

TITLE 23
ALCOHOLIC BEVERAGES

CHAPTER 10
BEER

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

(a) The word "beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and/or other ingredients in drinkable water.

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

(c) "Certificate of approval" means a license issued to a person whose business is located outside of the state of Idaho, who sells beer to wholesalers located within the state of Idaho.

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

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

(f) The words "live performance" mean a performance occurring in a theater and not otherwise in violation of any provision of Idaho law.

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

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

(i) The word "retailer" means a person licensed to sell beer to consumers at premises described in the license.

(j) The word "theater" means a room, place or outside structure for performances or readings of dramatic literature, plays or dramatic representations of an art form not in violation of any provision of Idaho law.

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

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

[23-1001, added 1935, ch. 132, sec. 1, p. 312; am. 1974, ch. 27, sec. 41, p. 811; am. 1976, ch. 123, sec. 1, p. 472; am. 1987, ch. 200, sec. 1, p. 421; am. 1989, ch. 291, sec. 1, p. 718; am. 1991, ch. 137, sec. 4, p. 322; am. 1994, ch. 14, sec. 4, p. 23; am. 1995, ch. 311, sec. 1, p. 1071; am. 2000, ch. 469, sec. 66, p. 1517; am. 2003, ch. 111, sec. 3, p. 351; am. 2015, ch. 220, sec. 1, p. 682.]

23-1002. ALCOHOLIC CONTENT. (1) Beer containing not more than six percent (6%) of alcohol by weight may be manufactured, imported and/or sold and distributed in and into this state or possessed therein in the manner and under the conditions prescribed in this act and not otherwise.

(2) Beer containing more than four percent (4%) of alcohol by weight shall be considered and taxed as wine.

[23-1002, added 1935, ch. 132, sec. 2, p. 312; am. 1988, ch. 301, sec. 1, p. 957; am. 2015, ch. 244, sec. 4, p. 1010.]

23-1003. BREWERS', DEALERS' AND WHOLESALERS' LICENSES. (a) Before any brewer shall manufacture or any dealer or wholesaler import or sell beer within the state of Idaho, such brewer shall apply to the director for a license. The application form shall be prescribed and furnished by the director and require that the applicant show that such brewer possesses all the qualifications and none of the disqualifications of a licensee. To determine qualification for a license, the director shall cause an investigation that shall include a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each person listed as an applicant on an initial application shall submit a full set of fingerprints and the fee to cover the cost of the criminal history background check with the application. The application shall also be accompanied by the required licensee fee; provided, that where the applicant is or will be within more than one (1) of the foregoing classifications, the applicant shall apply for each classification but shall pay only one (1) license fee, which shall be for the classification requiring the highest fee. If the director is satisfied that the applicant possesses the qualifications and none of the disqualifications for the license, the director shall issue a license for each classification applied for, subject to the restrictions and upon the conditions in this act specified, which license or licenses shall be at all times prominently displayed in the place of business of the licensee.

(b) Each wholesaler shall, in addition to the application, file with the director a notice in writing signed by the dealer or brewer and the wholesaler stating the geographic territory within which the wholesaler will distribute beer to retailers. The territory will be agreed upon between the dealer or brewer and the wholesaler and may not be changed or modified without the consent of both the dealer or brewer and the wholesaler. Provided however, nothing in this section shall be interpreted to prohibit a brewer or dealer from permitting more than one (1) distributor for the same geographic territory.

(c) In the event that a wholesaler sells beer to a retailer who is located outside the geographical territory designated by that wholesaler on the notice provided for in subsection (b) of this section, the dealer or wholesaler who has designated the geographical territory in which the sale occurred may apply to a district court of this state for the issuance of an injunction enjoining sales of beer by the wholesaler outside of its designated geographical territory. The procedure for issuance of an injunction pursuant to this act shall be subject to the Idaho rules of civil procedure. Upon proof to the court that a wholesaler has made a sale of beer outside of its designated geographical territory, the court shall issue an injunction directed to the wholesaler prohibiting sales of beer outside of its designated geographical territory.

(d) Any brewer licensed within the state of Idaho who produces fewer than thirty thousand (30,000) barrels of beer annually, upon payment of a retailer's annual license fee, may be issued a brewer's retail beer license for the retail sale of the products of its brewery at its licensed premises or one (1) remote retail location, or both. Any brewer selling beer at retail or

selling to a retailer must pay the taxes required in section 23-1008, Idaho Code, but need not be licensed as a wholesaler for the purpose of selling beer at the brewery or at one (1) remote retail location.

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

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

[23-1003, added 1935, ch. 132, sec. 3, as added by 1943, ch. 167, sec. 2, p. 349; am. 1972, ch. 370, sec. 1, p. 1087; am. 1974, ch. 27, sec. 42, p. 811; am. 1987, ch. 22, sec. 1, p. 29; am. 1989, ch. 290, sec. 1, p. 717; am. 2001, ch. 284, sec. 2, p. 1015; am. 2013, ch. 187, sec. 2, p. 449; am. 2014, ch. 97, sec. 5, p. 269; am. 2015, ch. 220, sec. 2, p. 683.]

23-1004. DEALERS' LICENSE FEE. Every dealer for whom no license fee is elsewhere provided in this act shall, except as provided in section 23-1003, pay to the state of Idaho an annual license fee of one hundred dollars (\$100), and a like amount for each separate warehouse used for the purpose of, or in connection with, the importing of beer into this state.

[23-1004, added 1935, ch. 132, sec. 3-a, as added by 1943, ch. 167, sec. 2, p. 349.]

23-1005. QUALIFICATIONS OF LICENSEES. No license shall issue to an applicant for a dealer's or wholesaler's license unless the applicant is authorized to do business within the state of Idaho; nor shall such license be issued to an applicant whose license, or the license of any partner, has been revoked within two (2) years; nor to an applicant who, or if a partnership any partner of whom, has been convicted of any violation of any law of Idaho or of the United States regulating, governing, or prohibiting the sale of alcoholic beverages or intoxicating liquor. Any such license issued shall be revoked if the licensee ceases to have the qualifications, or acquires the disqualifications, in this section provided.

[23-1005, added 1935, ch. 132, sec. 3-b, as added by 1943, ch. 167, sec. 2, p. 349; am. 1992, ch. 315, sec. 2, p. 939; am. 1994, ch. 14, sec. 8, p. 27.]

23-1005A. TRANSFER OF LICENSE -- FEE -- APPLICATION FOR APPROVAL. (a) No brewer, dealer or wholesaler of beer license issued pursuant to section 23-1003, Idaho Code, or any beer retailer license issued pursuant to section 23-1010, Idaho Code, may be transferred to another person, including an executor, administrator, or trustee in bankruptcy of the estate of the licensee, unless the transferee shall first have obtained the approval of the director to such transfer upon application containing substantially the same information required of an applicant for a brewer's, dealer's, wholesaler's or retailer's beer license, as the case may be. If the transferee possesses all the qualifications and none of the disqualifications for such license, the director shall approve the transfer by issuing a license to the transferee. The fee for each transfer of a brewer's, dealer's, wholesaler's or retailer's beer license shall be twenty dollars (\$20.00), which fee shall accompany the application for transfer.

(b) Application for a transfer of any beer license from one location to another shall be made to the director on forms prescribed and furnished by the director. The director shall approve such transfer upon submission of the application and receipt by the director of a transfer fee of twenty dollars (\$20.00).

(c) The director, in his discretion, may deny the transfer of a license during the pendency of any proceedings for suspension or revocation instituted pursuant to the provisions of this chapter.

[23-1005A, added 1979, ch. 137, sec. 1, p. 433; am. 1991, ch. 28, sec. 2, p. 56.]

23-1006. RECORDS AND RETURNS OF LICENSEES -- INVESTIGATIONS AND EXAMINATIONS. Every licensed dealer, brewer and wholesaler shall have, and notify the director of, a place of business within the state of Idaho where such licensee will and shall keep a record of his or its imports into, and sales of beer within, the state, including the date, quantity, from whom purchased for import, the carrier or other person or means by whom or which transported for import, and the name and address of the vendee, and shall so keep such record of each such sale or import for a period of four (4) years thereafter. Such licensee shall, on or before the 15th day of each month, make a return to the director of the amount of beer sold in, and imported by him into, the state of Idaho for the preceding month, which shall be upon forms furnished by the director. The director may require such additional information to be included in such returns as shall assist him in determining whether or not such licensee is complying with, or violating, this act and whether or not all taxes and license fees provided for by this act are being fully paid. The director shall have the right at any time to make an examination of each dealer's, brewer's and wholesaler's books, records and premises, make an inventory and otherwise check the accuracy of such returns, and investigate for any violation of this act, and file, and retain in his office for not less than two (2) years, a report thereof. An application for, and acceptance of a license by, a dealer, brewer, wholesaler or retailer shall constitute consent to, and be authority for, entry by the director, or his authorized agents, upon any premises related to the licensee's business, or wherein are, or should be, kept, any of the licensee's books, records, supplies or other property related to said business, and to make the inventory, check and investigations aforesaid with relation to said licensee or any other licensee.

[23-1006, added 1935, ch. 132, sec. 3-c, as added by 1943, ch. 167, sec. 2, p. 349; am. 1974, ch. 27, sec. 43, p. 811; am. 1984, ch. 104, sec. 1, p. 242; am. 1999, ch. 129, sec. 1, p. 373; am. 2000, ch. 333, sec. 1, p. 1123.]

23-1007. SALES BY DEALERS AND WHOLESALERS -- PROHIBITED UNLESS OBTAINED FROM LICENSEES -- CONSUMPTION ON PREMISES PROHIBITED -- MINIMUM SALE ON LICENSED PREMISES OF UNBROKEN PACKAGES OR KEGS. Except as provided in section 23-1007A, Idaho Code, it shall be unlawful for any dealer or wholesaler to sell for use within the state of Idaho any unbroken packages or kegs of beer produced, manufactured, imported or bought by such dealer except to licensed dealers, wholesalers, retailers to whom a license has been issued by the director, or to employees of the wholesaler or dealer; nor shall any dealer or wholesaler allow for a consideration such beer to be consumed upon the premises of such dealer or wholesaler; provided, however, that any dealer or wholesaler shall be allowed to make sales of beer in kegs of not less than five (5) gallons to a consumer at his licensed premises. Licensed brewers may sell at retail only as provided in section 23-1003(d) and (e), Idaho Code.

[23-1007, added 1935, ch. 132, sec. 3-d, as added by 1943, ch. 167, sec. 2, p. 349; am. 1965, ch. 292, sec. 1, p. 778; am. 1982, ch. 307, sec. 1, p. 772; am. 1987, ch. 22, sec. 2, p. 30; am. 1991, ch. 279, sec. 1, p. 721; am. 2013, ch. 95, sec. 1, p. 232.]

23-1007A. BEER SOLD OR DONATED FOR BENEVOLENT, CHARITABLE OR PUBLIC PURPOSES -- PERMIT REQUIRED. (1) Notwithstanding the provisions of section 23-1007, Idaho Code, to the contrary, nothing shall prevent any licensed dealer, wholesaler or retailer from selling or donating unbroken packages of beer or kegs of beer to a person which has not been issued any license for the sale of alcoholic beverages in this state, for benevolent, charitable or public purposes if a permit has been issued to the person or nonprofit entity as provided in subsection (2) of this section.

(2) Upon application to the director of the Idaho state police, the director may issue a permit authorizing the sale or dispensing of beer by a person if the director is satisfied that the proceeds, after deducting reasonable expenses incurred, will be donated for a benevolent, charitable or public purpose. The director shall prescribe the form of the application which may require:

- (a) Disclosure of names of sponsors;
- (b) Quantities and types of beer products to be used at the event;
- (c) Names of the dealer or wholesaler from whom the beer is to be received;
- (d) The retailer, if any, designated by such person or nonprofit entity to receive, store or dispense beer on behalf of the permittee;
- (e) Dates and hours during which the permit is to be effective, not to exceed three (3) consecutive days;
- (f) That the applicant submit a report to the director subsequent to the benevolent, charitable or public purpose event showing the disposition of funds from the event; and
- (g) Such other information directly related to the event and the applicant that the director may require.

The director shall collect a twenty dollar (\$20.00) fee for each permit issued.

(3) Should the director determine that an applicant, permittee or its representative is violating or has in the past violated any law pertaining to the dispensing or sale of beer by a licensed retailer relating to hours of sale, relating to restrictions concerning age provided in section 23-1013, Idaho Code, or has failed in the past to submit such information as may have been requested by the director, such permit may be summarily suspended by the director prior to hearing, or may be denied or cancelled pending a hearing.

(4) A licensed retailer may, on behalf of the permittee, receive or store beer to be used at the event and may dispense such beer to attendees of the benevolent, charitable or public purpose event for which the permit was issued.

[23-1007A, added 1991, ch. 279, sec. 2, p. 722; am. 2000, ch. 469, sec. 67, p. 1517.]

23-1008. TAX -- DISTRIBUTION -- RULES -- REPORTS. (1) A tax of four dollars and sixty-five cents (\$4.65) per barrel of thirty-one (31) gallons, and a like rate for any other quantity or fraction thereof, is hereby levied and imposed upon each and every barrel of beer sold for use within the state of Idaho.

Any wholesaler who shall sell beer, upon which the tax herein imposed has not been paid and any person who shall purchase, receive, transport, store or sell any beer upon which the tax herein imposed has not been paid, shall be guilty of a misdemeanor, and any beer so purchased, received, transported, stored or possessed or sold shall be subject to seizure by the commission, any inspector or investigator of the commission, or by any sheriff, constable or other police officer, and the same may be removed and kept for evidence. Upon conviction of any person for violation of the provisions of this section, the said beer, and all barrels, kegs, cases, cartons and cans containing the same shall be forfeited to the state of Idaho, and, in addition, the person so convicted shall be subject to the other penalties in this chapter prescribed.

Beer and all barrels, kegs, cases, cartons or cans so forfeited to the state of Idaho shall be sold by the commission at public auction to any brewer, wholesaler or retailer, licensed under the provisions of this chapter, making the highest bid. Such sale shall be held at such place and time as may be designated by the commission after reasonable notice thereof given in such manner and for such time as the commission may by rule prescribe. From the purchase price received upon such sale, the commission shall first deduct an amount sufficient to pay the tax due on such beer, and to pay all costs incurred in connection with such sale. The commission shall deposit the balance remaining with the state treasurer, who shall place the same in the general fund of the state of Idaho, and it shall become a part thereof.

(2) The revenues received from the taxes, interest, penalties, or deficiency payments imposed by this section shall be distributed as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by law to be paid by the state tax commission shall be paid through the state refund account and those moneys are continuously appropriated.

(b) The balance remaining after distributing the amount in paragraph (a) of this subsection shall be distributed as follows:

(i) Twenty percent (20%) shall be distributed to the substance abuse treatment fund which is created in section 23-408, Idaho Code;

(ii) Thirty-three percent (33%) shall be distributed to the permanent building fund; and

(iii) The remainder shall be distributed to the general fund.

(3) The commission is empowered to prescribe rules:

(a) For reports by carriers for hire and also all other carriers owned and/or employed, directly or indirectly, by out-of-state brewers, dealers or other persons, of all deliveries of beer in and into the state of Idaho, stating especially the origin and destination of the beer, the quantity thereof, and also the names and addresses, respectively, of the consignors and consignees.

(b) For reports by out-of-state brewers and manufacturers of beer, of all shipments by them of beer into the state of Idaho, stating especially the matters mentioned in paragraph (a) of this subsection.

[23-1008, added 1935, ch. 132, sec. 4, p. 312; am. 1949, ch. 192, sec. 1, p. 462; am. 1949, ch. 281, sec. 1, p. 575; am. 1961, ch. 43, sec. 3, p. 66; am. 1980, ch. 239, sec. 1, p. 554; am. 1980, ch. 391, sec. 1, p. 994; am. 1986, ch. 73, sec. 3, p. 203; am. 1987, ch. 260, sec. 2, p. 547; am. 2007, ch. 141, sec. 5, p. 410; am. 2013, ch. 10, sec. 1, p. 20.]

23-1009. RETAILERS' LOCAL LICENSES. No retailer shall sell beer within this state, until he or it shall be licensed therefor by a municipality, if the business is to be conducted therein, and by the county wherein said business is to be conducted, and by the director. Applications for retailer's licenses shall be made under oath first to the director of the Idaho state police, and if the license be issued, to the county and then to the municipality, upon forms to be supplied by each, which forms shall require that the applicant show that the applicant possesses all of the qualifications and none of the disqualifications of a retailer licensee under this act, and, as to the municipal license, under any ordinance thereof. Each application shall be accompanied with the required license fee. If the applications conform hereto the director, county and municipality respectively, shall each issue a retailer's license to the applicant, subject to the restrictions and upon the conditions in this act specified, and, as to the municipal license, in the ordinance aforesaid. Said licenses shall at all times be prominently displayed in the place of business of the licensee, and shall be issued only for the particular premises described therein, but the municipality, county and director may permit a transfer to other particularly described premises. No license transferred by process of law or otherwise shall authorize the transferee, including any executor, administrator or trustee in bankruptcy of the estate of the licensee, to retail beer thereunder until the transferee shall have filed under oath applications therefor containing substantially the same information required of an applicant for a license, and if the transferee possesses the qualifications and none of the disqualifications for a license as herein provided, the director, county and municipality shall approve such transfer and issue a license so to show. The transferee shall accompany the state application for transfer with, and shall pay, the fee as set out in section 23-1005A, Idaho Code. Such transferee shall accompany each such county and municipality application for transfer with, and shall pay, the sum of five dollars (\$5.00).

[23-1009, added 1935, ch. 132, sec. 5, as added by 1943, ch. 167, p. 349; am. 1974, ch. 27, sec. 44, p. 811; am. 1991, ch. 137, sec. 5, p. 323; am. 2000, ch. 469, sec. 68, p. 1518.]

23-1010. LICENSE TO SELL BEER AT RETAIL -- APPLICATION PROCEDURE AND FORM -- SHOWING OF ELIGIBILITY FOR LICENSE AND DISQUALIFICATIONS. (1) Every person who shall apply for a state license to sell beer at retail shall tender the license fee to, and file written application for license with, the director. The application shall be on a form prescribed by the director which shall require such information concerning the applicant, the premises for which license is sought and the business to be conducted thereon by the applicant as the director may deem necessary or advisable, and which shall enable the director to determine that the applicant is eligible and has none of the disqualifications for license, as provided for in this section. If the applicant is applying for a license solely for a theater that is presenting live performances as those terms are defined in section 23-1001, Idaho Code, the application shall so state. Such information shall include the following:

(a) The name and place of residence of the applicant and length of his residence within the state of Idaho, and if the applicant is a partnership, the names, places of residence and lengths of residence within the state of Idaho of each partner, and, if the applicant is a corporation or association, the date and place of incorporation or organization, the location of its principal place of business in Idaho and the names and places of residence of its officers, directors or members of its governing board, and of the person who manages or will manage the business of selling beer at retail;

(b) The particular place for which the license is desired, designating the same by a street and number, if practicable, or by such other apt description as definitely locates such place, and the name of the owner of the premises for which license is sought;

(2) The application shall affirmatively show:

(a) That the applicant is the bona fide owner of the business which will be engaged in the sale of beer at retail and with respect to which license is sought;

(b) That the condition of the place or building wherein it is proposed to sell beer at retail conforms to all laws and rules of the state of Idaho and to the ordinances of the county and municipality applicable thereto relating to public health and safety and to the zoning ordinances of the municipality applicable thereto;

(c) That there is no stamp or permit outstanding and in force which has been issued to any person by the United States government for the premises for which license to sell beer at retail is sought which stamp or permit denotes payment of any special tax imposed by the United States government on a retail dealer in liquor or wines, unless said premises are premises for which a retail license for sale of liquor by the drink, issued under the provisions of chapter 9, title 23, Idaho Code, is in force and effect;

(d) That the individual applicant, or each partner of a partnership applicant, or a corporation applicant or an association applicant is qualified to do business within the state of Idaho;

(e) That the applicant, if an individual, is not less than nineteen (19) years of age;

(f) That within three (3) years immediately preceding the date of filing the application the applicant has not been convicted of the violation of any law of the state of Idaho, any other state, or of the United States, regulating, governing or prohibiting the sale, manufacture,

transportation or possession of alcoholic beverages or intoxicating liquors, or, within said time, suffered the forfeiture of a bond for failure to appear in answer to charges of any such violation;

(g) That within five (5) years immediately preceding the date of filing the application the applicant has not been convicted of any felony or paid any fine or completed any sentence of confinement therefor within said time;

(h) That within three (3) years next preceding the date of filing said application the applicant has not had any license provided for herein, or any license or permit issued to the applicant pursuant to the law of this state, or any other state, or of the United States, to sell, manufacture, transport or possess alcoholic beverages or intoxicating liquors, revoked.

(3) To determine qualification for a license, the director shall also cause an investigation which shall include a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each person listed as an applicant on an initial application shall submit a full set of fingerprints and the fee to cover the cost of the criminal history background check for such person with the application.

(4) The affirmative showing required with respect to an applicant under paragraphs (e), (f), (g) and (h) of subsection (2) of this section shall also be required to be made with respect to each partner of a partnership applicant and to each incumbent officer, director or member of the governing board of a corporation or association applicant.

(5) The application must be subscribed and sworn to by the individual applicant, or by a partner of a partnership applicant, or by an officer or manager of a corporation or association applicant, before a notary public or other person authorized by law to administer oaths.

(6) If an applicant shall be unable to make any affirmative showing required in this section or if an application shall contain a false material statement, knowingly made, the same shall constitute a disqualification for license and license shall be refused. If license is received on any application containing a false material statement, knowingly made, such license shall be revoked. If at any time during the period for which license is issued a licensee becomes unable to make the affirmative showings required by this section, license shall be revoked, or, if disqualification can be removed, the license shall be suspended until the same shall be removed. The procedure to be followed upon refusal, revocation or suspension of license as herein provided for shall be in accordance with the procedure set forth in this act.

(7) All licenses shall expire at 1:00 o'clock a.m. on the first day of the renewal month which shall be determined by the director by administrative rule and shall be subject to annual renewal upon proper application. The director will determine the renewal month by county based on the number of current licenses within each county, distributing renewals throughout the licensing year. The director may adjust the renewal month to accommodate population increases. Each licensee will be issued a temporary license to operate until their renewal month has been determined. Thereafter, renewals will occur annually on their renewal month. Renewal applications for licenses accompanied by the required fee must be filed with the director on or before the first day of the designated renewal month. Any licensee holding a valid license who fails to file an application for renewal of the

current license on or before the first day of the designated renewal month shall have a grace period of an additional thirty-one (31) days in which to file an application for renewal of the license. The licensee shall not be permitted to sell beer at retail during the thirty-one (31) day extended time period unless and until the license is renewed.

[I.C., sec. 23-1010, as added by 1961, ch. 299, sec. 2, p. 543; am. 1972, ch. 332, sec. 4, p. 834; am. 1974, ch. 27, sec. 45, p. 811; am. 1976, ch. 156, sec. 1, p. 555; am. 1978, ch. 304, sec. 1, p. 762; am. 1981, ch. 52, sec. 1, p. 78; am. 1983, ch. 159, sec. 1, p. 458; am. 1992, ch. 315, sec. 3, p. 939; am. 1994, ch. 14, sec. 6, p. 25; am. 2001, ch. 30, sec. 2, p. 45; am. 2001, ch. 284, sec. 3, p. 1017; am. 2003, ch. 111, sec. 4, p. 352.]

23-1011. ISSUANCE OF LICENSES. Notwithstanding any other provision of chapter 10, title 23, Idaho Code, all applications for retail sale of beer licenses, renewals, or transfers thereof, shall be first presented to the director of the Idaho state police for approval and issuance of the state license required by state law. If the license, renewal or transfer thereof is approved by the director, then such license, renewal or transfer thereof may be issued by the city or county, or both, as the case may be. Approval of such license, renewal or transfer thereof may be by endorsement upon the state license or by the issuance of an additional license, at the option of the city or county.

[23-1011, added 1976, ch. 165, sec. 1, p. 595; am. 1983, ch. 50, sec. 1, p. 121; am. 1991, ch. 137, sec. 6, p. 324; am. 2000, ch. 469, sec. 69, p. 1519.]

23-1011A. OFFICERS MAY EXAMINE PREMISES. The director or his duly authorized representative, the sheriff of any county, or any other police officer, shall have the right at any time to make an examination of the premises of any licensee as to whether the laws of the state of Idaho, the rules and regulations of the director, and the ordinances of any city or county are being complied with.

[(23-1011A) I.C., sec. 23-1011 [23-1011a], as added by 1976, ch. 236, sec. 1, p. 829; am. and redesignated as sec. 23-1011A, 1983, ch. 50, sec. 2, p. 121.]

23-1011B. BARS OR TAVERNS NOT ALLOWED NEAR CHURCHES OR SCHOOLS -- EXCEPTIONS. No license shall be issued for any place where beer is sold or dispensed to be consumed on the premises, whether conducted for pleasure or profit, that is within three hundred (300) feet of any public school, church, or any other place of worship measured in a straight line to the nearest entrance to the licensed premises, except with the approval of the governing body of the municipality; provided that this limitation shall not apply to any duly licensed premises that at the time of licensing did not come within the restricted area but subsequent to licensing came therein.

[23-1011B, added 1978, ch. 349, sec. 1, p. 913.]

23-1012. HOURS OF SALE. (1) It shall be unlawful and a misdemeanor for any person in any place licensed to sell beer or where beer is sold or dispensed to be consumed on the premises, whether conducted for pleasure or profit, to sell, dispense or give away beer between the hours of one (1) o'clock A.M. and six (6) o'clock A.M.

(2) Any patron present on the licensed premises after the sale of beer has stopped as provided in subsections (1) and (4) herein shall have a reasonable time, not to exceed thirty (30) minutes, to consume any beverage already served.

(3) Any person who consumes or intentionally permits the consumption of any alcoholic beverage upon the licensed premises after the time provided for in subsection (2) shall be guilty of a misdemeanor.

(4) A county or city may, however, extend, until two (2) o'clock A.M., the hours of the sale of beer.

[23-1012, added 1943, ch. 167, sec. 5, p. 349; am. 1978, ch. 39, sec. 1, p. 68; am. 1987, ch. 110, sec. 2, p. 223; am. 1987, ch. 351, sec. 1, p. 780; am. 2003, ch. 284, sec. 2, p. 770.]

23-1013. RESTRICTIONS CONCERNING AGE. Any person who is nineteen (19) years of age or older may sell, serve, possess or dispense beer in the course of his employment, otherwise it shall be unlawful for any person to sell, serve or dispense beer to or by any person under twenty-one (21) years of age, proof of which, shall be a validly issued state, district, territorial, possession, provincial, national or other equivalent government driver's license, identification card or military identification card bearing a photograph and date of birth, or a valid passport.

[I.C., sec. 23-1013, as added by 1961, ch. 299, sec. 4, p. 543; am. 1967, ch. 19, sec. 1, p. 37; am. 1972, ch. 332, sec. 5, p. 834; am. 1975, ch. 179, sec. 2, p. 485; am. 1987, ch. 212, sec. 10, p. 452; am. 1991, ch. 269, sec. 2, p. 661.]

23-1014. LICENSE FEES. Every person licensed under the provisions of this chapter shall pay to the state of Idaho an annual license fee according to the following schedule:

- (1) Brewer annually producing REPLACE BL TAG HERE Fee
 - (a) Under 10,000 gallons REPLACE DOL TAG HERE \$ 50.00
 - (b) 10,000 to 100,000 gallons REPLACE DOL TAG HERE \$100.00
 - (c) 100,000 to 930,000 gallons REPLACE DOL TAG HERE \$200.00
 - (d) 930,000 gallons or more REPLACE DOL TAG HERE \$500.00

A like amount shall be paid for each separate brewery operated by the licensee.

- (2) Wholesaler

- (a) For each separate warehouse used for the purpose of wholesaling or dispensing beer REPLACE DOL TAG HERE \$300.00

- (3) Dealer REPLACE DOL TAG HERE \$100.00

- (4) Retailer

- (a) For each store from which beer is retailed REPLACE DOL TAG HERE \$ 50.00

- (b) For each store from which a licensed retailer sells keg beer for consumption off premises REPLACE DOL TAG HERE \$ 20.00

Nothing in this chapter shall be so construed to prohibit municipalities or counties from licensing and regulating places of business where beer is sold to the consumer.

[23-1014, added 1987, ch. 91, sec. 2, p. 173; am. 1994, ch. 13, sec. 1, p. 20.]

23-1015. COUNTY RETAILERS' LICENSE, WHEN REQUIRED, PROCEDURE. (1) It shall be unlawful for any retailer to sell beer without first procuring a

retailer's license from the county, said license to be issued on such conditions and terms as may be required by the board of county commissioners in the county wherein such place of sale of beer is located; provided, that no county shall exact a license fee from any dealer except as follows:

(a) Where such retailer sells only bottled or canned beer: none of which is consumed on the premises where sold, the license fee shall be equal to twenty-five per cent (25%) of the license fee exacted under subsection (1) (b) of this section relating to draught beer and bottled or canned beer, or draught beer only; and where such bottled or canned beer is consumed on the premises where sold the license fee shall be seventy-five per cent (75%) of the fee exacted under said subsection (b) hereof.

(b) Where such retailer sells draught beer and bottled or canned beer, or draught beer only, not in excess of one hundred dollars (\$100), a year.

(2) The board of county commissioners shall establish a procedure for processing applications for licenses, transfers or renewals thereof in a timely manner. Each application for a license, transfer or renewal thereof, required by the provisions of this section, shall be submitted to the board of county commissioners for a decision. The board of county commissioners shall have a reasonable time to examine the application before a decision is made on granting or denying the license, or the transfer or renewal thereof. Each board of county commissioners shall establish, by ordinance, a time period within which a decision must be made following submission of an application. Whenever a board of county commissioners denies an application, the board shall specify in writing:

(a) The statutes, ordinances and standards used in evaluating the application;

(b) The reasons for denial; and

(c) The actions, if any, that the applicant could take to obtain the license, transfer or renewal thereof.

(3) An applicant denied a license, transfer or renewal thereof or aggrieved by a decision of the board of county commissioners pursuant to this section may, within twenty-eight (28) days, after all remedies have been exhausted under county ordinances or procedures, seek judicial review under the procedures provided in chapter 52, title 67, Idaho Code, and for such purposes a county shall be construed to mean an agency.

(4) In all cases where the board of county commissioners is considering applications for licenses, transfers or renewals thereof, a transcribable verbatim record of the proceedings shall be made. If the application for a license, transfer or renewal is denied, a transcribable, verbatim record of the proceedings shall be kept for a period of not less than six (6) months after a final decision on the matter. Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense. The board of county commissioners shall also provide for the keeping of minutes of the proceedings. Minutes shall be retained indefinitely or as otherwise provided by law.

[23-1015, added 1935, ch. 132, sec. 7-A, as added by 1947, ch. 192, sec. 7, p. 462; am. 1983, ch. 50, sec. 3, p. 121; am. 1993, ch. 216, sec. 6, p. 592.]

23-1016. MUNICIPAL LICENSE ALSO REQUIRED -- PROCEDURE. (1) It shall be competent and lawful for an incorporated municipality within the county

wherein said county license to sell beer is granted by the county, by proper ordinance and regulation, to prohibit the sale of beer within the incorporated limits of such incorporated municipality until a retailer's license is first obtained from such incorporated municipality. Provided, however, that no incorporated municipality shall issue a license to any retailer until such retailer shall have first obtained a county license from the board of county commissioners, and that a revocation of the license granted by the board of county commissioners shall work a revocation of license granted by such incorporated municipality. Provided, further, that no municipality, whether operating under a special charter or otherwise, shall exact a license fee from any retailer except as follows:

(a) Where such retailer sells only bottled or canned beer: none of which is consumed on the premises where sold, the license fee shall be equal to twenty-five per cent (25%) of the license fee exacted under subsection (1) (b) of this section.

(b) Where such retailer sells for consumption on the premises, draught beer and bottled or canned beer or draught beer only, not in excess of two hundred dollars (\$200) a year.

(2) The city council shall establish by ordinance a procedure for processing applications for licenses, transfers or renewals thereof in a timely manner. Each application for a license, transfer or renewal thereof, required by the provisions of this section, shall be submitted to the city council for a decision. The city council shall have a reasonable time to examine the application before a decision is made on granting or denying the license, or the transfer or renewal thereof. Each city council shall establish, by ordinance, a time period within which a decision must be made following submission of an application. Whenever a city council denies an application, the council shall specify in writing:

(a) The statutes, ordinances and standards used in evaluating the application;

(b) The reasons for denial; and

(c) The actions, if any, that the applicant could take to obtain the license, transfer or renewal thereof.

(3) Nothing in this section shall be construed as prohibiting the delegation of the processing of an application and the granting or denying thereof, as provided in subsection (2) of this section, to a municipality's city clerk. If the licensing power is delegated, an applicant denied a license, transfer, or renewal thereof may appeal the city clerk's decision to the city council, within the time and in the manner as the city council may provide by ordinance.

(4) An applicant denied a license, transfer or renewal thereof or aggrieved by a decision of the city council pursuant to this section may, within twenty-eight (28) days, after all remedies have been exhausted under city ordinances and procedures, seek judicial review under the procedures provided in chapter 52, title 67, Idaho Code, and for such purposes a city shall be construed to mean an agency.

(5) In all cases where the city council is considering an application for or hearing an appeal from a denial of a license, transfer or renewal thereof, a transcribable verbatim record of the proceedings shall be made. If the application for or appeal from a denial of a license, transfer or renewal is denied, a transcribable, verbatim record of the proceedings shall be kept for a period of not less than six (6) months after a final decision on the matter. For the purpose of this section, the date of final decision

shall be the date upon which the written decision of the city council is transmitted. Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense. The city council shall also provide for the keeping of minutes of the proceedings. Minutes shall be retained indefinitely or as otherwise provided by law.

[23-1016, added 1935, ch. 132, sec. 7-B, as added by 1947, ch. 192, sec. 7, p. 462; am. 1981, ch. 237, sec. 1, p. 477; am. 1983, ch. 50, sec. 4, p. 122; am. 1987, ch. 12, sec. 1, p. 16; am. 1993, ch. 216, sec. 7, p. 593.]

23-1017. INTENTION OF PRECEDING SECTION. It is hereby declared to be the intention of section 23-1016 that both counties and incorporated municipalities may levy and collect a license [fee] for the retail sale of beer as herein provided, and the granting of power to license retailer of beer in an incorporated municipality shall not be held as in any way conflicting with the provisions of this act relating to the granting of retailer's license by the county.

[23-1017, added 1935, ch. 132, sec. 7-C, as added by 1947, ch. 192, sec. 7, p. 462.]

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

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

(3) Possession of a keg containing beer which is not identified as required by subsection (1) of this section is a misdemeanor.

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

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

[23-1018, added 1981, ch. 76, sec. 1, p. 109; am. 1989, ch. 314, sec. 1, p. 810; am. 1990, ch. 428, sec. 1, p. 1184; am. 2000, ch. 469, sec. 70, p. 1519; am. 2013, ch. 95, sec. 2, p. 232.]

23-1019. BEER SAMPLE TASTING REQUIREMENTS AND LIMITATIONS FOR EVENTS ON RETAIL BEER LICENSED PREMISES. (1) Breweries, wholesalers and distributors may conduct or assist a retail beer licensee at a beer sample tasting on premises not licensed for the sale of beer by the individual glass or opened bottle for consumption on the premises or on the premises of the holder of a

beer by the drink license for the purpose of promoting their beer products to the public. The holder of a retail beer license or a beer by the drink license may also conduct beer sample tasting events, with or without the assistance of a brewery, wholesaler or distributor in accordance with this section.

(2) A retail beer licensee shall not be required to hold a beer by the drink license for the purpose of conducting or permitting beer sample tasting events on the premises in accordance with this section unless a charge or other consideration is required of the customer by the retailer in exchange for such beer sample.

(3) Sample tasting events permitted pursuant to this section shall be conducted subject to all of the following requirements:

(a) Sample sizes. The size of each sample of beer shall not exceed one and one-half (1.5) ounces.

(b) Identified tasting area. The retail beer licensee who conducts tastings or who allows a brewer, wholesaler, distributor or retailer to conduct tastings on the retail beer premises shall identify a specific tasting area or areas. Such area or areas shall be of a size and design such that the retail beer licensee and the persons conducting the tasting can observe and control persons in the area to ensure that no minors or visibly intoxicated persons possess or consume alcohol. Customers must remain in the tasting area or areas until they have finished consuming the sample. The retailer shall keep on file at the premises a floor plan identifying the tasting area or areas. If a retailer does not have an identified tasting area or areas, the director may require prior approval of an area or areas before the retailer conducts any more tastings or allows any more tastings to be conducted by the brewer, distributor or retailer on the premises.

(c) Number of in-store tastings. Although there is no limit on the number of tastings a retailer may conduct without the assistance of a brewer, wholesaler or distributor, the retailer shall not permit a brewer or distributor to conduct, or assist in conducting, tastings on the premises of the same licensee more than eight (8) times per calendar year.

(d) Brewer, wholesaler or distributor conducted tastings. A brewer, wholesaler or distributor may hold tastings on consecutive days on one (1) retail premises, provided the tastings shall not exceed two (2) consecutive days. Tastings shall be conducted at least four (4) weeks apart. If a brewer, wholesaler or distributor holds tastings on two (2) consecutive days, they shall not hold another tasting on those retail premises for at least four (4) weeks.

(e) Server requirements. Persons serving or pouring beer at beer tastings on premises for which a beer by the drink license has not been issued must be at least twenty-one (21) years of age.

(4) Brewer, wholesaler or distributor conducted sample tastings. A brewer, wholesaler or distributor may conduct beer sample tastings on premises licensed for the sale of beer for products produced or sold by the brewer, wholesaler or distributor. The brewer or distributor conducting the beer sample tasting shall, in addition to compliance with other requirements of this section, comply with all of the following requirements:

(a) Provide the product to be tasted and remove any remaining product at the end of the tasting.

(b) Provide or pay for a person to serve the beer. The server must be an employee or agent of the brewer or distributor and shall not be an em-

ployee or agent of a retailer. The brewer or distributor shall not compensate any employee or agent of the retail licensee to participate in the tasting.

(c) The brewer or distributor shall keep a record of each tasting it conducts, including the date and location of each event and the products served.

(5) Retailer conducted beer sample tastings. Retail beer licensees and beer by the drink licensees may conduct beer sample tastings on their licensed premises and may:

(a) Accept assistance from a brewer, wholesaler or distributor if:

(i) The only assistance provided is an employee to provide information or education relating to the product being sampled;

(ii) The retailer pays for the beer; and

(iii) The retailer is responsible for any advertising.

(b) Conduct an unlimited number of beer sample tastings on the premises if there is no brewer or distributor providing assistance for the event. The retailer may advertise such events.

(6) Notwithstanding any other provision of law, participation by a brewer, wholesaler or distributor in a beer sample tasting event, if expressly authorized by this section, shall not constitute prohibited conduct or unlawful aid to a retailer.

[23-1019, added 2014, ch. 174, sec. 1, p. 478.]

23-1020. PENALTY. Any person who violates any of the provisions of this act shall be guilty of a misdemeanor.

[23-1020, added 1935, ch. 132, sec. 10, p. 312.]

23-1022. SEPARABILITY. If any portion of this act shall be declared unconstitutional it shall not invalidate the other provisions thereof.

[23-1022, added 1935, ch. 132, sec. 13, p. 312.]

23-1023. BEER -- AUTHORIZATION TO DELIVER. The prohibition upon possession of beer by any person under twenty-one (21) years of age does not apply to possession by a person under the age of twenty-one (21) years making a delivery of beer in pursuance of the order of his parent or in pursuance of his employment, or when such person under the age of twenty-one (21) years is in a private residence accompanied by his parent or guardian and with such parent's or guardian's consent.

[23-1023, as added by 1953, ch. 72, sec. 1, p. 94; am. 1967, ch. 351, sec. 1, p. 995; am. 1972, ch. 332, sec. 6, p. 834; am. 1987, ch. 212, sec. 11, p. 452; am. 1997, ch. 68, sec. 1, p. 144; am. 1999, ch. 59, sec. 10, p. 154.]

23-1024. FALSE REPRESENTATION AS BEING TWENTY-ONE OR MORE YEARS OF AGE A MISDEMEANOR. Any person under the age of twenty-one (21) years who shall by any means represent to any person licensed to sell beer at retail or wholesale, or to any agent or employee of such retail or wholesale licensee, that he or she is twenty-one (21) or more years of age for the purpose of entering licensed premises or inducing such retail or wholesale licensee, his agent or employee, to sell, serve or dispense beer to him or her shall be guilty of a misdemeanor.

Any person who shall by any means represent to any such retail or wholesale licensee, his agent or employee, that any other person is twenty-one

(21) or more years of age, when in fact such other person is under the age of twenty-one (21) years, for the purpose of entering licensed premises or inducing such retail or wholesale licensee, his agent or employee, to sell, serve or dispense beer to such other person, shall be guilty of a misdemeanor.

[I.C., sec. 23-1024, as added by 1953, ch. 72, sec. 1, p. 94; am. 1972, ch. 332, sec. 7, p. 834; am. 1987, ch. 212, sec. 12, p. 452; am. 1991, ch. 269, sec. 3, p. 661.]

23-1025. LICENSE AND TRANSFER FEES -- ALCOHOL BEVERAGE CONTROL FUND. All moneys from license and transfer fees that are collected by the director pursuant to the provisions of this chapter shall be paid over to the state treasurer for deposit in the alcohol beverage control fund created in section 23-940, Idaho Code. All other moneys collected by the director pursuant to the provisions of this chapter shall be paid over to the state treasurer for deposit in the general fund.

[23-1025, added 2012, ch. 160, sec. 2, p. 436.]

23-1027. CERTIFICATE OF APPROVAL REQUIRED OF MANUFACTURER. It shall be unlawful for any person licensed under the provisions of this act, to purchase, import, transport or cause to be transported into or within the state of Idaho any beer for resale therein, unless prior thereto a certificate of approval shall have been issued by the director to the manufacturer of such beer. The certificate of approval herein required shall be issued to a manufacturer of beer upon application therefor provided the manufacturer shall have first agreed in writing with the director as follows:

(a) to furnish to the director, on or before the 15th day of each month, a written report under oath on a form to be prescribed by the director showing the quantity of beer sold, delivered or shipped to each wholesaler or dealer of beer licensed in this state for resale in this state; and

(b) that such manufacturer and every person employed by it or acting as its agents (other than wholesalers and dealers licensed in this state) will faithfully comply with and observe all the provisions of the laws of the state of Idaho relating to beer and all rules and regulations adopted by the director pursuant to such laws.

If, after obtaining such certificate, any such manufacturer shall fail to submit such report, or, if it, or any such person employed by it or acting as its agent, shall violate the terms of such agreement, the director may determine to revoke or suspend such certificate by reason thereof. The procedure for giving notice of such determination and for proceedings to contest determination as provided for in sections 23-1037 through 23-1045, Idaho Code, shall govern insofar as they may be applicable. The district court of Ada County shall have jurisdiction of any such proceedings to contest the director's determination.

[I.C., sec. 23-1027, as added by 1961, ch. 299, sec. 5, p. 543; am. 1974, ch. 27, sec. 48, p. 811.]

23-1028. WAREHOUSE AND RECORDS OF WHOLESALERS AND DEALERS. Each licensed wholesaler and dealer shall sell and distribute beer in this state only from stocks of beer which have been unloaded, stored and maintained in a warehouse or warehouses owned or used by such wholesaler or dealer within the state of Idaho in the conduct of his business as such. All records which a wholesaler or dealer is by law or rule required to maintain, shall be kept

at his warehouse within the state of Idaho, or, if such wholesaler or dealer shall have more than one (1) warehouse, then in the warehouse of such wholesaler or dealer which he shall designate as his principal warehouse within the state. Nothing in this section shall be deemed to affect the existing rights of any person who, on and prior to January 1, 1996, was licensed as a wholesaler by the state of Idaho.

[I.C., sec. 23-1028, as added by 1961, ch. 299, sec. 5, p. 543; am. 1996, ch. 329, sec. 1, p. 1123.]

23-1029. POSTING OF PRICES. Each licensed wholesaler, brewer and dealer engaged in selling beer for resale within this state, shall file with the director a written schedule of prices to be charged by him for beer sold within this state for resale therein, which schedule of prices shall be uniform for the same class of buyers in the same trade area within this state, and shall set forth;

- (a) all brands and types of products offered for sale;
- (b) the delivered sale price thereof in the several trade areas of the state to the various classes of buyers; and
- (c) any allowance granted for returned containers.

Such schedule of prices so filed may be changed or modified from time to time by filing with the director a new schedule of prices, not less than ten (10) days prior to the last day of the filing calendar month, becoming effective on the first day of the succeeding calendar month.

Such schedule of prices so filed shall not be withdrawn within ten (10) days of its effective date. An amendment of the prior filing shall show the posting changes of the particular brand and product affected. The amendment shall be in the form of a statement to the director detailing the reasons for the amendment. The amendment submitted to the director shall be prima facie evidence of its correctness; and failure of the director to act upon denial of the amendment within ten (10) days shall constitute its adoption. Upon becoming effective the schedule shall remain in effect as follows:

- (i) an increase in prices, for a minimum period of thirty (30) days;
- (ii) a reduction in prices, for a minimum period of six (6) months. All price schedules, so filed, shall be subject to public inspection and shall not be considered confidential. Upon the filing of the original schedule of prices, and after the effective date of any schedule of prices amendatory thereto, all prices therein stated shall be strictly adhered to, and any departure or variation therefrom shall constitute the giving of aid or assistance prohibited by the provisions of section 23-1033, Idaho Code.

[I.C., sec. 23-1029, as added by 1961, ch. 299, sec. 5, p. 543; am. 1969, ch. 276, sec. 1, p. 819; am. 1972, ch. 33, sec. 1, p. 51; am. 1974, ch. 27, sec. 49, p. 811; am. 1975, ch. 151, sec. 1, p. 383; am. 1979, ch. 136, sec. 1, p. 432.]

23-1030. SIZE OF CONTAINERS. No dealer or wholesaler shall purchase, receive or resell any beer except in the original container as prepared for the market by the brewer at the place of manufacture.

[I.C., sec. 23-1030, as added by 1961, ch. 299, sec. 5, p. 543; am. 1974, ch. 27, sec. 50, p. 811; am. 1994, ch. 14, sec. 1, p. 21.]

23-1031. EXTENSION OF CREDIT. (1) No sale or delivery of beer shall be made to any licensed retailer, except for cash paid at the time of or prior

to delivery thereof, or except as provided by electronic funds transfer in accordance with subsection (3) of this section, and in no event shall any brewer, wholesaler or dealer licensed in the state and engaged in the sale of beer for resale extend any credit on account of such beer to a licensed retailer, nor shall any licensed retailer accept or receive delivery of such beer except when payment therefor is made in cash at the time of or prior to delivery thereof, or by electronic funds transfer in accordance with subsection (3) of this section.

(2) The acceptance of a first party check from a licensed retailer by a brewer, wholesaler or dealer licensed in the state and engaged in the sale of beer for resale, or the use of a debit card by a licensed retailer, shall not be deemed an extension or acceptance of credit pursuant to this section.

(3) The acceptance and use of an electronic funds transfer shall not be deemed an extension or acceptance of credit pursuant to this section, provided such transfer is initiated and completed promptly and in no event completed later than five (5) business days following delivery of such beer. Any attempt by a licensed retailer to delay payment of an electronic funds transfer pursuant to this section for any period of time beyond the time set forth in this subsection, shall be deemed an acceptance of credit by the licensed retailer.

(4) Any extension or acceptance of credit in violation hereof shall constitute the giving and receiving of aid or assistance to or by a licensed retailer prohibited by the provisions of section 23-1033, Idaho Code.

[23-1031, added 1961, ch. 299, sec. 5, p. 543; am. 1965, ch. 176, sec. 1, p. 362; am. 1999, ch. 206, sec. 2, p. 553; am. 2011, ch. 255, sec. 1, p. 699; am. 2013, ch. 288, sec. 1, p. 760.]

23-1032. FINANCIAL INTEREST IN DEALER OR WHOLESALER PROHIBITED. (1) It shall be unlawful for any brewer, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee to have any financial interest in any licensed wholesaler's or dealer's business, or to own or control any real property upon which a licensed dealer or wholesaler conducts business, except:

(a) For a brewer licensed within the state of Idaho who produces fewer than thirty thousand (30,000) barrels of beer annually and is duly licensed as a wholesaler as provided in section 23-1003(f), Idaho Code;

(b) If a licensed dealer or wholesaler has been granted distribution rights by a brewer for a brand in a designated territory and is unable to service the designated sales territory for reasons that are not the result of an action by the brewer, or in the event of a termination, cancellation, discontinuance or failure to renew a distribution agreement between a brewer and a licensed dealer or wholesaler for reasons set forth in section 23-1105, Idaho Code, such as insolvency, loss of licensure or fraud and in accordance with the provisions of chapter 11, title 23, Idaho Code, a brewer shall be allowed to appoint a temporary licensed dealer or wholesaler to service the brewer's brands in the designated sales territory and, for a period not to exceed five (5) years, to have any financial interest in the temporary licensed dealer or wholesaler; or

(c) If a licensed dealer or wholesaler is voluntarily selling its distribution rights, a brewer whose brand distribution rights are being transferred may have any financial interest in the purchasing distribu-

tor for a period not to exceed five (5) years to assist in financing the purchase.

(2) It shall be unlawful for any licensed wholesaler or dealer, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee to have any financial interest in a licensed brewer's business, or to own or control any real property upon which a licensed brewer conducts business. This section shall not apply to a non-controlling de minimis interest in stock held in a publicly traded company including mutual funds.

[23-1032, added 2014, ch. 244, sec. 1, p. 613.]

23-1033. FINANCIAL INTEREST IN OR AID TO RETAILERS PROHIBITED -- CERTAIN AID PERMITTED. (1) Except as provided in sections 23-1003(d), and 23-1003(e), Idaho Code, it shall be unlawful for any brewer, dealer, wholesaler, or the holder of any certificate of approval, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee:

(a) To have any financial interest in any licensed retailer's business, or to own or control any real property upon which a licensed retailer conducts his business, except such property as shall have been so owned or controlled continuously for more than one (1) year prior to July 1, 1975; provided however, that a brewer licensed pursuant to section 23-1003(d) or (e), Idaho Code, may be permitted to have a financial interest in one (1) additional brewery licensed pursuant to section 23-1003(d) or (e), Idaho Code; or

(b) To aid or assist any licensed retailer by giving such retailer, or any employee thereof, any discounts, premiums or rebates in connection with any sale of beer; or

(c) To aid or assist any licensed retailer by furnishing, giving, renting, lending or selling any equipment, signs, supplies, services, or other thing of value to the retailer which may be used in conducting the retailer's retail beer business, except as expressly permitted by this chapter; or

(d) To enter into any lease or other agreement with any retail licensee to control the product or products sold by such retailer; or

(e) To provide for any rental or other charge to be paid to or by the retailer for product display or advertising display space.

(2) A brewer, dealer, or wholesaler as an incident to merchandising in the ordinary course of business, and if available to all licensed retailers without discrimination, may sell to a retailer equipment, supplies, or clothing which may be used in conducting the retailer's retail business. A brewer, dealer or wholesaler may not sell such equipment or supplies at a price, or under terms, intended or designed to encourage or induce the retailer to use products of the seller to the exclusion of the products of other brewers, dealers or wholesalers. In no event shall the sales price be less than the reasonable value of such equipment or supplies.

(3) Notwithstanding the provisions of subsection (2) of this section, a brewer, dealer, or wholesaler, as an incident to merchandising in the ordinary course of business, and if available to all retailers within the brewer, dealer or wholesaler's service area, without discrimination, may lend, give, furnish or sell to a retailer, the following items:

(a) Necessary accessory equipment, such as shaft blowers, tapping devices, valves, beer hoses, washers, couplings, clamps, air hoses, vents, faucets, CO₂ gas regulators, picnic or party pumps, together with

necessary nonmechanical or nonenergized equipment to enable cooling of beer, and CO₂ gas or ice when the same is furnished at the current retail price and as a bona fide sale in the regular course of business;

(b) Signs, posters, placards, designs, devices, decorations or graphic displays bearing advertising matter and for use in windows or elsewhere in the interior of a retail establishment. The brewer, dealer or wholesaler shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation;

(c) Newspaper cuts, mats or engraved blocks for use in retailer's advertisements;

(d) Items such as sports schedules, posters, calendars, informational pamphlets, decals and other similar materials for display at the point of sale which bear brand advertising for beer prominently displayed thereon, and which items are intended for use by the retailer's customers off the licensed premises and which items are made available to the retailer's customers for such purpose;

(e) Temporary signs or banners displaying a brewer's, dealer's or wholesaler's name, trademark or label, which signs may be permitted to be temporarily displayed on the exterior portion of the retailer premises in connection with a special event, in accordance with such rules relating thereto as may be established by the director.

(4) A distributor may perform services incident to or in connection with the following:

(a) The stocking, rotation and restocking of beer sold and delivered to such licensed retailer on or in such licensed retailer's storeroom, salesroom shelves or refrigerating units, including the marking or remarking of containers of such beer to indicate the selling price as established by the retailer and to the arranging, rearranging, or relocating of advertising displays referred to in this section. For the purposes of this paragraph, a wholesaler may, with the permission of the retailer, and in accordance with space allocations directed by the retailer, set, remove, replace, reset or relocate all beer upon the shelves of the retailer. Labor performed or schematics prepared by the wholesaler relating to conduct authorized pursuant to this paragraph shall not constitute prohibited conduct or unlawful aid to a retailer;

(b) (i) The inspection of a licensed retailer's draught equipment to insure sanitation and quality control;

(ii) The instruction of licensed retailers in the proper use, maintenance and care of draught equipment, glasses and products used in the sale and dispensing of beer and the preparation and distribution of written information or instructions to licensed retailers with respect thereto;

(iii) The tapping of kegs;

(iv) A wholesaler may perform such services as may be required to maintain sanitation or quality control and which are incident to the repair and cleaning of a retailer's draught beer equipment and may furnish or sell the necessary equipment and repair parts and cleaning supplies required in the performance of such services.

(5) A wholesaler may assist a retailer by temporarily providing storage of the retailer's beer for a period not in excess of seven (7) days in the event that such storage is necessary to maintain the quality of such beer

during a temporary loss or failure of the retailer's refrigeration equipment.

(6) A brewery, dealer or wholesaler may furnish or give to a retailer authorized to sell beer for consumption on the licensed premises, for sampling purposes only, a container of beer containing not more than sixty-four (64) ounces, not currently being sold by the retailer, and which container is clearly marked "NOT FOR SALE -- FOR SAMPLING PURPOSES ONLY."

(7) The word "ale" or "malt liquor" may be substituted for "beer" on any sign used in connection with any advertising herein permitted, provided reference shall be to ale or malt liquor which has an alcoholic content not greater than the limitation prescribed in section 23-1002, Idaho Code.

(8) Every violation of the provisions of this section by a dealer, brewer or wholesaler, in which a licensed retailer shall have actively participated shall constitute a violation on the part of such licensed retailer.

[23-1033, added 1975, ch. 151, sec. 3, p. 383; am. 1976, ch. 34, sec. 1, p. 71; am. 1978, ch. 59, sec. 1, p. 115; am. 1984, ch. 232, sec. 1, p. 560; am. 1987, ch. 22, sec. 3, p. 30; am. 1991, ch. 159, sec. 1, p. 380; am. 1994, ch. 361, sec. 1, p. 1131; am. 2012, ch. 191, sec. 1, p. 515.]

23-1033A. PROHIBITION OF CERTAIN TRADE PRACTICES BETWEEN BREWERS OR DEALERS AND WHOLESALERS. (1) It shall be unlawful for any brewer or dealer, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee:

(a) To require that any wholesaler purchase any such beer or other distributed products from such person to the exclusion in whole or in part of beer or other products made or imported by other dealers or brewers;

(b) To discriminate in price, allowance, rebate, refund, commission, discount, or service between the wholesalers purchasing beer or other products from such brewer or dealer;

(c) To threaten any wholesaler with any discrimination prohibited under subsection (1)(b) of this section, with the purpose or effect of changing or maintaining resale prices of the wholesaler;

(d) To impose conditions or restrictions on a wholesaler not generally imposed on other wholesalers of such brewer.

(2) Nothing in this section shall be deemed to prohibit brewers or dealers from selecting their own customers in bona fide transactions not in restraint of trade, nor to prohibit a brewer, or any affiliate or subsidiary of such brewer, duly licensed as a wholesaler from selling and distributing beer or other products manufactured by such brewer at wholesale to the exclusion of beer or other products manufactured by any other brewers. The terms "wholesaler" and "wholesalers" as used in this section shall mean a wholesaler or wholesalers licensed and engaged as such in the sale and distribution of beer in the state of Idaho.

[23-1033A, added 1977, ch. 148, sec. 1, p. 326; am. 2000, ch. 428, sec. 1, p. 1383.]

23-1034. SANITATION RULES FOR RETAILERS. Licensed retailers authorized to sell beer for consumption upon such licensee's premises, shall keep their premises and all coils, cups, mugs, steins, glasses, and other utensils used in connection with the sale and dispensing of beer in a sanitary condition at all times, and shall comply with all rules issued by the

department of health and welfare in the state of Idaho and applicable to the operation of the business of such licensed retailer.

[I.C., sec. 23-1034, as added by 1961, ch. 299, sec. 5, p. 543; am. 1974, ch. 117, sec. 1, p. 1288; am. 1995, ch. 172, sec. 1, p. 654.]

23-1035. RETAILER'S SIGNS. Signs indicating that beer is sold or dispensed on any particular premises shall be displayed only on the exterior portion of the building where the licensed retailer shall carry on his business of selling beer at retail or on property on which any such building is situated and which is owned or possessed by such retailer as a part of his business premises. No more than two (2) single-faced signs or one (1) double-faced sign indicating that beer is sold or dispensed on the premises shall be displayed on such building or property. No dimension of any such sign shall exceed sixty (60) inches and the area of each face of a double-faced and of each single-faced sign shall not exceed fifteen hundred (1,500) square inches measured in such manner as the director may by regulation prescribe. No such sign shall display or make reference to the name of any brewer or the trade name, trademark or label of any brand of beer.

[I.C., sec. 23-1035, as added by 1961, ch. 299, sec. 5, p. 543; am. 1974, ch. 27, sec. 51, p. 811; am. 1994, ch. 14, sec. 9, p. 28.]

23-1036. TAP MARKERS. Every faucet, spigot or other dispensing apparatus used on the premises of a licensed retailer for dispensing draught beer shall conspicuously indicate thereon the brand or trade name of the beer or the trademark of the manufacturer of the beer drawn therefrom.

[I.C., sec. 23-1036, as added by 1961, ch. 299, sec. 5, p. 543.]

23-1037. DETERMINATION TO REVOKE, SUSPEND OR REFUSE RENEWAL OF LICENSE BY DIRECTOR -- MONETARY PENALTY. (1) In the event of a conviction of any brewer manufacturing beer in this state or of any wholesaler or retailer licensed under the provisions of this chapter, of any law of the state of Idaho, or of the United States, regulating, governing or prohibiting the sale, manufacture, transportation or possession of alcoholic beverages or intoxicating liquor, or if the director shall determine that any such licensee has violated any of the provisions of this chapter or any regulation of the director promulgated under the authority of this chapter, the director may, in his discretion, and in addition to any other penalty imposed, determine to revoke the license of any such licensee, to suspend the same for a period not in excess of six (6) months, or to refuse to grant a renewal of such license after the date of its expiration.

(2) When the director determines to suspend such license, the affected licensee may petition the director prior to the effective date of the suspension requesting that a monetary payment be allowed in lieu of the license suspension. If the director determines such payment to be consistent with the purpose of the laws of the state of Idaho and is in the public interest, he shall establish a monetary payment in an amount not to exceed five thousand dollars (\$5,000). The licensee may reject the payment amount determined by the director, and instead be subject to the suspension provisions of subsection (1) of this section. Upon payment of the amount established, the director shall cancel the suspension period. The director shall cause any payment to be paid to the treasurer of the state of Idaho for credit to the state's general account in the state operating fund.

(3) The suspension of a license for the sale of liquor or wine shall automatically result in the suspension of any license for the sale of beer held by the same licensee and issued for the same premises or location. Such additional suspension shall be equal in length to and run concurrently with the period of the suspension.

(4) When a proceeding to revoke or suspend a license has been or is about to be instituted, during the time a renewal application of such license is pending before the director, the director shall renew the license notwithstanding the pending proceedings, but such renewed license may be revoked or suspended without hearing if and when the previous license is, for any reason, revoked or suspended.

[I.C., sec. 23-1037, as added by 1961, ch. 299, sec. 7, p. 543; am. 1974, ch. 27, sec. 52, p. 811; am. 1979, ch. 295, sec. 1, p. 778; am. 1981, ch. 199, sec. 2, p. 352; am. 1991, ch. 50, sec. 2, p. 92; am. 1993, ch. 347, sec. 2, p. 1291.]

23-1037A. LICENSES -- SUSPENSION OR REVOCATION FOR VIOLATION OF OBSCENITY LAWS. In the event of a conviction for a violation of chapter 41, title 18, Idaho Code, relating to obscenity, by any:

- (1) licensee,
- (2) agent of licensee or
- (3) employee of licensee if such licensee knew or should have known in the exercise of reasonable diligence that said employee was violating the provisions of chapter 41, title 18, Idaho Code, and if the violation committed by any of the above occurred on, or in connection with, premises licensed under this act by such licensee, the director shall suspend the license of such licensee for a period of six (6) months. If such licensee, or his agent or employee, has previously been convicted of a violation of chapter 41, title 18, Idaho Code, relating to obscenity, which violation occurred on, or in connection with, the premises licensed under this act by such licensee, the director shall revoke the license of such licensee.

[I.C., sec. 23-1037A, as added by 1973, ch. 305, sec. 20, p. 655; am. 1974, ch. 27, sec. 53, p. 811.]

23-1038. SUSPENSION, REVOCATION, AND REFUSAL TO RENEW LICENSES. When the director shall make a determination to revoke, to suspend, or to refuse grant of renewal of license issued pursuant to the terms of this act for any violation of or failure to comply with the provisions of this act or rules promulgated by the director or the state tax commission pursuant to the terms and conditions of this act, procedures for the suspension, revocation or refusal to grant or renew licenses issued under this act shall be in accordance with the provisions of chapter 52, title 67, Idaho Code. Any hearing alleging a violation of chapter 9 or 10, title 23, Idaho Code, shall be conducted in the county where the alleged violation occurred.

[23-1038, added 1980, ch. 220, sec. 2, p. 493; am. 2001, ch. 95, sec. 1, p. 243.]

23-1042. PROCEDURE FOR OTHER LICENSING AUTHORITIES. The licensing authority of any county or incorporated municipality shall have and exercise the same powers to revoke, suspend, or to refuse grant of renewal of a retailer's license issued or issuable by it, as are granted to the director in this act. The determination of any such licensing authority to revoke, suspend, or to refuse grant of renewal of any retailer's license, shall be upon

the same grounds referred to in section 23-1037, Idaho Code, and may also be upon the grounds that the licensee has violated an ordinance validly enacted by it and regulating, governing or prohibiting the sale, manufacture, transportation or possession of alcoholic beverages or intoxicating liquor, and notice thereof shall be given, and proceedings to contest said determination allowed, as provided for in this act with respect to state licenses issued by the director. The order to show cause shall be addressed to the county commissioners of the county or to the city council of the incorporated municipality, requiring the commissioners or councilmen, or such representative as they may designate, to appear in response thereto. Service of the order to show cause and petition shall be ordered to be made upon the chairman of the board of county commissioners or mayor or city manager of the municipality, as the case may be.

[I.C., sec. 23-1042, as added by 1961, ch. 299, sec. 7, p. 543; am. 1974, ch. 27, sec. 58, p. 811.]

23-1043. NOTICE OF REVOCATION OR SUSPENSION TO OTHER LICENSING AUTHORITIES. When revocation or suspension of any licensed retailer's license shall become effective by reason of the determination made by any licensing authority as in this act provided for, or by reason of the judgment of any district court on proceedings to contest any such determination, the licensing authority which made such determination shall forthwith give notice thereof in writing to the other licensing authorities from whom license was obtained by the licensee involved.

[I.C., sec. 23-1043, as added by 1961, ch. 299, sec. 7, p. 543.]

23-1044. PROCEDURE ON REFUSAL TO GRANT LICENSE. Upon a determination by the director or by the licensing authority of any county or municipality to refuse issuance of a license to an applicant upon original application, the same procedure herein provided for in cases involving refusal to grant renewal of license for notice and for proceedings to contest determination shall govern insofar as the same are applicable, except that issuance of temporary license shall not be required pending proceedings to contest determination.

[I.C., sec. 23-1044, as added by 1961, ch. 299, sec. 7, p. 543; am. 1974, ch. 27, sec. 59, p. 811.]

23-1045. APPEALS. An appeal from the judgment of any district court on proceedings to contest a determination may be taken by either party to such proceedings to the Supreme Court of this state, in the same manner as in other civil actions. If the judgment of the district court shall affirm the determination of any licensing authority revoking or suspending license or refusing grant of renewal of license, further stay of the effective date of revocation or suspension or further continuance of temporary license pending appeal may be allowed if, in the discretion of the court and upon application therefor, order for such further stay or continuance shall be entered by the court.

[I.C., sec. 23-1045, as added by 1961, ch. 299, sec. 7, p. 543.]

23-1046. SEPARABILITY. If any portion of this act shall be declared unconstitutional, it shall not invalidate the other provisions thereof.

[I.C., sec. 23-1046, as added by 1961, ch. 299, sec. 8, p. 543.]

23-1047. PAYMENT OF TAXES ON BEER. Each person liable for payment of taxes on beer, as provided for in section 23-1048, Idaho Code, shall, on or before the 15th day of each month, or for such other period as the state tax commission may prescribe by rule, file a written report with the state tax commission showing all sales of beer for resale or consumption in this state made by such person during the calendar month or other period immediately preceding. Taxes payable with respect to such sales shall be paid by the person liable therefor at the time such report is filed.

[I.C., sec. 23-1047, as added by 1961, ch. 259, sec. 1, p. 430; am. 2009, ch. 4, sec. 1, p. 6.]

23-1048. LIABILITY FOR PAYMENT OF TAXES ON BEER. (1) Every sale of beer to a retailer licensed in this state or to a consumer in this state shall constitute a sale of beer for resale or consumption in this state and such wholesaler shall be liable for the payment of taxes thereon. Sales of beer by such wholesaler for the purpose of and resulting in export of such beer from this state for resale outside this state shall be exempt from the taxes on beer imposed by this state.

(2) Every sale of beer by a wholesaler licensed in this state shall constitute a sale of beer for resale or consumption in this state, whether said sale is made within or without this state, and such wholesaler shall be liable for the payment of taxes thereon, except as provided in subsection (1) hereof.

[I.C., sec. 23-1048, as added by 1961, ch. 259, sec. 1, p. 430; am. 1974, ch. 27, sec. 60, p. 811; am. 1980, ch. 239, sec. 2, p. 556.]

23-1049. SECURITY FOR TAX. The state tax commission, whenever it deems it necessary to insure compliance with this act, may require any person subject to this act to place with it such security as it may determine. The amount of the necessary security shall be fixed by the state tax commission but, except as provided hereafter, shall not be greater than three (3) times the estimated average monthly amount payable by such persons pursuant to this act. In the case of persons habitually delinquent in their obligations under this act, the amount of the security shall not be greater than five (5) times the estimated average monthly amount payable by such persons pursuant to this act. The amount of the security may be increased or decreased by the state tax commission at any time, subject to the limitations set forth herein.

The state tax commission may sell the security at public auction or, in the case of security in the form of bearer bonds issued by the United States or the state of Idaho which have a prevailing market price, at a private sale at a price not lower than the prevailing market price if it becomes necessary to make such sale in order to recover any tax, interest or penalties due on any amount required to be collected. Notice of the sale must be given to the person who deposited the security at least ten (10) days before the sale. Such notice may be given personally or by mail addressed to the person at the address furnished to the state tax commission and as it appears in the records of the state tax commission. Upon such sale, any surplus above the amounts due shall be returned to the person who placed the security.

[23-1049, added 1988, ch. 182, sec. 2, p. 319.]

23-1050A. COLLECTION AND ENFORCEMENT. The collection and enforcement procedures provided by the Idaho income tax act, sections 63-3042 through

63-3065A, inclusive, and sections 63-3068 and 63-3075, Idaho Code, shall apply and be available to the state tax commission for enforcement and collection of the tax imposed by this chapter, and said sections shall, for this purpose, be considered part of this act. Any reference to taxable year in the income tax act shall be, for the purposes of this act, considered a taxable period.

[23-1050A, added 1980, ch. 239, sec. 3, p. 557; am. 1984, ch. 104, sec. 3, p. 243; am. 2007, ch. 10, sec. 9, p. 19.]

23-1051. REGULATIONS. The state tax commission shall be, and it is hereby, authorized to adopt and promulgate such rules and regulations as may be necessary to assure payment of taxes on beer, including, but not limited to, rules and regulations; prescribing the form and content of monthly reports required; requiring the persons liable for payment of taxes on beer to show on such monthly reports information concerning their inventories, purchases, sales and shipments of beer; requiring monthly informational reports from dealers and wholesalers licensed in this state concerning their inventories, purchases, sales and shipments of beer; requiring reports from carriers, both public and private, concerning deliveries of beer made in this state by such carriers and shipments of beer made by such carriers out of this state; requiring persons liable for payment of taxes imposed on beer and dealers and wholesalers licensed in this state to maintain complete and accurate books, records and accounts on transactions involving beer; and establishing grounds upon which delay in filing reports or paying taxes imposed on beer may be considered justifiable and without fault on the part of the person liable therefor.

[I.C., sec. 23-1051, as added by 1961, ch. 259, sec. 1, p. 430.]

23-1052. LICENSE REVOCATION OR SUSPENSION FOR FAILURE TO PAY OR REPORT TAX. Failure to make any report or to pay any taxes at the times required shall be grounds for the director to suspend or revoke the license or certificate of approval held by the person so defaulting in the manner provided by law.

[I.C., sec. 23-1052, as added by 1961, ch. 259, sec. 1, p. 430; am. 1974, ch. 27, sec. 61, p. 811.]

23-1053. AUDITS OF RECORDS OF LICENSEE. For the purpose of ascertaining compliance with the provisions of section 23-1047 the state tax commission may, as often as it deems advisable, examine the accounts, records, documents and transactions, pertaining to or affecting the beer business of any person holding a license or certificate or [of] approval issued by this state under the provisions of this act. When examination involving any brewer or foreign distributor holding a certificate of approval issued by this state shall require an examiner to travel outside this state, the actual and necessary expenses of travel and subsistence necessarily incurred on account of the examination shall be paid by the holder of such certificate of approval upon presentation of an itemized statement certified by the examiner and approved by the state tax commission.

[I.C., sec. 23-1053, as added by 1961, ch. 259, sec. 1, p. 430.]

23-1054. REFUND OF TAXES. (1) If the tax commission determines that any amount due under this chapter has been paid more than once or has been erroneously or illegally collected or computed, the commission shall set

forth that fact in its records and the excess amount paid or collected may be credited on any amount then due and payable to the commission from that person and any balance refunded to the person by whom it was paid or to his successors, administrators or executors. The tax commission is authorized and the state board of tax appeals is authorized to order the tax commission in proper cases to credit or refund such amounts whether or not such payments have been made under protest and certify such refund to the state board of examiners.

(2) No such credit or refund shall be allowed or made after three (3) years from the time the payment was made, unless before the expiration date of that period a claim therefor is filed by the taxpayer. The three (3) year periods allowed by this section for making refunds or credit claims shall not apply in cases where the tax commission asserts a deficiency of tax imposed by this chapter and taxpayers desiring to appeal or otherwise seek a refund of amounts paid in obedience to those deficiencies must do so within the time limits elsewhere prescribed by law.

[23-1054, added 1986, ch. 73, sec. 4, p. 205.]

23-1055. UNLAWFUL SALE, PURCHASES AND ACTS. It shall be unlawful: (a) for any brewer manufacturing beer outside this state or for any foreign distributor to sell beer for resale or consumption in this state except to dealers and wholesalers licensed in this state; (b) for any dealer or wholesaler licensed in this state to purchase beer manufactured outside this state except from brewers or foreign distributors holding certificates of approval issued by this state and from other dealers or wholesalers licensed in this state; (c) for any person to sell beer for resale or consumption in this state or to transfer or import beer into this state for the purpose of selling such beer for resale or consumption in this state, unless such person shall hold a license or certificate of approval issued by this state pursuant to which any such sale, transportation or importation shall be authorized; (d) for any retailer licensed in this state to purchase beer for resale except from a dealer or wholesaler licensed in this state. Any beer sold, transported or imported in violation of the provisions of this section shall be subject to seizure, forfeiture and sale in the same manner as provided for in section 23-1008, as amended.

[I.C., sec. 23-1055, as added by 1961, ch. 259, sec. 1, p. 430.]

23-1056. USE OF ALTERNATIVE METHOD -- TIME WHEN AUTHORIZED. Use of said alternative method of payment of taxes imposed on beer as provided for in sections 23-1047 through 23-1055, shall not be authorized until the state tax commission shall adopt and promulgate a regulation permitting use of such method. On and after the effective date of any such regulation use of such alternative method shall be exclusive, provided, however, tax stamps theretofore purchased by any person liable for payment of taxes on beer and on hand may be used by such person and a credit shall be allowed to him against taxes payable with monthly reports subsequently filed in such manner as the state tax commission may prescribe, or said stamp may be submitted for redemption and refund thereon. Upon thirty (30) days written notice mailed to each brewer and dealer licensed in this state and to each brewer and foreign distributor holding a certificate of approval issued by this state the state tax commission may at any time rescind any such regulation and from and after the effective date of rescission only the method for payment

of taxes on beer by use of tax stamps as provided for in section 23-1008, as amended, shall be used.

[I.C., sec. 23-1056, as added by 1961, ch. 259, sec. 1, p. 430.]