

Dear Senators LODGE, Harris, Stennett, and
Representatives HARRIS, Armstrong, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Office of the Governor - Idaho State Liquor Division:

IDAPA 15.10.00 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking
(Docket No. 15-1000-1900F).

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 07/26/2019. 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 08/23/2019.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate State Affairs Committee Committee and the House State Affairs Committee Committee

FROM: Principal Legislative Drafting Attorney - Ryan Bush

DATE: July 9, 2019

SUBJECT: Office of the Governor - Idaho State Liquor Division

IDAPA 15.10.00 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking (Docket No. 15-1000-1900F)

The Idaho State Liquor Division has submitted temporary and proposed rules that reauthorize and republish IDAPA 15.10.01, Rules of the Idaho State Liquor Division.

These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation. **However, changes from the previously approved rules are noted as follows:**

The Division has removed a subsection and obsolete language regarding the shipment and storage of liquor that contradicted the actual authority granted to the Director and placed impractical burdens on the Division.

The Division has also removed a redundant subsection regarding rule petitions that is already contained in Idaho Code.

The rule changes appear to be within the Division's statutory authority to promulgate rules provided in Section 23-206, Idaho Code.

This is a fee rule. No new fees or charges, or changes to existing fees or charges, are noted in this docket.

No other substantive changes from the existing rules have been noted.

cc: Office of the Governor - Idaho State Liquor Division
Jeffrey R. Anderson

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

**IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO STATE LIQUOR DIVISION**

DOCKET NO. 15-1000-1900F

NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED FEE RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rule listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 23-206(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 15.10.01, Rules of the Idaho State Liquor Division:

IDAPA 15.10

- 15.10.01, *Rules of the Idaho State Liquor Division* - with the following modifications:
 - **15.10.01.021.03.a. is deleted.** This section of the rule contradicts with authority granted the Director in Statute and Rule and places impractical burdens on the Division to receive finished product that may be intended for out-of-state distribution.
 - **15.10.01.021.03.b. is modified** to read, “It is a violation of Sections 23-203(a), 23-203(b) and 23-207(d), Idaho Code, for any Supplier or other party to ship Liquor into the state of Idaho for purposes not authorized by the Director.” Deleted is a portion of this section that reads, “or to any location other than the Division’s Warehouse.” This section of rule contradicts with authority granted the Director in Statute and Rule and places impractical burdens on the Division to receive unfinished product that is in a non-commercially marketable state, and it impedes Idaho industry from receiving raw material and converting it to a finished and marketable product. Deleting this section removes confusing language and clarifies the Director’s authority over liquor shipments and storage within Idaho.
 - **15.10.01.033. is deleted in its entirety.** This rule is redundant in that the parameters for rule petitions are already addressed in Section 67-5230, Idaho Code.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These established and instrumental rules outline the powers and duties of the Director of the Idaho State Liquor Division and of the Division, itself. These rules provide nuanced guidelines and establish a legal framework for a myriad of operational matters that are not adequately addressed by Idaho Code. They help to clarify the powers and duties of the Idaho State Liquor Division that enable the Division to safely and efficiently oversee the manufacturing, importation, marketing, distribution, and sale of distilled spirits in Idaho. The fee rules specifically allow for the appropriate cost reimbursements and the assessment of permit and sample fees for the efficient management and oversight of liquor suppliers and manufacturers that conduct business within Idaho.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which

makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Fee rules outlined here offset costs incurred by the Division to adequately administer and exercise oversight of the liquor suppliers who conduct business within Idaho.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. IDAPA 15.10.01, Section 022. allows the following fees to be charged by the Division:

1. **Cost Reimbursement.** The Division may seek cost reimbursement, as determined by the Division, from Supplier Representatives for mailing, shipping, or other expenses incurred by the Division to distribute information or displays to liquor stores at the request of a Supplier Representative.
2. **Maximum Fee for Samples.** There will be a maximum fee of twenty-five dollars (\$25) per case charged to Supplier Representatives for Samples.
3. **Maximum Fee for Annual Supplier Representative Permit.** There will be a maximum fee of fifty dollars (\$50) charged to Supplier Representatives each January for an annual permit.

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Tony Faraca, Chief Deputy Director, at (208) 947-9414.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

Jeffrey Anderson, Director
Phone: (208) 947-9400
Fax (208) 947-9401

Idaho State Liquor Division
1349 E. Beechcraft Court
Boise, ID 83716

**IDAPA 15
TITLE 10
CHAPTER 01**

OFFICE OF THE GOVERNOR

IDAHO STATE LIQUOR DIVISION

15.10.01 – RULES OF THE IDAHO STATE LIQUOR DIVISION

000. LEGAL AUTHORITY.

These rules are adopted by the Director of the Idaho State Liquor Division pursuant to Section 23-206(b), Idaho Code, and are written in accordance with Article III, Sections 24 and 26, Idaho Constitution; and the Idaho Administrative Procedures Act. These rules relate to the sale of packaged Liquor as defined in Subsection 004.09 of these rules, and to the general operations of the Idaho State Liquor Division. (3-29-12)

001. TITLE AND SCOPE.

The title of this chapter is: IDAPA 15.10.01, “Rules of the Idaho State Liquor Division,” Office of the Governor. These rules provide guidance regarding operational aspects of the Division and support and enforce applicable terms in the Idaho Liquor Act, Title 23, Idaho Code. Promulgation of new rules and revision of existing rules will be a continual process in accordance with the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. (3-29-12)

002. WRITTEN INTERPRETATIONS.

Written interpretation on the rules of the Idaho State Liquor Division, or any portion thereof, may be requested in writing from the Director. (3-20-97)

003. ADMINISTRATIVE APPEALS.

Any administrative appeals process not specifically covered in the Rules of the Idaho State Liquor Division will be processed in accordance with the IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (3-20-97)

004. DEFINITIONS.

The following terms, whenever used in these rules, have the meanings ascribed thereto, unless the context in which they are used clearly requires otherwise. (3-20-97)

01. Bailment. A system of storing Supplier-owned inventory in state-operated Warehouses. The Division holds the Liquor in trust until stock is needed at retail. (3-29-12)

02. Central Office. The main business office and Warehouse of the Idaho State Liquor Division. (3-20-97)

03. Close Relative. A person related by blood or marriage within the second degree of kinship. (3-20-97)

04. Contract Store. Distributing Stations, as defined in Subsection 004.08 of these rules, whose Liquor inventory is owned by the state under an Agreement. (3-29-12)

05. Delisting. The process of discontinuing any product offered for sale resulting in the product’s removal from the Division’s Product Line. The decision to retain or delist a product rests solely with the Director. (3-29-12)

06. Director. The chief executive officer of the Division. (3-29-12)

07. Division. The Idaho State Liquor Division. (3-20-97)

08. Distressed Liquor. Liquor which is not in its original state of packaging. (3-20-97)

- 09. Distributing Station.** A privately owned business that sells Liquor. It operates under an Agreement with the Division pursuant to Title 23, Chapter 3, Idaho Code. Distributing Stations may also be termed Contract Stores. (3-29-12)
- 10. Distillery Distributing Station.** A privately owned business that holds a permit issued by the Alcohol and Tobacco Tax and Trade Bureau (TTB), a manufacturer's license pursuant to Section 23-507, Idaho Code, and sells Liquor to retail customers pursuant to a Special Distributor Agreement with the Division in accordance with Title 23, Chapter 3, Idaho Code. Distillery Distributing Stations are "manufacturers of distilled spirits" under Section 23-509A, Idaho Code. Distillery Distributing Stations may also be termed Contract Stores for purposes of retail sales of Liquor within the state of Idaho. (4-11-15)
- 11. Liquor.** Liquor controlled by the Division shall have the definition ascribed to it by Section 23-105, Idaho Code, excluding certain beers as defined in Section 23-1002, Idaho Code, and certain Wines as defined in Section 23-1303, Idaho Code. (3-20-97)
- 12. Licensee.** Person authorized to sell beer or Wine by the drink or by the bottle, Liquor by the drink, or any combination thereof. (3-20-97)
- 13. Listing (Listed).** Liquor that is carried or approved to be carried in the Division's Product Line. (3-20-97)
- 14. Political Office.** A public office for which partisan politics is a basis for nomination, election, or appointment. (3-20-97)
- 15. Price Quotation.** Written verification of detailed product information submitted to the Division by Suppliers. (3-29-12)
- 16. Product Line.** Items offered for sale by the Division. (3-29-12)
- 17. Promotional Samples.** Liquor furnished by the liquor industry to local representatives for the purpose of promoting the product which must be attached to another Liquor product in the liquor store as a value added promotion. (3-29-12)
- 18. Retail Store.** Any State Store or Distributing Station. (3-20-97)
- 19. Samples.** Liquor furnished by the liquor industry to Supplier Representatives for the purpose of promoting the product. (3-29-12)
- 20. Shortage.** Any amount of cash or Liquor less than the true balance as maintained by the Central Office. Liquor Shortages shall be based on current retail value. (3-20-97)
- 21. Special Distributor (Distributor).** A private business owner authorized to operate a Distributing Station. A Special Distributor is not a state employee. (3-20-97)
- 22. Special Distributor Agreement (Agreement).** The contract signed by a Special Distributor acknowledging the conditions and terms for operation of a Distributing Station in accordance with Idaho Code and the rules of the Division. (3-20-97)
- 23. Special Order.** Any item not regularly offered as part of the Division's Product Line. (3-29-12)
- 24. State Store.** A Retail Store that sells Liquor. It is operated by state employees under the direct supervision of the Division. (3-20-97)
- 25. Supplier.** Any manufacturer, rectifier, importer, wholesaler or Supplier of Liquor, Wine, or related products offered for sale by the Division. (3-29-12)

26. Supplier Representative. An individual, company, or entity authorized to represent a Supplier in the state of Idaho. A Supplier Representative may be an individual, a group of individuals operating as a brokerage firm or may be a direct employee of the Supplier. A Liquor Supplier Representative must obtain an annual Supplier Representative permit from the Division. (3-29-12)

27. Warehouse. The main Division distribution center and satellite distribution points operated by the Division. (3-29-12)

28. Wine. Alcoholic beverages defined in Section 23-1303, Idaho Code. (3-29-12)

29. Wine Gallon. The liquid measure equivalent to the volume of two hundred thirty-one (231) cubic inches or one hundred twenty-eight (128) ounces. (3-20-97)

005. -- 009. (RESERVED)

010. RETAIL STORES.

01. Site Location. Based on the criteria set forth in this section and in accordance with Sections 23-301 and 23-302, Idaho Code, the Division will select an appropriate Retail Store site to adequately serve the community. (3-20-97)

02. Site Selection Criteria. The following criteria will be used in selecting a location for a new Retail Store. (3-20-97)

a. Public acceptability of location in accordance with Sections 23-301 and 23-302, Idaho Code. (3-20-97)

b. Location and suitability of premises. (3-20-97)

c. Lease amount may not be the sole determining factor in site selection; final selection will be determined at the discretion of the Director. (3-20-97)

d. Compliance with local zoning. (3-20-97)

03. Customer Refunds and Exchanges. No cash refunds will be authorized without prior approval of the Director or his authorized agent. (3-20-97)

a. Liquor may be exchanged for other Liquor of the same or higher price upon approval of the store manager and presentation of a valid receipt. (3-20-97)

b. Liquor brought in for exchange or refund must have been purchased in Idaho through the Division and must have the official Idaho seal as prescribed by the Division. (3-20-97)

c. A re-shelving charge may be assessed on all returned items in accordance with Section 23-311, Idaho Code. (3-20-97)

04. Disabled Customers. Appropriate special services, in accordance with the Americans with Disabilities Act, will be provided to disabled customers. (3-20-97)

05. Special Orders. Customers seeking Liquor not carried in the Division's Product Line may place a Special Order for such Liquor. (3-20-97)

a. The order must be picked up in total within one (1) week's time after notification by the store manager. Orders not picked up within one (1) week following such notification are subject to forfeiture of deposit and the Liquor may be placed on the shelf for sale. (3-20-97)

b. Order cancellations will be honored if done within seven (7) calendar days from the date the order

was placed and, if the cancellation is accepted by the Supplier. (3-29-12)

c. A deposit or a percentage of the order price, as specified by the Director, may be required before a Special Order is placed. (3-20-97)

d. If the Liquor is not available within ninety (90) days, a customer may request a deposit refund if the cancellation is accepted by the Supplier. (3-29-12)

06. Prices. All prices will be in accordance with the published price list set by the Director in accordance with Section 23-207(h), Idaho Code. (3-20-97)

07. Distressed Liquor. Price adjustments can be made on Distressed Liquor with the approval of the Director or his authorized agent. (3-20-97)

08. Hours and Days of Operation. Retail Store hours and days of business operation shall be set by the Director in accordance with Section 23-307, Idaho Code. (3-29-12)

09. Customer Response Cards. Each store will have customer response cards for customers to use when filing comments or complaints. These cards will be pre-addressed to the Division. The Director or his authorized agent shall investigate all comments and promptly respond to the customer. (3-20-97)

10. Audits. Designated Division personnel shall perform periodic inspections of all Retail Stores. Such inspections may be on an unannounced basis and may include physical inventory counts with the assistance of the store manager or authorized agent to assess the suitability of inventory levels and product mix and other evaluation procedures. (3-20-97)

11. Admission to State Store. To protect the assets of a State Store, to enhance the safety of Division personnel and the public, and to aide in the performance of the Division's duties, State Store personnel may refuse a person entry into a State Store, may require a person to leave a State Store, or may take other actions as are appropriate to cause the removal of a person from a State Store where such person's presence in the State Store is disrupting performance of the Division's duties or is inconsistent with the Division's charge to curtail the intemperate use of alcoholic beverages. (3-20-04)

011. DISTRIBUTING STATIONS.

01. Term of Agreement. Special Distributor Agreements shall be valid for a specified period as determined at the discretion of the Director. (3-20-97)

02. Transfer of Agreement. A Special Distributor Agreement is a personal privilege and shall not be considered property nor shall it be assignable or transferable. (3-20-97)

03. Agreement Renewal. If a Distributing Station's operations exceeds Division expectations, agreement renewals may be allowed. (3-20-97)

04. Agreement Evaluations. Periodic evaluation of the agreement, in accordance with the guidelines set in Subsection 011.06 of these rules, will be considered to insure reasonable, uniform and non-discriminatory criteria and procedures for selection and renewal of special Distributing Stations pursuant to Section 23-302, Idaho Code. These criteria are applicable to the replacement of an existing Distributing Station and to the establishment of a new Distributing Station. (3-20-97)

05. Acceptance of Applications. Applications for Distributing Stations are accepted only in response to public notices. Unsolicited applications may not be held on file pending future openings. (3-20-97)

06. Applicant Selection. The selection of the most qualified applicant for a Distributing Station will be made by the Director in accordance with Section 23-304, Idaho Code. The Director reserves the right to refuse to select any and all applicants. Applicant selection will be based on the following criteria: (3-20-97)

- a. Public acceptability in accordance with Section 23-302, Idaho Code. (3-20-97)
 - b. Location and suitability of premises. (3-20-97)
 - c. An applicant who has been convicted of, or has plead guilty to, a felony or a crime of moral turpitude (an element of which is dishonesty or fraud) under the laws of any state, U.S. Territory or protectorate, the District of Columbia, or the United States will not be allowed to operate a Distributing Station. (3-20-97)
 - d. An applicant may not be a Close Relative of, or have a partnership or other close business relationship with any person employed by the Division who has the responsibility for establishing, approving, or influencing policies of the Division. (3-20-97)
 - e. An applicant may be a spouse, child, employee, blood relative, relative through marriage, or business associate of the retiring or deceased Distributor. (3-20-97)
 - f. Distributing Stations will not be established in a business that has a license to sell Liquor, Wine or beer by the drink. (3-20-97)
 - g. Where a new Distributing Station is created by the conversion of a State Store, an employee of that former state store can be chosen by the Division as the Special Distributor. (3-20-97)
 - h. If an existing Distributing Station is sold, the purchaser may, at the sole and absolute discretion of the Division, continue to operate the Distributing Station under comparable terms and conditions applied to the previous Special Distributor. (3-20-97)
- 07. General Operational Obligations.** Special Distributors shall agree to abide by all of the following guidelines. (3-20-97)
- a. The Distributor shall furnish an adequate building or facility with suitable shelving, display counters and storeroom facilities. It shall be kept clean and sanitary at all times. (3-20-97)
 - b. The Distributor shall not permit a person under the age of nineteen (19) to perform any acts for the Division. (3-20-97)
 - c. The Distributor shall keep the Distributing Station open for business in accordance with Section 23-307, Idaho Code. (3-20-97)
 - d. The Distributor shall not hold a partisan state elective political office. He cannot be a Close Relative of, or be in a business partnership with a person in a partisan state elective Political Office. (3-20-97)
 - e. The Distributor shall not present his views as being representative of the views of the Division and shall not attempt to politically influence customers in any manner. (3-20-97)
 - f. The Distributor will make and transmit all reports as required by the Division in the time frame established by the Division. (3-20-97)
 - g. The Distributor is responsible for and will account to the Division for all Liquor furnished by the Division. (3-20-97)
 - h. The Distributor will only sell Liquor received from the Division. (3-20-97)
 - i. The Distributor will only sell the Liquor at prices set by the Division in accordance with Section 23-207(h), Idaho Code. (3-20-97)
 - j. The Distributor will not deliver Liquor off premise. (3-20-97)
- 08. Days and Hours of Operation.** (3-20-97)

- a. The Distributor can sell Liquor only on the days outlined in Section 23-307, Idaho Code. (3-20-97)
 - b. Standard store hours shall be in accordance with Subsection 010.08 of these rules. (3-20-97)
 - c. The Distributor will have Liquor for sale a minimum of six (6) hours per day (only on the days in which it is legal to sell alcohol) and will not exceed the maximum legal selling hours as set by the Director. (3-20-97)
- 09. Compensation.** The compensation paid by the Division to the Special Distributor shall be full payment for the furnishing of all facilities, operating costs and expenses incidental to the operation of the Distributing Station, as well as full consideration for all services provided by the Distributor. Such compensation will be uniformly applied statewide in accordance with Section 23-305, Idaho Code. (3-20-97)
- 10. Supplies.** The Division will furnish all necessary sales books, accounting forms, and price marking equipment for use by the distributor in transacting the business of the Division as required by law or as deemed necessary by the Director. (3-20-97)
- 11. Voluntary Agreement Termination.** (3-20-97)
- a. The Distributor's Agreement may be voluntarily terminated by the Distributor upon written notice by certified mail or personal delivery to the Division or its specified representative specifying the date of termination. (3-20-97)
 - b. The Distributor will allow reasonable time for the Division to conduct a final inventory audit and to remove all Liquor. (3-20-97)
 - c. The sale of the Distributor's business to any other party, the forfeiture of the business to a lien holder, or the foreclosure upon the business will be considered voluntary Agreement termination. (3-20-97)
- 12. Automatic Agreement Termination.** (3-20-97)
- a. The Distributor's Agreement will be terminated automatically upon the death of the distributor. (3-20-97)
 - b. The Distributor's estate, assisted by the Division, will be responsible for the operation of the Distributing Station until the termination date has been established by the Director. (3-20-97)
- 13. Agreement Termination for Cause.** The Division may terminate the Special Distributor Agreement for good cause which includes, but is not limited to, any of the following: (3-20-97)
- a. A Distributor who at any time becomes insolvent or experiences a substantial change in financial condition that, in the judgment of the Division, creates a financial risk to the Division. (3-20-97)
 - b. Significant breach of Distributor's obligations to manage the Distributing Station properly. (3-20-97)
 - c. Intoxication of the Distributor while in discharge of his duties as a representative of the Division. (3-20-97)
 - d. Participation of the Distributor in misappropriation of any assets of the Division. (3-20-97)
 - e. Distributor having been found guilty of a felony or a misdemeanor involving moral turpitude. (3-20-97)
 - f. Conduct detrimental to the good order of the Division as defined in IDAPA 15.04.01, "Rules of the Division of Human Resources and Personnel Commission," regarding classified conduct unbecoming state classified

employees. Note - this Subsection in no way confers employee status on such Special Distributors, however outlines a specifically referenced standard of conduct. (3-20-97)

14. Agreement Termination Procedure. (3-20-97)

a. The Division shall notify the distributor in writing, by certified mail or personal delivery, specifying the reasons for the proposed termination and the effective date of the proposed termination. (3-20-97)

b. The Division may notify the Distributor that he is immediately suspended pending final determination of the proposed termination. At the time of notification, the Division reserves the right to conduct a final audit and remove all Division property pending a final determination. (3-20-97)

c. If the Distributor wishes a hearing on the proposed termination to present information relative to the reason given for termination, he shall notify the Division in writing within twenty (20) days after receiving the notice of the proposed termination. The hearing shall be held in accordance with the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (3-20-97)

d. Upon termination of this agreement, the Division shall remove all property owned by it, and compensation to the distributor shall cease as of the date of termination. (3-20-97)

012. DISTILLERY DISTRIBUTING STATIONS.

01. Sample Tasting. Distillery Distributing Stations may offer sample tastings on the premises of its distillery in accordance with Section 23-509A, Idaho Code. (4-11-15)

02. Retail Sales. Distillery Distributing Stations may sell Liquor manufactured on premises of such distillery to customers outside the state of Idaho in accordance with Section 23-507, Idaho Code. Distillery Distributing Stations may sell Liquor manufactured on the premises that is purchased from the Division to customers on the premises of its distillery in accordance with and pursuant to a Special Distributor Agreement with the Division. The Special Distributor Agreement shall include governing terms and conditions for retail sale of Liquor manufactured on the premises within the state of Idaho in accordance with Title 23, Chapter 3, Idaho Code, and applicable rules of the Division governing retail sale operations. (4-11-15)

013. CONTRACT STORES.

01. Fiduciary Responsibility. Any and all unremitted monies collected by the Contract Store are held in trust for the Division, and upon their receipt by the Contract Store, are assigned to the Division in accordance with Section 23-401, Idaho Code. (3-20-97)

02. Liquor Shortage. The Contract Store must pay the monetary value of any Shortage to the Division immediately after receipt of the request for payment from the Division showing its calculation of the Shortage. (3-20-97)

a. If the Contract Store disputes the existence, amount of, or responsibility for Liquor or cash Shortages, the Contract Store may request a hearing before the Director. (3-20-97)

b. Any payment made by the Contract Store for Liquor Shortages may be refunded in whole or in part if the Contract Store's position is upheld by the Director. (3-20-97)

03. Compensation. For Contract Store, compensation will be the gross profit allowance set by the Division. Compensation will vary based on sales volume. (3-20-97)

014. SALES TO LICENSEES.

To be eligible to purchase Liquor at discount (Section 23-217, Idaho Code) a Licensee shall obtain a no cost purchase order permit from any State Store or Distributing Station. (3-29-12)

01. Permit Term. The permit shall remain valid only as long as the permit holder is an authorized

Licensee as defined in Section 23-902(e), Idaho Code. (3-29-12)

02. Permits Are Not Transferable. Permits are not transferable and will automatically terminate on suspension, revocation, sale, lease, or transfer of the liquor license. (3-29-12)

015. -- 019. (RESERVED)

020. STORE CONVERSIONS.

The Division reserves the right at any time to convert a State Store to a Distributing Station or to convert a Distributing Station to a State Store. However, this right will not be arbitrarily applied and will not be exercised until relevant facts presented to the Director have been reviewed and there has been reasonable time during which appropriate public notice has been given. (3-20-97)

021. SUPPLIERS.

01. Price Quotations. All Suppliers must submit a Liquor Price Quotation, on forms prescribed by the Division, for every item they have Listed with the Division. (3-29-12)

a. All Price Quotations must be submitted to the Division by certified mail or electronic transmission. (3-20-97)

b. Price change quotations must be submitted sixty (60) days in advance of any price changes. (3-20-97)

02. Warranties. Supplier warranties will conform to the requirements of the Tax and Trade Bureau of the Internal Revenue Service. (3-29-12)

03. Liquor Shipments. Pursuant to Sections 23-203(a), 23-203(b) and 23-207(d), Idaho Code, all Liquor transported into the state of Idaho shall be under the direction of the Division. (3-20-97)

a. It is a violation of Sections 23-203(a), 23-203(b) and 23-207(d), Idaho Code, for any Supplier or other party to ship Liquor into the state of Idaho for purposes not authorized by the Director. (6-30-19)T

b. The Division reserves the right to select the mode of transportation for all Liquor within the state of Idaho. (3-20-97)

04. Title to Liquor, Wines and Related Products. Title to Product Line items delivered to the Division passes from the Supplier to the Division when the Division accepts the product, unless Product Line items are delivered directly to Bailment status. (3-29-12)

a. The Division reserves the right to conduct quality tests, or to inspect products directly ordered or withdrawn from Bailment. (3-29-12)

b. The Division reserves the right at any time to reject any Product Line item if, upon tests and inspections, it does not conform to requirements. (3-29-12)

c. In the event the Division rejects any delivery, ownership of products refused will remain with the Supplier. It shall be the Supplier's responsibility to remove or relocate any refused products. (3-29-12)

05. Product Returns. Liquor, Wine, or related products may be returned to Suppliers by the Division, in full or partial cases, for "ordinary and usual commercial reasons" in accordance with the Tax and Trade Bureau of the Internal Revenue Service regulations. (3-29-12)

a. The Supplier shall immediately reimburse the Division the full invoice cost plus an additional amount, fixed by the Division, as reimbursement for the Division's expense in shipping to and from its stores and Warehouse. (3-29-12)

06. New Listings. New Listings shall be added at the discretion of the Director pursuant to Sections 23-203 and 23-207, Idaho Code. (3-20-97)

a. For new products to be considered, Suppliers must submit Price Quotations and other requested information as shown in the Division's Listing procedure. (3-29-12)

b. New Listings will be given one (1) year from the time of Listing to attain a minimum quota as set by the Division. (3-20-97)

07. Delisting. Delistings shall be at the discretion of the Director pursuant to Sections 23-203 and 23-207, Idaho Code. (3-20-97)

a. All items Listed with the Division must maintain a minimum quota in order to insure continued Listing in Idaho. (3-29-12)

b. A list of minimum quotas by class is available upon request from the Division. (3-20-97)

08. Resident Supplier Representatives. All Suppliers doing business with the Division shall have resident representation. (3-29-12)

a. Suppliers shall be limited to ten (10) representatives, one (1) of whom must be a resident of Idaho, who will be designated the primary Supplier Representative. (3-29-12)

b. A resident Supplier Representative cannot have been convicted of any felony. (3-29-12)

c. In the event that the primary Idaho resident Supplier Representative position becomes vacant, it must be filled within sixty (60) days. (3-29-12)

09. Supplier Representative Permits. Supplier Representatives must obtain an annual permit from the Division. (3-29-12)

a. Permits must be renewed January 1st of each year. (3-20-97)

b. Permits will not be issued to any holder of a bartender's permit, retail licensee, a distributor of restaurant or bar supplies, a distributor of beer or Wine, or to a food wholesaler. (3-20-97)

c. Supplier Representatives may represent more than one (1) Supplier without additional permit fees. (3-29-12)

10. Facility Visitations. Supplier Representatives, or anyone acting in that capacity, must obtain prior approval from the Director or his authorized agent to conduct business at any State Store or Distributing Station. Visits to the Division are to be confined to the Central Office area only, unless otherwise approved by the Director or his authorized agent. (3-20-97)

11. Samples. Samples shall be limited to ten (10) Wine Gallons per month and the sizes of Samples shall be that which are permitted by federal regulation or statute. (3-20-97)

12. Promotional Samples. Promotional Samples shall be limited to fifty (50) ml size bottles unless specified otherwise by the Director. (3-20-97)

13. Contact With Licensees. No Supplier Representative, or anyone acting in that capacity, shall deliver any Liquor, Wine, or beer sold by the Division to a Licensee's place of business, other than Samples. (3-29-12)

a. Such Samples shall be limited to sizes permitted by federal regulation or statute. (3-20-97)

b. Such Samples shall be only those items not carried in that Licensee's Product Line. (3-20-97)

- 14. Liquor Displays.** The Division will regulate all Retail Store Liquor displays. (3-20-97)
- a.** No Supplier Representative shall be permitted to interfere with product displays. (3-29-12)
- b.** Any Supplier-owned display material may be discarded if not picked up within thirty (30) days after termination of the display period. (3-29-12)

15. Advertising. Advertising in all Retail Stores will be in accordance with Section 23-607, Idaho Code. If an industry member is doubtful as to whether a proposed advertisement is in compliance with the provisions of these rules, a specimen of the proposed advertisement may be submitted to the Director of the Division for approval prior to publication. (3-20-97)

16. Violations. Any Supplier Representative, or anyone acting in that capacity, who violates Title 23, Idaho Code, or any rule of the Division, shall thereby subject the manufacturer's, wholesaler's or Distributor's products to removal from the Division's Product Line or; the Director, at his discretion, may suspend (temporarily or permanently) their Supplier Representative permit. (3-29-12)

022. SCHEDULE OF FEES.

The following fees may be charged by the Division. (3-20-97)

01. Cost Reimbursement. The Division may seek cost reimbursement, as determined by the Division, from Supplier Representatives for mailing, shipping, or other expenses incurred by the Division to distribute information or displays to liquor stores at the request of a Supplier Representative. (3-29-12)

02. Maximum Fee for Samples. There will be a maximum fee of twenty-five dollars (\$25) per case charged to Supplier Representatives for Samples. (3-29-12)

03. Maximum Fee for Annual Supplier Representative Permit. There will be a maximum fee of fifty dollars (\$50) charged to Supplier Representatives each January for an annual permit. (3-29-12)

023. -- 030. (RESERVED)

031. STATE STORES SOLICITATION AND PROMOTIONAL PRESENTATIONS.

No school, church, fraternal, civic, political or charitable organization or individual shall be allowed to solicit for donations or advertise for any purpose within any State Store. (3-20-97)

032. WINES.

Wines may be sold in any State Store or Distributing Station at the discretion of the Director pursuant to Section 23-1305, Idaho Code. All rules of the Division applicable to Liquor are also applicable to Wines and beer sold by the Division. (3-29-12)

033. LIQUOR FUND.

Determination of the final annual amount of cash available for distribution in the liquor account under Section 23-404, Idaho Code, shall be the amount of the Division's annual net income determined in accordance with Generally Accepted Accounting Principles, consistently applied. Notwithstanding the above, cash reserves are allowed under Section 23-403, Idaho Code. Further, the Director with the concurrence of the State Controller may hold back from distribution additional cash reserves needed for prudent operation of the Division. Such final annual amount of available cash shall be disbursed no later than ninety (90) days following each fiscal year end. (3-20-97)

034. -- 999. (RESERVED)