

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 184

BY STATE AFFAIRS COMMITTEE

AN ACT

1
2 RELATING TO BEER; AMENDING SECTION 23-1001, IDAHO CODE, TO REVISE A DEFINI-
3 TION; AND AMENDING SECTION 23-1003, IDAHO CODE, TO CLARIFY PROVISIONS
4 RELATING TO SMALL BREWER SELF-DISTRIBUTION AND TO PROVIDE CORRECT TER-
5 MINOLOGY.

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

7 SECTION 1. That Section 23-1001, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 23-1001. DEFINITIONS. As used in this chapter:

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

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

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

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

19 (e) The word "director" means the director of the Idaho state police.

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

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

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

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

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

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

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

4 SECTION 2. That Section 23-1003, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 23-1003. BREWERS', DEALERS' AND WHOLESALERS' LICENSES. (a) Before
7 any brewer shall manufacture or any dealer or wholesaler import or sell beer
8 within the state of Idaho, ~~he~~ such brewer shall apply to the director for
9 a license. The application form shall be prescribed and furnished by the
10 director and require that the applicant show that ~~he~~ such brewer possesses
11 all the qualifications and none of the disqualifications of a licensee. To
12 determine qualification for a license, the director shall cause an inves-
13 tigation that shall include a fingerprint-based criminal history check of
14 the Idaho central criminal history database and the federal bureau of inves-
15 tigation criminal history database. Each person listed as an applicant on
16 an initial application shall submit a full set of fingerprints and the fee
17 to cover the cost of the criminal history background check with the appli-
18 cation. The application shall also be accompanied by the required licensee
19 fee; provided, that where the applicant is or will be within more than one
20 (1) of the foregoing classifications, ~~he~~ the applicant shall apply for each
21 classification but shall pay only one (1) license fee, which shall be for
22 the classification requiring the highest fee. If the director is satisfied
23 that the applicant possesses the qualifications and none of the disquali-
24 fications for the license, ~~he~~ the director shall issue a license for each
25 classification applied for, subject to the restrictions and upon the condi-
26 tions in this act specified, which license or licenses shall be at all times
27 prominently displayed in the place of business of the licensee.

28 (b) Each wholesaler shall, in addition to the application, file with
29 the director a notice in writing signed by the dealer or brewer and the whole-
30 saler stating the geographic territory within which the wholesaler will dis-
31 tribute beer to retailers. The territory will be agreed upon between the
32 dealer or brewer and the wholesaler and may not be changed or modified with-
33 out the consent of both the dealer or brewer and the wholesaler. Provided
34 however, nothing in this section shall be interpreted to prohibit a brewer or
35 dealer from permitting more than one (1) distributor for the same geographic
36 territory.

37 (c) In the event that a wholesaler sells beer to a retailer who is lo-
38 cated outside the geographical territory designated by that wholesaler on
39 the notice provided for in subsection (b) of this section, the dealer or
40 wholesaler who has designated the geographical territory in which the sale
41 occurred may apply to a district court of this state for the issuance of an
42 injunction enjoining sales of beer by the wholesaler outside of ~~his~~ its des-
43 ignated geographical territory. The procedure for issuance of an injunction
44 pursuant to this act shall be subject to the Idaho rules of civil procedure.
45 Upon proof to the court that a wholesaler has made a sale of beer outside ~~his~~
46 of its designated geographical territory, the court shall issue an injunc-
47 tion directed to the wholesaler prohibiting sales of beer outside ~~his~~ of its
48 designated geographical territory.

1 (d) Any brewer licensed within the state of Idaho who produces fewer
2 than thirty thousand (30,000) barrels of beer annually, upon payment of a re-
3 tailer's annual license fee, may be issued a brewer's retail beer license
4 for the retail sale of the products of ~~his~~ its brewery at ~~his~~ its licensed
5 premises or one (1) remote retail location, or both. Any brewer selling beer
6 at retail or selling to a retailer must pay the taxes required in section
7 23-1008, Idaho Code, but need not be licensed as a wholesaler for the purpose
8 of selling beer at the brewery or at one (1) remote retail location.

9 (e) Any brewer licensed within the state of Idaho who produces fewer
10 than thirty thousand (30,000) barrels of beer annually may be issued a
11 brewer's pub license. Upon payment of a retailer's annual license fee, and
12 subject to the fees in sections 23-1015 and 23-1016, Idaho Code, a brewer
13 may, at ~~his~~ its licensed brewery or at one (1) remote retail location, or
14 both, sell at retail the products of any brewery by the individual bottle,
15 can or glass. Any brewer selling beer at retail or selling products of its
16 brewery to a retailer must pay the taxes required in section 23-1008, Idaho
17 Code, on the products of ~~his~~ its brewery, but need not be licensed as a whole-
18 saler for the purpose of selling beer at the brewery or at one (1) remote
19 retail location.

20 (f) A brewer licensed under the provisions of subsection (d) or (e) of
21 this section may be licensed as a wholesaler for the sale of beer produced by
22 such brewery to retailers other than at the licensed brewery and one (1) re-
23 mote retail location and shall not be required to pay an additional fee. Such
24 brewer shall, however, comply with and be subject to all other regulations
25 or provisions of law that apply to a wholesaler's license, except as the laws
26 may restrict sales at the licensed brewery or one (1) other remote retail lo-
27 cation. The holder of a brew pub license shall not be disqualified from hold-
28 ing a retail wine license or wine by the drink license for the sale of wine at
29 the brew pub premises on the grounds that the licensee is also licensed as a
30 wholesaler.