LEGISLATURE OF THE STATE OF IDAHO

Sixty-seventh Legislature
Second Regular Session - 2024

IN THE SENATE

SENATE BILL NO. 1421

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO LIQUOR; AMENDING SECTION 23-903, IDAHO CODE, TO REVISE PROVISIONS REGARDING A LICENSE TO RETAIL LIQUOR AND TO ESTABLISH PROVISIONS REGARDING THE TRANSFER AND ISSUANCE OF A LICENSE; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

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

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

(2) Nothing in this chapter shall prohibit the issuance of a license to the owner, operator, or lessee of an actual bona fide golf course whether located within or without the limits of any city, or located on premises also
operated as a winery or ski resort, or to the lessee of any premises situ-
ate thereon, whether located within or without the limits of any city. For
the purpose of this section, a golf course shall comprise an actual bona fide
golf course, which is regularly used for the playing of the game of golf, hav-
ing not less than nine (9) tees, fairways, and greens laid out and used in the
usual and regular manner of a golf course. Nine (9) hole courses must have a
total yardage of at least one thousand (1,000) yards, and eighteen (18) hole
courses must have a total yardage of at least two thousand (2,000) yards as
measured by totaling the tee-to-green distance of all holes. The course must
be planted in grass except that it may provide artificial tee mats. Where any
such golf course is owned or leased by an association of members and is used
or enjoyed by such members or their guests, none of the disqualifications
contained in section 23-910, Idaho Code, shall apply to such association as
a licensee where such disqualifications, or any of them, would apply only to
a member of such association where such member has no interest therein except
as a member thereof. Provided, a building that is located on a lake of not
less than one hundred sixty (160) acres with not less than two hundred (200)
feet of lake frontage, owned or leased and operated exclusively by an actual
bona fide golf course licensed for the sale of liquor by the drink, as oth-
ewise defined in this subsection, located not more than five tenths (.5) of
a mile from the golf course exterior boundaries, and accessible by that golf
course by private or public roadway or right-of-way shall be deemed part of
and contiguous to the licensed golf course premises for purposes of the sale
of liquor by the drink upon such premises.

(3) For purposes of this section, a ski resort shall comprise real prop-
erty of not less than ten (10) acres in size, exclusive of the terrain used
for skiing and upon which the owner, operator, or lessee of the ski resort has
made available himself or through others, including but not limited to the
owners of condominiums, permanent bona fide overnight accommodations avail-
able to the general public for one hundred (100) persons or more, and which
real property is contiguous to or located within the area in which skiing oc-
curs and is regularly operated as a ski resort in the wintertime where the
owner, operator, or lessee of the ski resort is also the owner, operator, or
lessee of the area served by a bona fide chair ski lift facility or facili-
ties. Alternatively, for the purpose of this section, a ski resort may also
be defined as a downhill ski area, open to the public, comprising real prop-
erty of not less than two hundred fifty (250) skiable acres, operating two
(2) or more chairlifts with a vertical lift of one thousand (1,000) feet or
more, and capable of transporting a minimum of one thousand eight hundred
(1,800) skiers per hour. A ski resort qualifying under this definition shall
also have on the premises a lodge facility providing shelter and food ser-
vice to the public, the operator of which shall also be the valid owner or
lessee of the grounds and facilities upon which the ski resort offers down-
hill skiing services to the public. The fees for licenses granted to ski re-
sorts shall be the same as those prescribed for golf courses as set forth in
section 23-904, Idaho Code. Not more than one (1) licensed premises shall be
permitted on any golf course or any ski resort or within the area comprising
the same.

(4) Nothing in this chapter shall prohibit the issuance of a license to
the owner, operator, or lessee of an actual bona fide equestrian facility lo-
cated on not less than forty (40) contiguous acres, with permanently erected
seating of not less than six thousand (6,000) seats, no part of which eques-
trian facility or the premises thereon is situate within the incorporated
limits of any city, and which facility shall have at least three (3) days per
year of a professionally sanctioned rodeo. Not more than one (1) licensed
premises shall be permitted at any equestrian facility or within an area com-
prising such a facility. The fees for licenses granted to equestrian facil-
ities shall be the same as those prescribed for golf courses as set forth in
section 23-904, Idaho Code.
(5) Nothing in this chapter shall prohibit the issuance of a license to
the owner, operator, or lessee of a restaurant operated on an airport owned
or operated by a county or municipal corporation or on an airport owned or
operated jointly by a county and municipal corporation, and which said air-
port is served by a trunk or local service air carrier holding a certificate
of public convenience and necessity issued by the civil aeronautics board of
the United States of America. Not more than one (1) license shall be issued
on any airport.
(6) Nothing in this chapter shall prohibit the issuance of one (1) club
license to a club as defined in section 23-902, Idaho Code. The holder of
a club license is authorized to sell and serve alcoholic beverages for con-
sumption only within the licensed establishment owned, leased, or occupied
by the club and only to bona fide members of the club and to bona fide mem-
bers' guests. A club license issued pursuant to the provisions of this sec-
tion is not transferable and may not be sold. Any club license issued pur-
suant to the provisions of this section will revert to the director when, in
his judgment, the licensee ceases to operate as a bona fide club as defined
in section 23-902, Idaho Code. No club may hold a liquor license and a club
license simultaneously. A club that on July 1, 1983, holds a liquor license
may continue to possess that license. Any club that possesses a liquor li-
cense on January 1, 1983, or thereafter, and then sells that liquor license,
may not obtain a club license, and the director shall not issue a club li-
cense to that club for a period of five (5) years following such sale. The
fee for any license issued to a qualifying club within an incorporated mu-
nicipality shall be as prescribed in subsections (1), (2) and (3) of sec-
tion 23-904, Idaho Code. The fee for any license issued to a qualifying club
not situate within an incorporated municipality shall be as specified for
golf courses under section 23-904(6), Idaho Code. The provisions of section
23-916, Idaho Code, regarding county and city licenses shall pertain to club
licenses. The burden of producing sufficient documentation of qualifica-
tions for club licensure shall be with the club applicant.
(7) Nothing in this chapter to the contrary shall prohibit the issuance
of a license to the owner, operator, or lessee of an actual bona fide conven-
tion center that is within the incorporated limits of a city having a pop-
ulation of three thousand (3,000) or greater, and which city does not have
located therein a convention center with a valid convention center license
to sell liquor by the drink. For the purpose of this section, a convention
center means a facility having at least thirty-five thousand (35,000) square
feet of floor space or a facility having at least one hundred twenty (120)
sleeping rooms and an adjoining meeting room that will accommodate not less
than three hundred fifty (350) persons, whether or not such room may be par-
tioned into smaller rooms, and provided that such meeting room shall con-
tain at least three thousand (3,000) square feet of floor space. Such li-
cense must be placed in actual use in said convention center within one (1)
year from the date of its issuance. The fee for any license issued to a qual-
ifying convention center shall be as prescribed in subsection (3) of section
23-904, Idaho Code. The holder of a convention center license shall not be
eligible for the issuance of a license in the same city pursuant to any other
provision of this chapter. For purposes of this section, the term "holder"
shall include an owner, operator, or lessee and shall include a stockholder,
director, or officer of a corporation or a partner in a partnership, which
corporation or partnership has been issued a convention center license pur-
suant to this chapter. Not more than one (1) licensed premises shall be per-
mited on any convention center or within the area comprising the same, in-
cluding convention centers that also comprise golf courses or ski resorts as
defined in this section.

(8) If an owner, operator, or lessee has a validly issued retail liquor
by the drink license at the time of application, nothing in this chapter
shall prohibit the issuance of a license to the owner, operator, or lessee
of a food, beverage, and/or lodging facility that has been in continuous
operation in the same location for at least seventy-five (75) years, except
for temporary closings for refurbishing or reconstruction, or a food, bever-
age, and lodging facility serving the public by reservation only, having a
minimum of five (5) rooms operating in a structure that has been in existence
for at least seventy-five (75) years and has been on the historic register
for a minimum of ten (10) years, is situated within five hundred (500) yards
of a natural lake containing a minimum of thirty-six thousand (36,000) acre
feet of water when full with a minimum of thirty-two (32) miles of shoreline,
and is located in a county with a minimum population of sixty-five thousand
(65,000). The provisions of section 23-910, Idaho Code, shall apply to li-
censes issued to continuous operation facilities. The fees shall be the same
as those prescribed for golf courses as set forth in section 23-904, Idaho
Code. No license shall be issued under this subsection on or after July 1,
2028.

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

(10) Nothing in this chapter shall prohibit the issuance of a license
to the owner, operator, or lessee of the lodging, dining, and entertainment
facilities owned by a gondola resort complex and operated in conjunction
with the other public services provided by a gondola resort complex located
within the ownership/leasehold boundaries of a gondola resort complex. For
purposes of this subsection, a gondola resort complex means an actual bona
fide gondola capable of transporting people for recreational or entertain-
ment purposes at least three (3) miles in length with a vertical rise of three
thousand (3,000) feet, portions of which may be located within or over the
limits of one (1) or more cities.
(11) Nothing in this chapter shall prohibit the issuance of a license to the owner, operator, or lessee of a winery also operating a golf course on the premises.

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

(13) Nothing in this chapter shall prohibit the issuance of a license to the owner, operator, or lessee of a conference and event center that is within the city limits of a resort city as defined in section 50-1044, Idaho Code, that has enacted local option nonproperty taxes in accordance with section 50-1046, Idaho Code, including, at the time of issuance, a resort city tax on sales of liquor by the drink, wine, and beer sold at retail for consumption on the licensed premises. There shall be only one (1) conference and event center license to sell liquor by the drink issued per resort city pursuant to this subsection. For the purposes of this section, a conference and event center means facilities situated on premises consisting of a building or buildings and the contiguous property owned or leased and under common ownership or control by the licensee. Such facilities must provide no less than four thousand (4,000) square feet of enclosed space for conference and event purposes, exclusive of space dedicated by the licensee to the commercial kitchen. The commercial kitchen must include a type 1 commercial hood and cooking equipment, exclusive of microwave ovens and grills. The fee for any license issued to a qualifying licensee shall be as prescribed in section 23-904(1), (2), or (3), Idaho Code, depending on the population of the resort city in which the conference and event center is located and as prescribed in section 23-916, Idaho Code. A license issued pursuant to this subsection may be renewed without regard to the population or status of the city for which the license was issued and without regard for the continuation of local option nonproperty taxes by the city, provided the applicant for renewal is not otherwise disqualified from licensure pursuant to section 23-910, Idaho Code. Not more than one (1) license shall be issued to a conference and event center. A conference and event center license shall not be transferable and may not be sold. For the purpose of issuance and maintenance of a license under this subsection, such facilities may serve liquor only while such facilities are hosting a conference or event. Nothing in this subsection shall excuse a conference and event center from complying with actual use standards in title 23, Idaho Code, or administrative rules promulgated pursuant to statutory authority granted under this title.

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

(15) A license issued pursuant to subsection (1) of this section on or after July 1, 2023:
(a) May not be sold or leased; transferred to another licensee except
as provided in subsections (16)(a), (b), and (c) and subsection (18) of
this section or section 23-950, Idaho Code, provided that the licensee
must elect to associate such license with the real property at the time
of the initial license issuance; and
(b) Shall not be transferable to any other location, facility, or
premises; and
(c) (b) Shall not qualify for the discount established in section

(16) A license issued pursuant to subsection (1) of this section prior
to July 1, 2023, may be sold or transferred to another location, facility,
or premises only once licensee one (1) time only on or after July 1, 2023,
and shall thereafter be nontransferable. Prior to such sale or onetime-only
transfer, the licensee shall be entitled to the discount established in sec-
tion 23-217(2), Idaho Code. Subsequent to such sale or After any onetime-
only transfer, the licensee placing the license in actual use shall not be
entitled to such discount. For purposes of this subsection only, the follow-
ing circumstances shall not qualify as a sale or onetime-only transfer:
(a) The license is inherited or otherwise acquired through a will,
trust, or other estate-planning document;
(b) The license is given to a person by the person's parent, grandpar-
et, child, grandchild, sibling, aunt, uncle, or first cousin without
consideration or remuneration;
(c) A business or other entity with which the license is associated is
sold or leased, and the license remains associated with such business
or entity, provided that such business or entity must have occupied its
location, facility, or premises at the time of sale or lease for at least
one (1) year prior to the sale or lease, and provided further, that such
business or entity may not move from its location, facility, or premises
within one (1) year following the sale or lease. Any sale or lease that
does not conform to the provisions of this paragraph shall be considered
a sale or transfer; or
(c) To the extent not already included in paragraphs (a) and (b) of this
subsection, any of the events listed in section 23-908(5)(a) through
(e), Idaho Code;
(d) The sale of the business assets of an entity or individual licensee,
including the transfer of an associated license placed in actual use,
either owned or leased prior to July 1, 2023, to a qualified applicant,
provided that:
(i) The transferring licensee has occupied its location, facil-
ity, or premises at the time of sale for at least one (1) year prior
to the sale of business assets; and
(ii) The qualified new licensee operates at the same location,
facility, or premises for one (1) year following the sale of as-
sets and transfer of the associated liquor license placed in ac-
tual use. Any sale that does not conform to the provisions of this
paragraph shall be considered a onetime-only transfer of the li-
cense pursuant to this subsection;
(e) The sale or transfer of some or all of the ownership interests of an
entity licensee to a qualified applicant provided that:
(i) The entity licensee has occupied its location, facility, or premises at the time of sale for at least one (1) year prior to the sale and transfer of the ownership interests; and
(ii) The existing entity licensee operates at the same location, facility, or premises for one (1) year following the closing of the sale or transfer of the ownership interests. Any sale that does not conform to the provisions of this paragraph shall be considered a onetime-only transfer of the license pursuant to this subsection;

(f) The licensee owns, operates, or leases more than one (1) business or entity and transfers the license from one business or entity to another owned, operated, or leased by such licensee;

(g) A transfer pursuant to subsection (18) of this section; or

(h) A transfer pursuant to section 23-950, Idaho Code.

If a license that was issued pursuant to subsection (1) of this section was under lease before July 1, 2023, then such lease may continue pursuant to its own terms and may be amended or renewed, or such lease may be assigned to a purchaser pursuant to subsection (16)(d) or (e) of this section. At the end of the term of such lease, the license shall revert to the license owner's possession upon the conclusion of the lease period. Once such reversion occurs, the license owner may sell or transfer the license subject to the provisions of subsection (16) of this section. The license owner may sell such license subject to the provisions of subsection (16) of this section under an installment contract wherein such contract shall not exceed a term of five (5) years, and the license owner may opt for one (1) of the following alternatives:

(a) The owner may transfer the license pursuant to the provisions of subsection (16) of this section, including a onetime-only transfer under an installment contract wherein such contract shall not exceed a term of five (5) years;

(b) The owner may retain the license and apply to become the actual user of the license, which retention and use shall be exempt from the onetime-only transfer pursuant to subsection (16) of this section;

(c) The owner may proceed under subsections (16)(a) through (g) of this section; or

(d) If the owner of the license is also the owner of an estate in real property, the owner may proceed under subsection (18) of this section.

(18) (a) An entity or person who owns a license issued pursuant to subsection (1) of this section and holds, in whole or in part, an estate in real property that is leased to a tenant pursuant to a written lease may permit such tenant to operate the license at the leased premises during the term of the premises lease, provided that the license shall identify on the face of the license the name of the license owner, the name of the premises tenant as the qualified licensee who places the licenses in actual use, and the location of the associated licensed premises.

(b) The license owner may permit a subsequent tenant under a new premises lease to place the license into actual use upon termination of the prior premises lease as provided in this subsection.
(c) A license operated pursuant to this subsection may be transferred to any third-party purchaser of the licensed premises where the license is placed in actual use at the time of such transfer.

(d) The onetime-only transfer of the license under subsection (16) of this section shall no longer be available to the license owner once placed in use under this subsection, but the license owner may thereafter proceed under subsections (16)(a) through (g) or subsection (17) of this section or under this subsection.

(e) The license owner shall be jointly responsible with the tenant to the director for all renewals, filings, payment of fees, and administrative actions taken with respect to the license.

(19) If the director maintains a priority list of the applicants for a license to be issued pursuant to subsection (1) of this section and an applicant receives notice in writing from the director that a license is available, the applicant may elect to have the license issued in the name of:

(a) The original applicant;

(b) Persons as set forth in subsection (16)(a) through (c) of this section as its designee; or

(c) A single purpose entity owned only by the original applicant or any party set forth in subsection (16)(a) through (c) of this section or such combination of the original applicant or a party set forth in subsection (16)(a) through (c) of this section.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2024.