

TITLE 23
ALCOHOLIC BEVERAGES

CHAPTER 13
COUNTY OPTION KITCHEN AND TABLE WINE ACT

23-1301. SHORT TITLE. This act shall be known and designated as the "County Option Kitchen and Table Wine Act."

[23-1301, added 1971, ch. 156, sec. 1, p. 760.]

23-1302. PURPOSE AND CONSTRUCTION OF ACT. The purpose of this act is to regulate the importation, distribution and sale, both at wholesale and retail, of wines while reserving to each county of this state the right to prohibit the distribution or sale of wine within its borders. This act shall not be construed to affect laws regulating the retail sale of alcoholic beverages, nor shall it be construed to in any way enlarge the class of persons who may lawfully buy, possess or consume any variety of wine whatever its alcoholic content.

[23-1302, added 1971, ch. 156, sec. 2, p. 760; am. 2011, ch. 130, sec. 3, p. 364.]

23-1303. DEFINITIONS. (1) The following terms as used in this chapter are hereby defined as follows:

(a) "Bonded wine warehouse" means a licensed warehouse within the state of Idaho that is solely authorized to store and handle wine.

(b) "Bonded wine warehouse license" means a license that authorizes a bonded wine warehouse to solely store and handle wine. Handling of wine as provided for in this chapter includes the loading, unloading, and delivery of wine from a vintner or winery to a bonded wine warehouse, from a bonded wine warehouse to a vintner or winery, from a bonded wine warehouse to another bonded wine warehouse, or from a bonded wine warehouse to a distributor. A bonded wine warehouse license does not authorize the distribution or sale of wine.

(c) "Dessert wine" means only those wines that contain more than sixteen percent (16%) alcohol by volume, but do not exceed twenty-four percent (24%) alcohol by volume, are grape-based, and are fortified through the addition of wine-based spirits or brandy made from grapes. Dessert wine as defined herein shall not be deemed to be a spirit-based beverage for the purposes of paragraph (i) of this subsection. Dessert wine as defined in this section shall not include aromatized wines such as vermouth, quinquina, and americano.

(d) "Director" means the director of the Idaho state police.

(e) "Distributor" means a person to whom a wine distributor's license has been issued.

(f) "Domestic produced product" means wine at least seventy-five percent (75%) of which by volume is derived from fruit or agricultural products grown in Idaho.

(g) "Importer" means a person to whom a wine importer's license has been issued.

(h) "Live performance" means a performance occurring in a theater and not otherwise in violation of any provision of Idaho law.

(i) "Low proof spirit beverages" means any alcoholic beverage containing not more than fourteen percent (14%) alcohol by volume obtained by distillation mixed with drinkable water, fruit juices and/or other ingredients in solution. These products shall be considered and taxed as wine. Spirit-based beverages exceeding fourteen percent (14%) alcohol by volume shall be considered as liquor and sold only through the division system.

(j) "Person" includes an individual, firm, copartnership, association, corporation, or any group or combination acting as a unit, and includes the plural as well as the singular unless the intent to give a more limited meaning is disclosed by the context in which it is used.

(k) "Retailer" means a person to whom a retail wine license has been issued.

(l) "Retail wine license" means a license issued by the director authorizing a person to sell table wine and/or dessert wine at retail for consumption off the licensed premises.

(m) "Table wine" shall mean any alcoholic beverage containing not more than sixteen percent (16%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.

(n) "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.

(o) "Vintner" means a person who manufactures, bottles, or sells table wine or dessert wine to importers for resale within this state other than a licensed "winery" as herein defined.

(p) "Wine" includes table wine and dessert wine, unless the context requires otherwise.

(q) "Wine by the drink license" means a license to sell table wine or dessert wine by the individual glass or opened bottle at retail, for consumption on the premises only.

(r) "Wine distributor's license" means a license issued by the director to a person authorizing such person to distribute table wine or dessert wine to retailers within the state of Idaho.

(s) "Wine importer's license" means a license issued by the director to a person authorizing such person to import table wine or dessert wine into the state of Idaho and to sell and distribute such wines to a distributor.

(t) "Winery" means a place, premises or establishment within the state of Idaho for the manufacture or bottling of table wine or dessert wine for sale. Two (2) or more wineries may use the same premises and the same equipment to manufacture their respective wines, to the extent permitted by federal law.

(u) "Winery license" means a license issued by the director authorizing a person to maintain a winery.

(2) 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 accepted meanings.

[23-1303, added 1971, ch. 156, sec. 3, p. 760; am. 1973, ch. 144, sec. 1, p. 281; am. 1974, ch. 27, sec. 62, p. 811; am. 1984, ch. 221, sec. 1, p. 531; am. 1987, ch. 169, sec. 2, p. 330; am. 1994, ch. 266, sec. 1, p. 823; am. 2000, ch. 469, sec. 72, p. 1521; am. 2003, ch. 111, sec. 5, p. 354; am. 2003, ch. 119, sec. 1, p. 363; am. 2004, ch. 318, sec. 3, p. 893; am.

2008, ch. 181, sec. 1, p. 546; am. 2009, ch. 23, sec. 54, p. 67; am. 2017, ch. 73, sec. 1, p. 184; am. 2019, ch. 76, sec. 1, p. 179; am. 2020, ch. 10, sec. 1, p. 12.]

23-1304. COUNTY OPTION -- RESOLUTION OF COUNTY COMMISSIONERS -- ORDER FOR ELECTION -- FORM OF BALLOT -- EFFECT OF ELECTION OR RESOLUTION. There is hereby granted to the board of county commissioners of each of the several counties of this state the right and authority to permit the sale of table wine and/or dessert wine, as defined in this chapter, within the borders of the several counties of this state, which may be exercised in the following manner:

(a) the board of county commissioners of each county of this state may, by resolution regularly adopted, provided that retail sale of table wine and/or dessert wine, as defined in this chapter, shall be permitted within the county, and upon a certification of such resolution to the director, a retail wine license shall thereafter be issued for premises within such county so long as such resolution remains in effect; or

(b) the board of county commissioners of each of the several counties of this state may submit the question of permitting the sale of table wine and/or dessert wine at retail within the boundaries of the county to the electors of the county.

The board of county commissioners may make an order calling an election to be held, subject to the provisions of section [34-106](#), Idaho Code, within said county in the manner provided by law for holding elections for county officers. All laws of the state of Idaho relating to the holding of elections for county officers shall apply to the holdings of the election provided for in this section, except where specifically modified herein.

Such election may also be called upon written petition of registered electors equal in number to twenty percent (20%) of the registered, qualified electors of the county for the last general election under the following conditions:

(a) The petition for such an election shall be in substantially the following form:

RETAIL WINE SALE PETITION

To the Honorable County Commissioners of the County of, State of Idaho:

We, the undersigned citizens and registered, qualified electors of the County of, respectfully demand that the Board of County Commissioners submit the question of permitting the sale of table wine (and/or dessert wine) at retail within the boundaries of the County of to the electors of the county in the manner provided in section [23-1304](#), Idaho Code.

We, each for himself, say: I am a registered elector of the County of and my residence, post office address, county, election precinct and the date I signed this petition are correctly written after my name.

Name	Residence	Post Office	County	Election	Precinct	Date
(If in a city, street and number)						

(Here follow twenty numbered lines for signatures)

(b) Before or at the time of beginning to circulate any petition for an election to determine sale of wine at retail, the person or persons, organization or organizations, under whose authority the petition is to be circulated, shall send or deliver to the county clerk a copy of such petition

duly signed by at least twenty (20) electors eligible to sign such petition. The county clerk shall immediately examine the petition and specify the form and kind and size of paper on which the petition shall be printed and circulated for further signatures. All petitions and sheets for signatures shall be printed on a good quality bond or ledger paper, on pages eight and one-half (8 1/2) inches in width by thirteen (13) inches in length, with a margin of one and three-fourths (1 3/4) inches at the top for binding, and the sheets for signatures shall have numbered lines thereon from one (1) to twenty (20) for signatures. The petition shall be prepared in sections, with each section numbered consecutively. Each section of a petition must have a printed copy of the petition as the first page, and each section shall have attached to it not more than ten (10) sheets for signatures.

(c) The county clerk shall indicate in writing on the petition that he has approved it as to form and the date of such approval. Upon approval as to form, the county clerk shall inform the person or persons, organization or organizations, under whose authority the petition is to be circulated, in writing, that the petition must be perfected with the required number of signatures within one hundred eighty (180) days following the date of approval as to form. Any petition that has not been perfected with the required number of certified signatures within the one hundred eighty (180) days allowed shall be declared null and void ab initio in its entirety, except for the extension allowed for in subsection (g) of this section.

(d) Each and every signature sheet of each petition containing signatures shall be verified on the face thereof in substantially the following form by the person who circulated said sheet of the petition, by his or her affidavit thereon, as a part thereof:

State of Idaho
County of

I,, swear, under penalty of perjury, that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

.....(Signature)
....Post Office Address

Subscribed and sworn to before me this day of, 2....
(Notary Seal)

.....
(Notary Public)
Residing at

(e) All petitions with attached signature sheets shall be presented to the county clerk on the same day and a cursory examination of the petitions shall be made by him. The cursory examination shall be made to determine whether the petitions apparently contain the necessary number of signatures. If the total number of signatures on the petitions is not sufficient to satisfy the number required by this law, all petitions with attached signature sheets shall be returned to the person or organization attempting to file them, and further signatures may be gathered. If the cursory examination of the signature sheets reveals:

- (1) erasures on any signature;
- (2) illegible or unidentifiable signatures; or
- (3) signatures not properly identified by all the information required on the sheet,

the county clerk shall summarily reject such signature and such signatures shall not be counted. Each rejected signature shall be drawn through with ink and initialed by the county clerk or his deputy. If the total number of signatures not rejected is not sufficient to satisfy the number required by law, all petitions with attached signature sheets shall be returned to the person or organization attempting to file them, and further signatures may be gathered.

(f) All petitions presented to the county clerk found to apparently contain the necessary number of signatures, after the cursory examination provided for in subsection (e) of this section, shall be filed with the county clerk and become public records of the county not to be returned. The county clerk shall examine each signature purported to be that of a registered elector and compare each such signature with the registration documents available to him. The county clerk shall summarily reject all signatures which are not the signatures of registered electors; and such rejected signatures shall not be counted. Each rejected signature shall be drawn through with ink and initialed by the clerk or his deputy. The county clerk may take not to exceed twenty (20) days after filing of the petition to complete his examination. The county clerk shall certify each signature found to comply with all of the requirements of this act by an appropriate mark following each signature. The county clerk shall total the number of certified signatures and certify the number thereof to the board of county commissioners.

(g) In the event that a petition filed with the county clerk does not contain the required number of certified signatures, the county clerk shall inform the person or organization under whose authority the petition was circulated that the petition is defective for lack of certified signatures, and specify the number of additional signatures required to make the petition valid. The petition must be perfected within sixty (60) days of the date that the clerk finds the petition defective for lack of certified signatures. If the petition is not perfected within the sixty (60) day period, the clerk shall declare the petition null and void ab initio in its entirety.

(h) In the event the county clerk shall certify to the board of county commissioners that a petition contains the required number of signatures of registered, qualified electors, said governing body shall forthwith make an order calling an election to be held, subject to the provisions of section [34-106](#), Idaho Code, within said county in the manner provided by law for holding elections for county officers.

In addition to the other requirements of law, the notice of election shall notify the electors of the issue to be voted upon at said election. The county recorder must furnish the ballots to be used in such election, which ballots must contain the following words:

"Sale of table wine at retail, Yes,"

"Sale of table wine at retail, No."

and, if applicable:

"Sale of dessert wine at retail, Yes,"

"Sale of dessert wine at retail, No."

and the elector in order to vote must mark an "X" opposite one (1) of the questions in the space provided therefor. Upon a canvass of the votes cast, the county recorder shall certify the result thereof to the director. If a majority of the votes cast are affirmative on the issue or issues presented, licenses shall be issued in said county as in this chapter provided. If a majority of the votes cast are in the negative on the issue or issues presented,

then no license shall be issued in said county unless thereafter authorized by a subsequent election in said county which may be called in the manner provided for herein.

No resolution or election prohibiting the sale of table wine and/or dessert wine within the boundaries of any county of this state shall have an effective date prior to the end of the then current calendar year if at the time of the adoption thereof there shall be any outstanding valid retail wine licenses in good standing for premises within such county.

The signer of any petition under this chapter may remove his own name from the petition by crossing out, obliterating, or otherwise defacing his own signature at any time prior to the time when the petition is filed. The signer of any such petition may have his name removed from the petition at any time after the petition has been filed, but prior to the time when an election has been ordered, by presenting or submitting to the county clerk a signed, acknowledged statement that the signer desires to have his name removed from the petition. The statement shall contain sufficient information to clearly identify the signer. The county clerk shall immediately strike the signer's name from the petition, and adjust the total of certified signatures on the petition accordingly. The statement shall be attached to, and become a part of, the petition.

A person is guilty of a felony punishable by imprisonment in the state penitentiary, not to exceed two (2) years, who:

- (a) Signs any name other than his own to any petition.
- (b) Knowingly signs his name more than once on the same petition.
- (c) Willfully or knowingly circulates, publishes or exhibits any false statement or representation concerning the contents, purport or effect of any petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such petition.
- (d) Circulates or causes to circulate any petition, knowing the same to contain false, forged or fictitious names.
- (e) Makes any false affidavit concerning any petition or the signatures appended thereto.
- (f) Knowingly makes any false return, certification or affidavit concerning any petition or the signatures appended thereto.
- (g) Threatens any person with punitive or retaliatory action for the purpose of obtaining signatures or hindering or delaying the obtaining of signatures upon a petition.

[23-1304, added 1971, ch. 156, sec. 4, p. 760; am. 1973, ch. 142, sec. 1, p. 273; am. 1974, ch. 27, sec. 63, p. 811; am. 1995, ch. 118, sec. 13, p. 440; am. 2003, ch. 119, sec. 2, p. 364.]

23-1305. RESTRICTIONS -- AUTHORITY OF DIVISION PRESERVED. (a) Wine, as defined in this act, may be manufactured, imported into this state, possessed, distributed and sold in this state in the manner and under the conditions prescribed in this act and not otherwise.

(b) Nothing contained in this act shall prohibit the division from selling wine pursuant to the Idaho liquor act in any outlet of the division.

[23-1305, added 1971, ch. 156, sec. 5, p. 760; am. 2009, ch. 23, sec. 55, p. 69.]

23-1306. LICENSES REQUIRED -- APPLICATION -- ISSUANCE OR REFUSAL. (1) Before any person shall manufacture, import into this state,

bottle or broker for resale within this state, possess for resale, store and handle wine as a bonded wine warehouse, or distribute or sell wine within the state of Idaho, he shall apply to the director for a license. The application form shall be prescribed and furnished by the director and require that the applicant therein show that he possesses all of the qualifications and none of the disqualifications of a licensee. A person may apply for and receive a license as both a distributor and importer, if otherwise qualified therefor, and shall pay the license fee required pursuant to this chapter for each license. A winery licensed under this chapter shall also be considered as holding, for the purposes of selling a product processed and bottled by or for that winery, a current retail wine license and wine by the drink license for the licensed premises and for use at functions and events identified in section [23-1338](#), Idaho Code, and a current wine distributor's and importer's license, without further application or fee. If the director is satisfied that the applicant possesses the qualifications and none of the disqualifications for such license, he shall issue a license for each classification applied for, subject to the restrictions of and upon the conditions specified in this chapter. The license or licenses issued shall be at all times prominently displayed in the place of business of the licensee. If the director determines that the applicant is not properly qualified, he shall refuse to issue a license and shall forthwith so notify the applicant and shall return to the applicant with such notification, three-fourths (3/4) of the license fee remitted with the application. A separate retail wine by the drink license, and wine distributor's license shall be required for each premises. Provided, however, nothing herein shall prohibit a distributor or retailer or wine by the drink licensee from possessing licenses for more than one (1) premises.

(2) A bonded wine warehouse licensed under this chapter shall solely be authorized to store and handle wine produced by vintners and wineries. A license applicant shall hold a federal permit for a bonded wine cellar and may be required to post a continuing wine tax bond of such an amount and in such a form as may be required prior to the issuance of a bonded wine warehouse license. All wine shipped to and from a bonded wine warehouse shall remain under bond and no tax imposed shall be due, unless the wine is removed from bond and delivered to a licensed distributor.

[23-1306, added 1971, ch. 156, sec. 6, p. 760; am. 1973, ch. 144, sec. 2, p. 281; am. 1974, ch. 27, sec. 64, p. 811; am. 1984, ch. 221, sec. 2, p. 532; am. 1987, ch. 169, sec. 3, p. 331; am. 1993, ch. 333, sec. 1, p. 1232; am. 1994, ch. 244, sec. 1, p. 763; am. 2007, ch. 289, sec. 1, p. 821; am. 2020, ch. 10, sec. 2, p. 14.]

23-1307. QUALIFICATIONS FOR RETAIL WINE LICENSE, WINE BY THE DRINK LICENSE, BONDED WINE WAREHOUSE LICENSE, AND DISTRIBUTOR'S LICENSE. (1) No retail wine license, wine by the drink license, bonded wine warehouse license, or wine distributor's license shall be issued to an applicant who at the time of making the application:

- (a) If a corporation, has not qualified as required by law to do business in the state of Idaho;
- (b) Has had a wine distributor's license, retail wine license, wine by the drink license, bonded wine warehouse license, or wine importer's license revoked by the director within three (3) years from the date of making such application;

(c) Has been convicted of a violation of the laws of this state or of the United States governing the sale of alcoholic beverages, wine, or beer, within three (3) years from the date of making such application;

(d) Has been convicted of a felony or been granted a withheld judgment following an adjudication of guilt of a felony within five (5) years from the date of making such application;

(e) If an individual or partnership, either the individual or at least one (1) of the partners of a partnership is not nineteen (19) years of age or older.

(2) Licensed wineries shall not be required to possess a retail beer license to sell wine on the winery's original licensed premises or at locations other than the winery's original licensed premises.

(3) To determine qualification for a license, the director shall also 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 for such person with the application.

[23-1307, added 1971, ch. 156, sec. 7, p. 760; am. 1973, ch. 144, sec. 3, p. 281; am. 1974, ch. 27, sec. 65, p. 811; am. 1987, ch. 169, sec. 4, p. 332; am. 1992, ch. 315, sec. 4, p. 941; am. 1994, ch. 14, sec. 7, p. 27; am. 2001, ch. 284, sec. 4, p. 1018; am. 2010, ch. 87, sec. 1, p. 168; am. 2017, ch. 73, sec. 2, p. 186; am. 2020, ch. 10, sec. 3, p. 14.]

23-1307A. WINE BY THE DRINK ESTABLISHMENT NOT ALLOWED NEAR CHURCHES OR SCHOOLS -- EXCEPTIONS. No wine by the drink license shall be issued for any place, where wine 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 (that) 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.

[23-1307A, added 1978, ch. 349, sec. 2, p. 913.]

23-1308. QUALIFICATIONS FOR IMPORTER'S LICENSE. No wine importer's license shall be issued to an applicant who at the time of making the application:

(a) Has not executed an agreement in writing with the director that such importer and every person employed by it or acting as its agents other than distributors and retailers, will faithfully comply with and observe all the provisions of the laws of the state of Idaho relating to the importation, sale and distribution of wine and all rules and regulations adopted by the director pursuant to this act;

(b) Has had a wine distributor's license, retail wine license, wine by the drink license or wine importer's license, revoked by the director within three (3) years from the date of making such application;

(c) Has been convicted of a violation of the laws of this state or of the United States governing the sale of alcoholic beverages, wine, or beer, within three (3) years from the date of making such application;

(d) Has been convicted of a felony or been granted a withheld judgment following an adjudication of guilt of a felony within five (5) years from the date of making such application.

[23-1308, added 1971, ch. 156, sec. 8, p. 760; am. 1973, ch. 144, sec. 4, p. 281; am. 1974, ch. 27, sec. 66, p. 811.]

23-1308A. QUALIFICATIONS FOR WINERY LICENSE. (1) No winery license shall be issued to an applicant who at the time of making the application:

(a) Has not executed an agreement in writing with the director that such winery and every person employed by it or acting as its agents other than distributors and retailers, will faithfully comply with and observe all the provisions of the laws of the state of Idaho relating to the manufacturing, sale and distribution of wine and all rules adopted by the director pursuant to this act;

(b) Has had a winery license, a wine distributor's license, retail wine license, wine by the drink license or wine importer's license, revoked by the director within three (3) years from the date of making such application;

(c) Has been convicted of a violation of the laws of this state or of the United States governing the sale of alcoholic beverages, wine, or beer, within three (3) years from the date of making such application;

(d) Has been convicted of a felony or been granted a withheld judgment following an adjudication of guilt of a felony within five (5) years from the date of making such application.

(2) To determine qualification for a license, the director shall 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.

[23-1308A, added 1984, ch. 221, sec. 3, p. 532; am. 1987, ch. 169, sec. 5, p. 332; am. 1993, ch. 333, sec. 2, p. 1233; am. 2001, ch. 284, sec. 5, p. 1019.]

23-1309. RESTRICTIONS ON IMPORTATION AND DISTRIBUTION. No importer shall import wine into the state of Idaho for resale within the state to a destination other than the warehouse of a distributor within the state of Idaho. No distributor shall sell or distribute wine in this state except from stocks of wine which have been unloaded, stored and maintained in a warehouse or warehouses located within the state of Idaho and owned or used by such distributor in the conduct of his business as such. All records which a distributor is by law or rule required to maintain, shall be kept at his warehouse, or if such distributor shall have more than one (1) warehouse, then in the warehouse of such distributor 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 distributor by the state of Idaho.

[23-1309, added 1971, ch. 156, sec. 9, p. 760; am. 1996, ch. 329, sec. 2, p. 1123.]

23-1309A. SHIPMENT AND RECEIPT OF WINE AUTHORIZED -- LABELING REQUIREMENT. (1) Notwithstanding any other provision of law, rule or regulation to the contrary, any holder of a winery license under section [23-1306](#), Idaho Code, or any person holding a license to manufacture wine in another state who obtains a wine direct shipper permit pursuant to this section may sell and ship up to twenty-four (24) nine-liter cases of wine annually directly to a resident of Idaho, who is at least twenty-one (21) years of age, for the resident's personal use and not for resale.

(2) Before sending any shipment to a resident of Idaho, the wine direct shipper permit holder must:

- (a) File an application with the director;
- (b) Pay a fifty dollar (\$50.00) annual registration fee if the winery is not currently licensed by the director;
- (c) Provide the director its Idaho winery license number or a true copy of its current alcoholic beverage license issued by another state;
- (d) Obtain from the director a wine direct shipper permit;
- (e) Register with the state tax commission for the payment of sales and use taxes and excise taxes on wine sold to residents of Idaho under the wine direct shipper permit.

(3) A wine direct shipper permit authorizes the permit holder to do all of the following:

- (a) Sell and ship not more than twenty-four (24) nine-liter cases of wine annually to any person twenty-one (21) years of age or older for his or her personal use and not for resale;
- (b) Ship wine directly to a resident in this state only in compliance with subsections (8) and (9) of this section;
- (c) Report to the director, no later than January 31 of each year, the total amount of wine shipped during the preceding calendar year under the wine direct shipper permit;
- (d) If the permit holder is located outside this state, pay to the state tax commission all sales and use taxes, and excise taxes on sales to residents of Idaho under the wine direct shipper permit. For excise tax purposes, all wine sold pursuant to a direct shipper permit shall be deemed to be wine sold in this state;
- (e) Permit the director and the state tax commission to perform an audit of the wine direct shipper permit holder's records upon request;
- (f) Be deemed to have consented to the jurisdiction of the alcohol beverage control division of the Idaho state police, or any other state agency and the Idaho courts concerning enforcement of this section and any related laws, rules or regulations.

(4) A wine direct shipper permit holder located outside the state may annually renew its permit with the director by paying a twenty-five dollar (\$25.00) renewal fee and providing the director a true copy of its current alcoholic beverage license issued in another state. A wine direct shipper permit holder located in Idaho shall renew its wine direct shipper permit in conjunction with its license to manufacture wine. All registration fees and renewal fees shall be shared equally by the state police and the state tax commission.

(5) The director may enforce the requirements of this section by administrative proceedings or suspend or revoke a wine direct shipper permit, and the director may accept payment of an offer in compromise in lieu of suspension, such payments to be determined by rule promulgated by the director.

(6) Sales and shipments of wine directly to consumers in Idaho from wine manufacturers in Idaho or in another state who do not possess a current wine direct shipper permit are prohibited. Any person who knowingly makes such a shipment is guilty of a misdemeanor.

(7) A licensee who holds a license for the retail sale of wine for consumption off the licensed premises may ship not more than two (2) cases of wine, containing not more than nine (9) liters per case, per shipment, for personal use and not for resale, directly to a resident of another state if the state to which the wine is sent allows residents of this state to receive wine sent from that state without payment of additional state tax, fees or charges. The sale shall be considered to have occurred in this state.

(8) The shipping container of any wine shipped under this section must be clearly labeled to indicate that the container contains alcoholic beverages and cannot be delivered to a person who is not at least twenty-one (21) years of age.

(9) For wine shipped under this section to an Idaho resident, the delivery person shall:

- (a) Have the person who receives the wine shipment sign for it; and
- (b) Not make deliveries to anyone who is under twenty-one (21) years of age or to anyone who is visibly intoxicated; and
- (c) Keep the signature record for one (1) year.

(10) Sales authorized under this section are sales made by a retailer who is not authorized to sell at wholesale or sales by a winery of wine produced or bottled by the winery.

(11) The director and the state tax commission may promulgate rules to effectuate the purposes of this section and are authorized to exchange necessary information to implement the provisions of this section.

[23-1309A, added 1992, ch. 236, sec. 1, p. 704; am. 2006, ch. 29, sec. 1, p. 89.]

23-1310. STORAGE OR PURCHASE BY DISTRIBUTOR -- FROM WHOM PURCHASED. No distributor may store or purchase wine for purposes of storage or resale unless said wine has been received from persons holding a valid wine importer's license, a valid wine distributor's license, a valid winery license, or a valid bonded wine warehouse license.

[23-1310, added 1971, ch. 156, sec. 10, p. 760; am. 1984, ch. 221, sec. 4, p. 533; am. 2020, ch. 10, sec. 4, p. 15.]

23-1311. SALES BY DISTRIBUTORS -- RESTRICTIONS. No distributor may sell any wine produced, manufactured, imported, or bought by such distributor, for use within this state, except to the holder of a valid retail wine license or wine by the drink license, or valid wine distributor's license or to the division. Provided however, any distributor may sell any wine produced, manufactured, imported, or bought by such distributor, for use within this state, to a bona fide employee of such distributor. No distributor shall permit, for a consideration, wine to be consumed upon the premises of the distributor.

[23-1311, added 1971, ch. 156, sec. 11, p. 760; am. 1973, ch. 144, sec. 5, p. 281; am. 1988, ch. 164, sec. 1, p. 295; am. 1991, ch. 137, sec. 7, p. 324; am. 2009, ch. 23, sec. 56, p. 69.]

23-1312. BY THE DRINK LIQUOR RETAILERS MAY PURCHASE FROM DISTRIBUTORS. Any law to the contrary notwithstanding, including but not limited to section [23-914](#), Idaho Code, the holder of a license for the retail sale of liquor by the drink as defined in [chapter 9, title 23](#), Idaho Code, is hereby authorized to purchase wine from persons holding valid wine distributor's licenses.

[23-1312, added 1971, ch. 156, sec. 12, p. 760.]

23-1313. PURCHASES BY RETAILERS. No retailer shall purchase or receive wine for resale except from a distributor. Provided, however, that a retailer wholly owned and operated by a licensed winery, which retails exclusively the product of that winery, may receive wine for resale from that winery.

[23-1313, added 1971, ch. 156, sec. 13, p. 760; am. 1984, ch. 221, sec. 5, p. 533.]

23-1314. RECORDS AND INSPECTION OF WINERIES, IMPORTERS, BONDED WINE WAREHOUSES, AND DISTRIBUTORS. (1) Every winery, distributor, bonded wine warehouse, and importer shall have, and notify the director of, a place of business within the state of Idaho.

(2) Each winery, distributor and importer shall keep at its place of business a record of its imports into, and sales of wine within, the state of Idaho. The import record shall include the date and quantity of import and the identity of the import seller and the import carrier or transporter. The sale record shall consist of a copy of the monthly report to the state tax commission required pursuant to section [23-1322](#), Idaho Code. Each winery, distributor and importer shall keep the record of each sale or import for a period of four (4) years thereafter and shall, on or before the fifteenth day of each month, file the report with 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 this act and whether or not all taxes and fees provided for by this act are being fully paid.

(3) Each bonded wine warehouse shall keep at its place of business a record of its storage and handling of wine. The record shall include the date and quantity of wine stored and handled for each vintner and winery, and the identity of the carrier or transporter handling and storing the wine.

(4) The director shall have the right at any time to make an examination of each winery's, distributor's, bonded wine warehouse's, and importer's books, records and premises, and such other matters as may assist him in verifying the accuracy of such reports.

[23-1314, added 1971, ch. 156, sec. 14, p. 760; am. 1974, ch. 27, sec. 67, p. 811; am. 1984, ch. 105, sec. 2, p. 245; am. 1984, ch. 221, sec. 6, p. 533; am. 1999, ch. 129, sec. 2, p. 374; am. 2000, ch. 333, sec. 2, p. 1124; am. 2011, ch. 130, sec. 4, p. 365; am. 2020, ch. 10, sec. 5, p. 15.]

23-1315. LICENSE FEES -- COUNTY RETAIL LICENSE FEES -- COUNTY LICENSE REQUIRED FOR RETAILERS. (a) Each importer shall pay to the state of Idaho an annual license fee of three hundred dollars (\$300).

(b) Each distributor shall pay to the state of Idaho an annual license fee of three hundred dollars (\$300) for each separate warehouse used for the

purpose of or in connection with the sale or distribution of wine within this state.

(c) Each winery shall pay to the state an annual license fee of three hundred dollars (\$300).

(d) Each retailer and wine by the drink licensee shall pay to the state of Idaho an annual license fee of one hundred dollars (\$100) for each premises for which a license is issued for the sale of wine.

(e) In addition to the fee required by subsection (d) of this section, each retailer and wine by the drink licensee shall pay an annual license fee of not to exceed one hundred dollars (\$100) to the county in which the licensed premises are located. If the licensed premises are located within the incorporated limits of a city, the licensee shall pay an annual license fee of not to exceed two hundred dollars (\$200) to such city. Each city and county within this state are hereby authorized and empowered to determine the license fees to be paid by each retailer and wine by the drink licensee licensed pursuant to the terms and conditions of this act. No wine license issued by the director shall authorize the sale of wine at retail unless such person possesses a county and city license as may be required by the governing board thereof.

(f) Each bonded wine warehouse shall pay to the state of Idaho an annual license fee of three hundred dollars (\$300) for each separate warehouse used for the sole purpose of the storage and handling of wine within the state of Idaho.

[23-1315, added 1971, ch. 156, sec. 15, p. 760; am. 1973, ch. 144, sec. 6, p. 281; am. 1981, ch. 237, sec. 2, p. 478; am. 1984, ch. 221, sec. 7, p. 534; am. 2020, ch. 10, sec. 6, p. 15.]

23-1316. EXPIRATION AND RENEWAL OF LICENSES. All licenses issued pursuant to the provisions of this chapter 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, however, shall not be permitted to engage in any activity authorized by the license during the thirty-one (31) day extended time period unless and until the license is renewed. Renewal of such licenses shall be on forms prescribed and furnished by the issuing authority. The renewal form shall be submitted, together with the required license fees, and an affidavit verifying that the information contained in the original application is unchanged, or if there are material changes, indicating such changes.

[23-1316, added 1971, ch. 156, sec. 16, p. 760; am. 2001, ch. 30, sec. 3, p. 47.]

23-1317. TRANSFER OF LICENSES -- FEE -- APPLICATION FOR APPROVAL. (a) No winery license, wine distributor's license, wine by the drink license, bonded wine warehouse license, or retail wine license 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 the substantially same information required of an applicant for a winery license, wine distributor's license, bonded wine warehouse license, or retail wine license, as the case may be. If the transferee possesses all of 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 winery license, wine distributor's license, wine by the drink license, bonded wine warehouse license, or a retail wine license shall be twenty dollars (\$20.00), which fee shall accompany the application for transfer.

(b) Application to transfer a winery license, wine distributor's license, wine by the drink license, bonded wine warehouse license, or retail wine license from one location to another shall be made to the director on forms prescribed and furnished by the director. The director shall approve any 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.

[23-1317, added 1971, ch. 156, sec. 17, p. 760; am. 1973, ch. 144, sec. 7, p. 281; am. 1974, ch. 27, sec. 68, p. 811; am. 1984, ch. 221, sec. 8, p. 534; am. 1991, ch. 28, sec. 3, p. 57; am. 2020, ch. 10, sec. 7, p. 16.]

23-1318. COUNTY AND CITY REGULATORY ORDINANCES AUTHORIZED. The governing board of any county or city within this state is hereby authorized and empowered to adopt such ordinances and resolutions as may be deemed necessary by the governing board of said county or city in the interests of public health and welfare or for the orderly, moral and responsible conduct of the business of selling and distributing wine within the boundaries of such city or county, including but not limited to hours, days, places and conditions of sale and advertising practices.

[23-1318, added 1971, ch. 156, sec. 18, p. 760.]

23-1319. EXCISE TAX -- SALES INCLUDED -- REFUND FOR EXPORT SALES -- REFUND FOR BREAKAGE OR SPOILAGE -- DISTRIBUTION OF REVENUE. Upon all wines sold by a distributor or winery to a retailer or consumer and upon all wines sold and shipped directly to Idaho state residents by an out-of-state wine manufacturer holding a wine direct shipper permit under section [23-1309A](#), Idaho Code, for use within the state of Idaho pursuant to this chapter, there is hereby imposed an excise tax of forty-five cents (45¢) per gallon. Sales of wine by a distributor or winery for the purpose of and resulting in export of wine from this state for resale outside this state shall be exempt from the taxes on wine imposed by this chapter.

(a) Every sale of wine by a distributor to a retailer shall constitute a sale of wine for resale or consumption in this state, whether the sale is made within or without this state, and the distributor shall be liable for

the payment of taxes. In every sale of wine by a winery through any of its licensed retail outlets, the winery shall be liable for payment of taxes imposed by this section.

(b) When wine has been destroyed by breakage or has spoiled or otherwise become unfit for beverage purposes prior to payment of taxes on it, the distributor, upon satisfactory proof of destruction or spoilage, shall be entitled to deduct from existing inventories, subject to tax, the amount of wine so destroyed or spoiled.

(c) If the state 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 commission is authorized and the state board of tax appeals is authorized to order the commission in proper cases to credit or refund such amounts whether or not the payments have been made under protest and certify the refund to the state board of examiners.

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

(e) All revenue received pursuant to this chapter shall be distributed as follows:

(1) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims as authorized in subsection (c) of this section and those moneys are continuously appropriated.

(2) The balance remaining after distributing the amount in paragraph (1) of this subsection shall be distributed as follows:

(i) Twelve percent (12%) shall be distributed to the substance abuse treatment fund, which is created in section [23-408](#), Idaho Code;

(ii) Five percent (5%), based on the sale of out-of-state wine, shall be distributed to the Idaho grape growers and wine producers account;

(iii) Up to eighty-eight percent (88%), based on the sale of Idaho wine, shall be distributed to the Idaho grape growers and wine producers account as follows:

1. In fiscal year 2022, twenty-six percent (26%) based on the sale of Idaho wine;

2. In fiscal year 2023, sixty-two percent (62%) based on the sale of Idaho wine; and

3. In fiscal year 2024 and thereafter, eighty-eight percent (88%) based on the sale of Idaho wine.

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

(f) Any person who is not a distributor or winery but who makes, whether as principal, agent, or broker, any sales of wine not otherwise taxed under this section and not exempt from such tax shall be liable for payment of taxes

imposed by this section. This subsection shall not impose tax on wine sold pursuant to section [23-1336](#), Idaho Code.

[23-1319, added 1971, ch. 156, sec. 19, p. 760; am. 1980, ch. 239, sec. 5, p. 557; am. 1980, ch. 391, sec. 2, p. 995; am. 1984, ch. 105, sec. 1, p. 244; am. 1984, ch. 221, sec. 9, p. 535; am. 1984, ch. 283, sec. 1, p. 656; am. 1986, ch. 73, sec. 5, p. 205; am. 1988, ch. 156, sec. 1, p. 283; am. 1990, ch. 18, sec. 1, p. 30; am. 1994, ch. 243, sec. 1, p. 762; am. 2006, ch. 29, sec. 2, p. 91; am. 2007, ch. 141, sec. 6, p. 411; am. 2013, ch. 23, sec. 1, p. 44; am. 2021, ch. 233, sec. 3, p. 712.]

23-1320. 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.

[23-1320, added 1988, ch. 182, sec. 4, p. 320.]

23-1322. MONTHLY REPORTS OF SALES -- PAYMENT OF EXCISE TAX WITH REPORT. Each person liable for the payment of taxes on wine as provided for in section [23-1319](#), Idaho Code, shall, on or before the fifteenth 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 wine 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 sale shall be paid by the person liable therefor at the time such report is filed.

[23-1322, added 1971, ch. 156, sec. 22, p. 760; am. 2009, ch. 4, sec. 2, p. 6.]

23-1322A. 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 collec-

tion 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, for the purposes of this act, be considered a taxable period.

[23-1322A, added 1980, ch. 239, sec. 6, p. 558; am. 1984, ch. 105, sec. 4, p. 246; am. 2007, ch. 10, sec. 10, p. 20.]

23-1323. RULES AND REGULATIONS CONCERNING EXCISE TAX -- POWER OF TAX COMMISSION. The state tax commission shall be, and it is hereby authorized to adopt and promulgate such rules and regulations as it may be necessary to assure payment of taxes on wine, 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 wine to show on such monthly reports information concerning their inventories, purchases, sales and shipments of wine, requiring monthly informational reports from distributors concerning their inventories, purchases, sales and shipments of wine; requiring reports from carriers, both public and private, concerning deliveries of wine made in this state by such carriers, and shipments of wine made by such carriers out of this state; requiring distributors and persons liable for payment of taxes on wine to maintain complete and accurate books, records and accounts on transactions involving wine; and establishing grounds upon which delay in filing reports and paying taxes imposed upon wine may be considered justifiable and without fault on the part of the person liable therefor.

[23-1323, added 1971, ch. 156, sec. 23, p. 760.]

23-1324. 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.

[23-1324, added 2012, ch. 160, sec. 3, p. 436.]

23-1325. FINANCIAL INTEREST IN OR AID TO RETAILERS PROHIBITED -- CERTAIN AID PERMITTED. (1) It shall be unlawful for any importer, distributor, vintner or winery, 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 that this subsection (1) (a) shall not apply to any winery, as defined in section [23-1303](#), Idaho Code, or to property that has been owned or controlled continuously for more than one (1) year prior to July 1, 1975; 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 wine; or
- (c) To aid or assist any retailer by furnishing, giving, renting, lending or selling any equipment, signs, supplies, wine menus or wine lists, services, or other thing of value which may be used in conducting the

retailer's retail wine 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) An importer, distributor, vintner or winery 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 wine business. A winery, vintner, importer or distributor 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 wineries, vintners, importers or distributors. In no event shall the sales price of such equipment or supplies be less than the reasonable value of such equipment or supplies.

(3) Notwithstanding the provisions of subsection (2) of this section, a vintner, winery, importer or distributor, as an incident to merchandising in the ordinary course of business, and if available to all retailers without discrimination, may lend, give, furnish or sell to a retailer, the following items:

(a) Those services, equipment, brochures and recipes authorized under the provisions of sections [23-1325A](#) and [23-1325B](#), Idaho Code;

(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 importer, distributor, vintner or winery 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 sport schedules, posters, calendars, informational pamphlets, decals and other similar materials for display at the point of sale which bear brand advertising for wine 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 vintner's, winery's or distributor'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 stocking, rotation and restocking of wine 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 wine 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. A distributor may, with the permission of the retailer and in accordance with space allocations directed by the retailer, set, remove, replace, reset or relocate all wine upon shelves of the retailer. Labor performed or schematics prepared by the distributor

relating to conduct authorized pursuant to the provisions of this subsection (4) shall not constitute prohibited conduct.

(5) An importer, distributor, vintner or winery may furnish or give to a retailer authorized to sell wine for consumption on the licensed premises, for sampling purposes only, a container of wine, 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."

(6) A licensed winery may aid or assist a licensed retail wine outlet which retails exclusively the wine product of that winery and which outlet is wholly owned and operated by that winery. Two (2) or more wineries may use the same location for their respective retail wine outlets provided each outlet holds a separate retail wine license or wine by the drink license.

(7) Every violation of the provisions of this section by an importer, distributor, vintner or winery in which a licensed retailer shall have actively participated shall constitute a violation on the part of such licensed retailer.

[23-1325, as added by 1975, ch. 151, sec. 5, p. 383; am. 1976, ch. 34, sec. 2, p. 73; am. 1984, ch. 221, sec. 10, p. 536; am. 1991, ch. 159, sec. 2, p. 382; am. 1994, ch. 361, sec. 2, p. 1133; am. 2007, ch. 289, sec. 2, p. 822; am. 2008, ch. 180, sec. 1, p. 544.]

23-1325A. SERVICES PERMITTED INCIDENT TO STOCKING, ROTATION AND RESTOCKING OF WINE. For the purposes of section [23-1325](#)(4), Idaho Code, a distributor may, with the permission of the retailer, and in accordance with space allocations directed by the retailer, set, remove, replace, reset or relocate all wine upon the shelves of the retailer. Labor performed or schematics prepared by the distributor relating to conduct authorized pursuant to the provisions of this section shall not constitute prohibited conduct or unlawful aid to a retailer.

[23-1325A, added 1984, ch. 232, sec. 2, p. 562; am. 2020, ch. 82, sec. 14, p. 189.]

23-1325B. SERVICES PERMITTED INCIDENT TO WINE DISPENSING SYSTEMS -- CERTAIN ADVERTISING MATERIALS PERMITTED. (1) To the extent permitted by federal law and regulations adopted pursuant thereto, a distributor may furnish, install and perform repair services on wine dispensing systems on the premises of a retailer. The distributor shall collect from the retailer the reasonable value thereof, which value shall not be less than the cost of such system or service to the distributor. Dispensing systems may include, but shall not be limited to, tapping devices, spigots, valves, hose, washers, couplings, clamps, air hose, vents, faucets and pumping devices and CO₂ regulators. A distributor may perform cleaning and sanitary services relating to the dispensing system without charge.

(2) Notwithstanding the provisions of section [23-1325](#), Idaho Code, a distributor may furnish to the retailer, without charge, recipes and brochures explaining wine and other products.

(3) Labor performed or equipment, brochures or recipes furnished pursuant to the provisions of this section shall not constitute prohibited conduct or unlawful aid to a retailer.

[23-1325B, added 1990, ch. 406, sec. 1, p. 1132.]

23-1325C. WINE SAMPLE TASTING REQUIREMENTS AND LIMITATIONS FOR EVENTS ON RETAIL WINE LICENSE PREMISES. (1) Vintners, wineries and distributors may conduct or assist a retail wine licensee at a wine sample tasting on premises not licensed for the sale of wine by the individual glass or opened bottle for consumption on the premises or on the premises of the holder of a wine by the drink license for the purpose of promoting their wine products to the public. The holder of a retail wine license or a wine by the drink license may also conduct wine sample tasting events, with or without the assistance of a vintner, winery or distributor in accordance with this section.

(2) A retail wine licensee shall not be required to hold a wine by the drink license for the purpose of conducting or permitting wine 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 wine 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 wine shall not exceed one and one-half (1 1/2) ounces.

(b) Identified tasting area. The retail wine licensee who conducts tastings or who allows a vintner, winery or distributor to conduct tastings on the retail wine premises shall identify a specific tasting area or areas. Such area or areas shall be of a size and design such that the retail wine 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 vintner, winery or distributor 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 vintner, winery or distributor, the retailer shall not permit a vintner, winery 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) Vintner, winery or distributor conducted tastings. A vintner, winery 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 vintner, winery 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 wine at wine tastings on premises for which a wine by the drink license has not been issued must be at least twenty-one (21) years of age.

(4) Vintner, winery or distributor conducted sample tastings. A vintner, winery or distributor may conduct wine sample tastings on premises licensed for the sale of wine for products produced or sold by the vintner, winery or distributor. The vintner, winery or distributor conducting the wine

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 wine. The server must be an employee or agent of the vintner, winery or distributor and shall not be an employee or agent of a retailer. The vintner, winery or distributor shall not compensate any employee or agent of the retail licensee to participate in the tasting.
 - (c) The vintner, winery 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 wine sample tastings. Retail wine licensees and wine by the drink licensees may conduct wine sample tastings on their licensed premises and may:
- (a) Accept assistance from a vintner, winery 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 wine; and
 - (iii) The retailer is responsible for any advertising.
 - (b) Conduct an unlimited number of wine sample tastings on the premises if there is no vintner, winery or distributor providing assistance for the event. The retailer may advertise such events.
- (6) Notwithstanding any other provision of law, participation by a vintner, winery or distributor in a wine sample tasting event, if expressly authorized by this section, shall not constitute prohibited conduct or unlawful aid to a retailer.

[23-1325C, added 2004, ch. 267, sec. 1, p. 749.]

23-1326. CREDIT SALES TO RETAILERS PROHIBITED. (1) No sale or delivery of wine shall be made to any 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 distributor extend any credit on account of such wine to a retailer, nor shall any retailer accept or receive delivery of such wine 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 retailer by a distributor, or the use of a debit card by a licensed retailer, shall not be deemed an extension of 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 wine. 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 of the provisions of this section shall constitute the giving and receiving of aid or assistance to or by a licensed retailer prohibited by the provisions of section [23-1325](#), Idaho Code.

[23-1326, added 1971, ch. 156, sec. 26, p. 760; am. 1999, ch. 206, sec. 3, p. 554; am. 2011, ch. 255, sec. 2, p. 700; am. 2013, ch. 288, sec. 2, p. 761.]

23-1327. SALE OF WINE IN ORIGINAL CONTAINER AND SIZE OF CONTAINERS. No distributor shall purchase, receive, or sell any wine except in the original container as prepared for the market by the importer or manufacturer. No importer or distributor shall, without permission of the director, adopt or use any container for wine that will contain in excess of fifteen (15) gallons of wine.

[23-1327, added 1971, ch. 156, sec. 27, p. 760; am. 1974, ch. 27, sec. 71, p. 811; am. 2005, ch. 32, sec. 1, p. 147; am. 2013, ch. 142, sec. 1, p. 339.]

23-1328. RETAILER'S NAME ON LABELS PROHIBITED -- DISCRIMINATION AMONG RETAILERS PROHIBITED. No label on a wine container shall be used or placed thereon which indicates that a retailer is the producer or the bottler thereof or which contains the name of a retailer in any manner, except in the case of wineries licensed under this chapter, in which case such winery may sell a product processed and bottled by or for that winery upon satisfaction of all terms and conditions of this chapter relating to licensure for retail sale of wine. No distributor shall restrict the sale of wine for which the distributor has filed a price schedule in accordance with the provisions of this act to one retailer or to retail premises under common ownership or associated together in, by, or through a buying organization or agency which represents a common identity to the public; nor shall such distributor refuse to sell or distribute wine to a retailer on terms and conditions different from those terms and conditions upon which said distributor sells or distributes wine to other retailers.

[23-1328, added 1971, ch. 156, sec. 28, p. 760; am. 1984, ch. 221, sec. 11, p. 537; am. 1987, ch. 169, sec. 6, p. 333; am. 1993, ch. 333, sec. 3, p. 1233.]

23-1328A. PROHIBITION OF CERTAIN TRADE PRACTICES BETWEEN VINTNERS, WINERIES, IMPORTERS OR DEALERS AND DISTRIBUTORS. (1) It shall be unlawful for any vintners, winery, importer or dealer, directly or indirectly, or through an affiliate, subsidiary, officer, director, agent or employee:

(a) To require, by agreement or otherwise, that any distributors engaged in the sale or distribution of wine in the state of Idaho purchase any such wine or other distributed products from such person to the exclusion in whole or in part of wine or other products made or imported by other vintners, wineries, importers or dealers;

(b) To induce, by any means, any distributor engaged in the sale or distribution of wine to purchase from or distribute the wine or other products of any vintner, winery, importer or dealer to the exclusion of the wine or products of other vintners, wineries, importers or dealers by any means, including, but not limited to the vintner's, winery's, importer's or dealer's acquisition of any interest in the distributor's license, or by acquiring any interest in the real or personal property owned, occupied, or used by the distributor;

(c) To discriminate in price, allowance, rebate, refund, commission, discount, or service between a distributor purchasing wine or a distributor purchasing other products;

(d) To threaten any distributor with any discrimination prohibited under subsection (1) (c) of this section, with the purpose or effect of changing or maintaining resale prices of the vintner, winery, importer or dealer;

(e) To impose conditions or restrictions on a distributor not generally imposed on other distributors; or

(f) To cause a termination, cancellation, nonrenewal or substantial change in competitive circumstances in the relationship with the distributor without providing at least ninety (90) days' written notice of the termination, cancellation, nonrenewal or substantial change in competitive circumstances. The notice shall state all the reasons for termination, cancellation, nonrenewal or substantial change in competitive circumstances and shall provide that the distributor has ninety (90) days from the date of receipt by said distributor of the vintner's, winery's, importer's or dealer's notice in which to rectify any claimed deficiency. If the deficiency is rectified within ninety (90) days the notice shall be void. The notice provisions of this section shall not apply if the reason for termination, cancellation or nonrenewal is insolvency, the occurrence of an assignment for the benefit of creditors, or bankruptcy. If the reason for termination, cancellation, nonrenewal or substantial change in competitive circumstances is nonpayment of sums due for the purchase of product, the distributor shall be entitled to written notice of such default, and shall have twenty (20) days in which to remedy such default from the date of delivery or posting of such notice.

(2) Nothing in this section shall be deemed to prohibit vintners, wineries, importers or dealers from selecting their own customers in bona fide transactions not in restraint of trade.

[23-1328A, added 1979, ch. 301, sec. 1, p. 820; am. 1984, ch. 221, sec. 12, p. 537.]

23-1329. SCHEDULES OF PRICES -- FILING BY IMPORTERS AND DISTRIBUTORS -- MODIFICATION OR WITHDRAWAL. Each importer and distributor shall file with the director a written schedule of prices to be charged by such person for wine imported into or sold within this state for resale therein. Such schedule of prices shall be uniform for buyers in the same trade area within this state, and shall set forth the following:

(a) All brands and types of products offered for sale;

(b) The delivered sale price thereof in the several trade areas of the state; 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. Upon the filing of said new prices, the director shall give notice thereof to all importers and distributors. Such schedule of prices so filed may not be withdrawn prior to its effective date, and upon becoming effective 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. 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. Amendatory schedules shall recite the information required in the above subsections (a), (b) and (c).

[23-1329, added 1971, ch. 156, sec. 29, p. 760; am. 1974, ch. 27, sec. 72, p. 811; am. 1975, ch. 151, sec. 6, p. 383.]

23-1330. RULES AND REGULATIONS BY DIRECTOR. For the purpose of the administration of this act, the director shall make, promulgate, and publish such rules and regulations as the director may deem necessary for carrying out the provisions of this act and for the orderly and efficient administration hereof, and except as may be limited or prohibited by law and the provisions of this act, such rules and regulations so made and promulgated shall have the force of statute. All rules and regulations adopted pursuant to the terms of this act shall be adopted in accordance with the [and] subject to the provisions of [chapter 52, title 67](#), Idaho Code.

[23-1330, added 1971, ch. 156, sec. 30, p. 760; am. 1974, ch. 27, sec. 73, p. 811.]

23-1331. SUSPENSION, REVOCATION, AND REFUSAL TO RENEW LICENSES AND PERMITS -- MONETARY PENALTY. (1) The director may suspend, revoke, or refuse to renew a retail wine license, wine by the drink license, wine distributor's license, wine importer's license, winery license, bonded wine warehouse license, wine direct shipper's permit or vintner's license issued pursuant to the terms of this chapter for any violation of or failure to comply with the provisions of this chapter or rules and regulations promulgated by the director or the state tax commission pursuant to the terms and conditions of this chapter. Manufacturing or bottling functions of a winery shall not be subject to suspension, revocation or nonrenewal of a license, except for violations of law directly related to the manufacturing or bottling activities of the winery. Procedures for the suspension, revocation or refusal to grant or renew licenses issued under this chapter shall be in accordance with the provisions of [chapter 52, title 67](#), Idaho Code.

(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 beer shall automatically result in the suspension of any license for the sale of wine 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 original 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.

[23-1331, added 1971, ch. 156, sec. 31, p. 760; am. 1973, ch. 144, sec. 8, p. 281; am. 1974, ch. 27, sec. 74, p. 811; am. 1979, ch. 145, sec. 3, p. 445; am. 1980, ch. 221, sec. 1, p. 493; am. 1981, ch. 199, sec. 3, p. 352; am. 1984, ch. 221, sec. 13, p. 538; am. 1991, ch. 50, sec. 3, p. 93; am. 1993, ch. 347, sec. 3, p. 1292; am. 2014, ch. 122, sec. 1, p. 352; am. 2017, ch. 31, sec. 1, p. 52; am. 2020, ch. 10, sec. 8, p. 16.]

23-1332. SALE BY BY-THE-DRINK LIQUOR LICENSEES. Retailers holding valid licenses for the retail sale of liquor by the drink pursuant to [chapter 9, title 23](#), Idaho Code, may sell wine for consumption on or off the licensed premises. Persons holding a valid wine by the drink license may sell wine for consumption on the premises only. Retailers who do not possess a valid license for the retail sale of liquor by the drink, or retailers who do not have a valid wine by the drink license, shall not permit consumption of wine on the licensed premises and may sell the wine only in its original unbroken container. Provided however, that wineries whose business does not include the sale of wine by the drink may provide free single-serving samples of two (2) ounces or less to customers for the purpose of sales promotion upon the winery premises or upon the premises of a retail wine outlet which retails exclusively the wine product of that winery and which is wholly owned and operated thereby. Wine sold for consumption or dispensed on the licensed premises may be sold, consumed or dispensed only during hours that beer can be sold, consumed or dispensed pursuant to the laws of this state. Wine sold by the retailer for consumption off the premises of the retailer may be sold only during the hours that beer may be sold pursuant to the laws of this state.

[23-1332, added 1971, ch. 156, sec. 32, p. 760; am. 1973, ch. 144, sec. 9, p. 281; am. 1983, ch. 165, sec. 1, p. 471; am. 1987, ch. 169, sec. 7, p. 333.]

23-1333. OPEN OR UNSEALED CONTAINERS OF WINE IN MOTOR VEHICLES ON HIGHWAYS PROHIBITED. No person may, while operating or riding in or upon a motor vehicle upon a public highway of this state, have in his possession any wine in an open or unsealed container of any kind.

[23-1333, added 1971, ch. 156, sec. 33, p. 760.]

23-1334. MINORS -- AUTHORIZATION TO DELIVER. (a) The prohibitions on possession of wine by any person under the age of twenty-one (21) years do not apply to possession by a person under the age of twenty-one (21) years making a delivery 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.

(b) Any person who shall, by any means, represent to any retailer or distributor or the agent or employee of such retailer or distributor, that

any other person is twenty-one (21) years or more 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 retailer or distributor, or the agent or employee of such retailer or distributor, to sell, serve, or dispense wine to such other person shall be guilty of a misdemeanor.

[23-1334, added 1971, ch. 156, sec. 34, p. 760; am. 1972, ch. 331, sec. 1, p. 833; am. 1976, ch. 292, sec. 1, p. 1010; am. 1987, ch. 212, sec. 14, p. 453; am. 1991, ch. 269, sec. 4, p. 661; am. 1994, ch. 60, sec. 1, p. 119; am. 1999, ch. 59, sec. 11, p. 155.]

23-1335. VIOLATIONS OF ACT MISDEMEANORS. Any person who violates any of the provisions of this act or fails to comply with any of the terms and conditions of this act shall be guilty of a misdemeanor.

[23-1335, added 1971, ch. 156, sec. 35, p. 760.]

23-1336. WINE SOLD OR DONATED TO PERSONS OR ASSOCIATIONS FOR BENEVOLENT, CHARITABLE OR PUBLIC PURPOSES. In the event that wine has been sold or donated to a person or association which desires to dispense or sell such wine and to donate the proceeds from the sale or dispensing thereof for benevolent, charitable or public purposes, the director may issue a permit authorizing such sale or dispensing of wine by such person or association if the director is satisfied that said proceeds, after deducting reasonable expenses incurred in conjunction with the sale or dispensing thereof, will be donated for such benevolent, charitable or public purpose. The director shall prescribe the form of the application for such permit, which application may require disclosure of names of sponsors; donors, quantities and types of wine products donated; the retailer, if any, designated by such person or association to receive, store or dispense donated wine; the dates and hours during which the permit is to be effective, not to exceed three (3) consecutive days; and such other information as the director may require. The director shall collect a twenty dollar (\$20.00) fee for the event for which the permit is to be effective. The director may require that the applicant submit a report to the director after the benevolent, charitable or public purpose event showing the disposition of funds from the event. Should the director determine that the applicant or its representatives is violating, or has in the past violated, any law pertaining to the dispensing or sale of wine by a licensed retailer relating to hours of sale, or relating to dispensing wine to underaged persons, 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 pending a hearing. A licensed retailer may, on behalf of the permittee, receive or store wine to be used at the event, and may dispense such wine to attendees of the benevolent, charitable or public purpose event for which the permit has been issued.

[23-1336, added 1991, ch. 162, sec. 2, p. 390; am. 1994, ch. 14, sec. 2, p. 21.]

23-1337. ALCOHOL BEVERAGE CATERING PERMIT. Any person who is the holder of an Idaho winery license shall be eligible to obtain an alcohol beverage catering permit. Two (2) or more wineries may use a winery's licensed

premises to host an event under an alcohol beverage catering permit to serve and sell their respective wines at that event.

[23-1337, added 1992, ch. 235, sec. 1, p. 703; am. 1999, ch. 58, sec. 6, p. 150; am. 2016, ch. 181, sec. 1, p. 491.]

23-1338. WINE PRODUCT SERVICE AND SALES -- SPONSORED EVENTS. (1) Any person who is the holder of an Idaho winery license is authorized to serve or sell any wine product of that winery at events of seven (7) days' duration or less sponsored by any group, organization, person or political subdivision. Each participating winery must make its own arrangements with the sponsoring group, organization, person or political subdivision. Service and sales under the authority of this section may occur only in counties that permit the sale of wine in accordance with section [23-1304](#), Idaho Code, and any service or sales under the provisions of this section must comply with all applicable limitations and requirements regarding day and hour of sale, age and condition of purchasers and all other requirements of any regulatory ordinance adopted pursuant to the authority of section [23-1318](#), Idaho Code, by the city or county in whose jurisdiction the event is to take place.

(2) At least seven (7) days prior to the date on which the sponsored event is to commence, the winery shall notify by electronic mail the Idaho state police, alcohol beverage control bureau, and the chief of police of the incorporated city in which the sponsored event will be held, if the event is to be held in an incorporated city, or the sheriff of the county in which the sponsored event is to be held, if the event will not be held in an incorporated city, that wine will be served or sold by the winery at the sponsored event. The notice shall provide the following information:

- (a) The name and address of the winery and the number of its state winery license;
- (b) The dates and hours that wine will be served or sold;
- (c) The name of the group, organization, person or political subdivision sponsoring the event; and
- (d) The address at which the wine will be served or sold, and if a public building, the rooms in which the wine will be served or sold.

(3) Within three (3) business days after receiving the notice, the alcohol beverage control bureau shall respond to the winery. An approval by the alcohol beverage control bureau shall serve as authorization for the event, and shall be displayed during all hours that wine is served or sold at the sponsored event.

(4) Neither the winery nor any person owning an interest in the winery, nor any employee, contractor or business associate of the winery shall qualify as an event sponsor under the provisions of this section.

(5) Neither a city nor a county license or permit is required for the activities authorized pursuant to the provisions of this section.

[23-1338, added 2007, ch. 289, sec. 3, p. 824.]