

IN THE SENATE

SENATE BILL NO. 1120

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO LIQUOR LICENSES; AMENDING SECTION 23-903, IDAHO CODE, TO PRO-
2 VIDE THAT CERTAIN LICENSES SHALL NOT BE ISSUED AFTER A CERTAIN DATE, TO
3 PROVIDE THAT CERTAIN LICENSES MAY NOT BE SOLD, LEASED, OR TRANSFERRED,
4 TO PROVIDE THAT CERTAIN LICENSES MAY BE SOLD OR TRANSFERRED ONLY ONCE,
5 TO PROVIDE EXCEPTIONS, TO PROVIDE FOR THE REVERSION OF CERTAIN LICENSES
6 UNDER LEASE, AND TO MAKE TECHNICAL CORRECTIONS; PROVIDING LEGISLATIVE
7 INTENT; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
8

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

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

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

1 said premises continue to have such special characteristics at the time of
2 the application for renewal.

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

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

46 (4) Nothing ~~herein contained in this chapter~~ shall prohibit the is-
47 suance of a license to the owner, operator, or lessee of an actual bona fide
48 equestrian facility located on not less than forty (40) contiguous acres,
49 with permanently erected seating of not less than six thousand (6,000)
50 seats, no part of which equestrian facility or the premises thereon is sit-

1 uate within the incorporated limits of any city, and which facility shall
2 have at least three (3) days per year of a professionally sanctioned rodeo.
3 Not more than one (1) licensed premises shall be permitted at any equestrian
4 facility or within an area comprising such a facility. The fees for licenses
5 granted to equestrian facilities shall be the same as those prescribed for
6 golf courses as set forth in section 23-904, Idaho Code.

7 (5) Nothing ~~herein contained in this chapter~~ shall prohibit the is-
8 suance of a license to the owner, operator, or lessee of a restaurant
9 operated on an airport owned or operated by a county or municipal corpora-
10 tion or on an airport owned or operated jointly by a county and municipal
11 corporation, and which said airport is served by a trunk or local service air
12 carrier holding a certificate of public convenience and necessity issued by
13 the civil aeronautics board of the United States of America. Not more than
14 one (1) license shall be issued on any airport.

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

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

1 cense must be placed in actual use in said convention center within one (1)
2 year from the date of its issuance. The fee for any license issued to a qual-
3 ifying convention center shall be as prescribed in subsection (3) of section
4 23-904, Idaho Code. The holder of a convention center license shall not be
5 eligible for the issuance of a license in the same city pursuant to any other
6 provision of this chapter. For purposes of this section, the term "holder"
7 shall include an owner, operator, or lessee and shall include a stockholder,
8 director, or officer of a corporation or a partner in a partnership, which
9 corporation or partnership has been issued a convention center license pur-
10 suant to this chapter. Not more than one (1) licensed premises shall be per-
11 mitted on any convention center or within the area comprising the same, in-
12 cluding convention centers that also comprise golf courses or ski resorts as
13 ~~herein~~ defined in this section.

14 (8) ~~Nothing~~ If an owner, operator, or lessee has a validly issued re-
15 tail liquor by the drink license at the time of application, nothing in this
16 chapter shall prohibit the issuance of a license to the owner, operator, or
17 lessee of a food, beverage, and/or lodging facility that has been in contin-
18 uous operation in the same location for at least seventy-five (75) years,
19 except for temporary closings for refurbishing or reconstruction, or a food,
20 beverage, and lodging facility serving the public by reservation only, hav-
21 ing a minimum of five (5) rooms operating in a structure that has been in
22 existence for at least seventy-five (75) years and has been on the historic
23 register for a minimum of ten (10) years, is situated within five hundred
24 (500) yards of a natural lake containing a minimum of thirty-six thousand
25 (36,000) acre feet of water when full with a minimum of thirty-two (32)
26 miles of shoreline, and is located in a county with a minimum population of
27 sixty-five thousand (65,000). The provisions of section 23-910, Idaho Code,
28 shall apply to licenses issued to continuous operation facilities. The fees
29 shall be the same as those prescribed for golf courses as set forth in section
30 23-904, Idaho Code. No license shall be issued under this subsection on or
31 after July 1, 2028.

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

39 (10) Nothing in this chapter shall prohibit the issuance of a license
40 to the owner, operator, or lessee of the lodging, dining, and entertainment
41 facilities owned by a gondola resort complex and operated in conjunction
42 with the other public services provided by a gondola resort complex located
43 within the ownership/leasehold boundaries of a gondola resort complex. A
44 For purposes of this subsection, a gondola resort complex means an actual
45 bona fide gondola capable of transporting people for recreational and/or
46 entertainment purposes at least three (3) miles in length with a vertical
47 rise of three thousand (3,000) feet, portions of which may be located within
48 or over the limits of one (1) or more cities.

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

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

11 (13) Nothing ~~contained~~ in this chapter shall prohibit the issuance of a
12 license to the owner, operator, or lessee of a conference and event center
13 that is within the city limits of a resort city as defined in section 50-1044,
14 Idaho Code, that has enacted local option nonproperty taxes in accordance
15 with section 50-1046, Idaho Code, including, at the time of issuance, a re-
16 sort city tax on sales of liquor by the drink, wine, and beer sold at retail
17 for consumption on the licensed premises. There shall be only one (1) con-
18 ference and event center license to sell liquor by the drink issued per re-
19 sort city pursuant to this subsection. For the purposes of this section, a
20 conference and event center means facilities situated on premises consist-
21 ing of a building or buildings and the contiguous property owned or leased
22 and under common ownership or control by the licensee. Such facilities must
23 provide ~~not~~ no less than four thousand (4,000) square feet of enclosed space
24 for conference and event purposes, exclusive of space dedicated by the li-
25 censee to the commercial kitchen. The commercial kitchen must include a type
26 1 commercial hood and cooking equipment, exclusive of microwave ovens and
27 grills. The fee for any license issued to a qualifying licensee shall be as
28 prescribed in section 23-904(1), (2), or (3), Idaho Code, depending on the
29 population of the resort city in which the conference and event center is lo-
30 cated and as prescribed in section 23-916, Idaho Code. A license issued pur-
31 suant to this subsection may be renewed without regard to the population or
32 status of the city for which the license was issued and without regard for the
33 continuation of local option nonproperty taxes by the city, provided the ap-
34 plicant for renewal is not otherwise disqualified from licensure pursuant to
35 section 23-910, Idaho Code. Not more than one (1) license shall be issued to
36 a conference and event center. A conference and event center license shall
37 not be transferable and may not be sold. For the purpose of issuance and
38 maintenance of a license under this subsection, such facilities may serve
39 liquor only while such facilities are hosting a conference or event. Nothing
40 in this subsection shall excuse a conference and event center from complying
41 with actual use standards in title 23, Idaho Code, or administrative rules
42 promulgated pursuant to statutory authority granted under this title.

43 (14) The provisions of section 23-910, Idaho Code, shall apply to li-
44 censes issued under the provisions of this section. The fees shall be the
45 same as those prescribed for golf courses as set forth in section 23-904,
46 Idaho Code. Except for licenses issued pursuant to subsection (1) of this
47 section, licenses issued under the provisions of this section are not trans-
48 ferable to any other location, facility, or premises.

49 (15) A license issued pursuant to subsection (1) of this section on or
50 after July 1, 2023:

1 (a) May not be sold or leased;

2 (b) Shall not be transferable to any other location, facility, or
 3 premises; and

4 (c) Shall not qualify for the discount established in section
 5 23-217(2), Idaho Code.

6 (16) A license issued pursuant to subsection (1) of this section prior
 7 to July 1, 2023, may be sold or transferred to another location, facility,
 8 or premises only once on or after July 1, 2023, and shall thereafter be non-
 9 transferable. Prior to such sale or transfer, the licensee shall be entitled
 10 to the discount established in section 23-217(2), Idaho Code. Subsequent to
 11 such sale or transfer, the licensee shall not be entitled to such discount.
 12 For purposes of this subsection only, the following circumstances shall not
 13 qualify as a sale or transfer:

14 (a) The license is inherited or otherwise acquired through a will,
 15 trust, or other estate-planning document;

16 (b) The license is given to a person by the person's parent, grandpar-
 17 ent, child, sibling, aunt, uncle, or first cousin without consideration
 18 or remuneration;

19 (c) A business or other entity with which the license is associated is
 20 sold or leased, and the license remains associated with such business
 21 or entity, provided that such business or entity must have occupied its
 22 location, facility, or premises at the time of sale or lease for at least
 23 one (1) year prior to the sale or lease, and provided further, that such
 24 business or entity may not move from its location, facility, or premises
 25 within one (1) year following the sale or lease. Any sale or lease that
 26 does not conform to the provisions of this paragraph shall be considered
 27 a sale or transfer; or

28 (d) The licensee owns, operates, or leases more than one (1) business or
 29 entity and transfers the license from one business or entity to another
 30 owned, operated, or leased by such licensee.

31 (17) If a license that was issued pursuant to subsection (1) of this sec-
 32 tion is under lease before July 1, 2023, then such license shall revert to the
 33 owner's possession upon the conclusion of the lease period. Once such re-
 34 version occurs, the license owner may sell or transfer the license subject
 35 to the provisions of subsection (16) of this section. The license owner may
 36 sell such license subject to the provisions of subsection (16) of this sec-
 37 tion under an installment contract wherein such contract shall not exceed a
 38 term of five (5) years.

39 SECTION 2. LEGISLATIVE INTENT. The State of Idaho utilizes a popula-
 40 tion-based method of regulating licenses for retail liquor by the drink.
 41 The Legislature recognizes that this form of regulation has unintentionally
 42 created a speculative market for the transferability of retail liquor by the
 43 drink licenses. It is the intent of the Legislature to cease the transfer of
 44 retail liquor by the drink licenses issued on and after July 1, 2023, while
 45 recognizing that licenses issued prior to that date should have a method to
 46 recoup some value from such licenses.

47 SECTION 3. An emergency existing therefor, which emergency is hereby
 48 declared to exist, this act shall be in full force and effect on and after
 49 July 1, 2023.