The address at which the wine will be served or sold, and if a public
45 building, the rooms in which the wine will be served or sold.

46 (3) Within three (3) business days after receiving the notice, the
47 ~~alcohol beverage control bureau~~ Idaho state liquor division shall respond to
48 the winery. An approval by the ~~alcohol beverage control bureau~~ Idaho state

1 liquor division shall serve as authorization for the event, and shall be dis-
2 played during all hours that wine is served or sold at the sponsored event.

3 (4) Neither the winery nor any person owning an interest in the winery,
4 nor any employee, contractor or business associate of the winery shall qual-
5 ify as an event sponsor under the provisions of this section.

6 (5) Neither a city nor a county license or permit is required for the
7 activities authorized pursuant to the provisions of this section.

8 SECTION 18. That Section 23-1407, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 23-1407. COUNTY OPTION -- RESOLUTION OF COUNTY COMMISSIONERS. There
11 is hereby granted to the board of county commissioners of each of the several
12 counties of the state the right and authority to disallow the use of hospi-
13 tality cabinets, as defined in this chapter, within the borders of their re-
14 spective counties. This right and authority may be exercised by the board of
15 county commissioners by resolution, regularly adopted, which provides that
16 hospitality cabinets, as defined in this chapter, shall be disallowed within
17 the county. The resolution shall take effect three (3) months after receipt
18 of certification thereof by the director of the Idaho state ~~police~~ liquor di-
19 vision and notification of qualified facilities within the county. Hospi-
20 tality cabinets shall remain disallowed within the county so long as the res-
21 olution remains in effect.

22 SECTION 19. That Section 23-1408, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 23-1408. DIRECTOR TO PROMULGATE RULES. For the purpose of the adminis-
25 tration of this chapter, the director of the Idaho state ~~police~~ liquor divi-
26 sion shall promulgate and publish such rules as the director may deem neces-
27 sary for carrying out the provisions of this chapter.