TITLE 23
ALCOHOLIC BEVERAGES

CHAPTER 3
LOCAL LIQUOR STORES AND DISTRIBUTING STATIONS

23-301. LIQUOR STORES -- NOTICE OF INTENT TO LOCATE. (a) The division may establish and maintain liquor stores in any city organized under general or special law. Before any store site or distributing station may be established within a city or unincorporated area that does not have a distributing station, the division shall have printed in the city's official newspaper, as defined in section 50-213, Idaho Code, a legal notice of the division's intent to establish a liquor store or distributing station in the city and that a public hearing will be held regarding the proposed liquor store if the requirements specified herein are satisfied. The legal notice shall contain the time, date and place of the hearing and the address where the liquor store or distributing station is proposed to be located, notice of the right to protest the location, the requirements necessary to be satisfied before a public hearing will be held, and shall be a twenty (20) days' notice as described in section 60-109, Idaho Code. If the lesser of twenty-five (25) people or ten percent (10%) of the eligible voters living in precincts, any part of which is located within a one thousand (1,000) foot radius surrounding the proposed site, sign a petition which protests the proposed site of the liquor store or distributing station and present it to the director or his designated representative, a public hearing shall be held within one (1) week after the last legal notice has been published.

(b) If fifty percent (50%) or more of the eligible voters living in precincts, any part of which is located within a one thousand (1,000) foot radius surrounding the proposed site of the liquor store or distributing station, sign a petition which protests the proposed site of the liquor store or distributing station and present it to the director or his designated representative within five (5) business days after the public hearing, the division shall not place a liquor store or distributing station at the proposed site.

(c) The division may classify liquor stores according to the volume of their sales.

[23-301, added 1939, ch. 222, sec. 601, p. 465; am. 1978, ch. 237, sec. 1, p. 506; am. 1980, ch. 68, sec. 1, p. 143; am. 1980, ch. 301, sec. 1, p. 778; am. 2009, ch. 23, sec. 18, p. 57; am. 2012, ch. 113, sec. 8, p. 313.]

23-302. DISTRIBUTING STATIONS -- NOTICE OF INTENT TO LOCATE. (a) The division may select a special distributor in any municipality where in its judgment a liquor store is not required; or in any unincorporated locality, but only if satisfied of the existence therein of adequate local police protection, upon the furnishing by said distributor of a bond satisfactory to the division, conditioned for his faithful observance of this act and the rules and regulations of the division thereunder, and if the provisions of section 23-301, Idaho Code, are complied with.

(b) In maintaining the location of any such store or station, or in discontinuing the same, the division shall give due consideration to the normal local demand for alcoholic liquor by resident temperate adult consumers and the local community sentiment with respect to the liquor traffic as ex-

pressed by ordinance or otherwise; provided, however, that if the division located a state liquor store in a municipality with a special distributor on or after January 1, 2023, then any store or station that was in operation as such a special distributor shall be allowed to continue to operate as a special distributor in that location and municipality as long as the store or station otherwise complies with the provisions of this chapter and the rules and regulations of the division, including the provisions of the special distributor agreement. Such special distributor agreements shall not be assignable or transferable.

[23-302, added 1939, ch. 222, sec. 602, p. 465; am. 1978, ch. 237, sec. 2, p. 506; am. 1980, ch. 301, sec. 2, p. 779; am. 2009, ch. 23, sec. 19, p. 58; am. 2024, ch. 307, sec. 1, p. 1031.]

23-303. PROXIMITY OF SCHOOL. No liquor store or distribution station shall be located within three hundred (300) feet of a school.

[23-303, added 1939, ch. 222, sec. 603, p. 465.]

23-304. QUALIFICATIONS OF SPECIAL DISTRIBUTORS. A special distributor shall have been a resident of the state for at least six (6) months prior to his selection and shall be a person having a reputation for probity, temperance and integrity.

[23-304, added 1939, ch. 222, sec. 604, p. 465; am. 1945, ch. 43, sec. 1, p. 56; am. 1973, ch. 23, sec. 1, p. 44; am. 2012, ch. 113, sec. 9, p. 314.]

23-305. COMPENSATION OF SPECIAL DISTRIBUTORS. Special distributors shall receive uniform compensation, which compensation shall be considered a part of the cost of sales, according to classifications fixed by the division.

[23-305, added 1939, ch. 222, sec. 605, p. 465; am. 1993, ch. 238, sec. 1, p. 824; am. 2009, ch. 23, sec. 20, p. 58; am. 2012, ch. 113, sec. 10, p. 314.]

23-306. GENERAL CONDUCT AND MANAGEMENT. In the conduct and management of liquor stores and distributing stations, special distributors shall be subject to the provisions of this act and the rules and regulations of the division.

[23-306, added 1939, ch. 222, sec. 606, p. 465; am. 2009, ch. 23, sec. 21, p. 58; am. 2012, ch. 113, sec. 11, p. 314.]

23-307. DAYS WHEN SALES ARE PROHIBITED. It shall be unlawful to transact the sale or delivery of any alcoholic liquor in, on, or from the premises of any state liquor store or distributing station:

(a) After the closing hours as established by the division.

(b) On any Thanksgiving, Christmas or Memorial Day.

(c) On any Sunday, except as provided by county option pursuant to section 23-308, Idaho Code.

(d) During such other periods or days as may be designated by the division.

[23-307, added 1939, ch. 222, sec. 607, p. 465; am. 1983, ch. 96, sec. 1, p. 209; am. 2004, ch. 79, sec. 1, p. 303; am. 2008, ch. 248, sec. 1, p. 729; am. 2009, ch. 23, sec. 22, p. 59.]

23-308. COUNTY OPTION SUNDAY LIQUOR SALES -- RESOLUTION OF COUNTY COMMISSIONERS -- LOCAL OPTION COUNTY ELECTION. (1) The board of county commissioners of each county may, by resolution regularly adopted, allow for the sale or delivery of any alcoholic liquor in, on, or from the premises of any state liquor store or distributing station in the county on any Sunday which does not fall on Christmas Day, and such sales shall be allowed so long as the resolution remains in effect. If such a resolution is adopted by the board, a copy of such resolution shall be delivered to the director of the division and to the director of the Idaho state police.

(2) Within thirty (30) days after the effective date of this act, a petition in writing signed by not less than twenty percent (20%) of the registered, qualified electors of any county may be filed with the clerk of said county requesting an election to be held to determine whether or not the sale or delivery of any alcoholic liquor in, on, or from the premises of any state liquor store or distributing station in the county on any Sunday which does not fall on Christmas Day, shall be allowed.

(3) In the event a petition is presented, the county commissioners of any such county shall, within five (5) days after the presentation of the petition, meet and determine the sufficiency thereof by ascertaining whether such petition is signed by the required number of registered, qualified electors of the county affected.

(4) In the event that a petition does not contain the required number of certified signatures, the commissioners 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 commissioners find the petition defective for lack of certified signatures. If the petition is not perfected within the sixty (60) day period, the commissioners shall declare the petition null and void ab initio in its entirety.

(5) In the event the county commissioners of said county determine that the petition is signed by the required percentage of registered, qualified electors, the commissioners shall forthwith make an order calling an election to be held within the county, subject to the provisions of section 34-106, Idaho Code, in the manner provided by law for holding elections for county officers. All the laws of the state of Idaho relating to the holding of elections of county officers for such county shall apply to the holding of the election provided for in this section. 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.

[23-308, added 2004, ch. 79, sec. 2, p. 303; am. 2009, ch. 23, sec. 23, p. 59.]

23-308A. FORM OF LOCAL OPTION COUNTY ELECTION BALLOT. The county clerk shall furnish the ballots to be used in the local option county election, which ballots shall contain the following words:

> "Shall the sale or delivery of any alcoholic liquor in, on, or from the premises of any state liquor store or distributing station be allowed on any Sunday which does not fall on Christmas Day, Yes."

"Shall the sale or delivery of any alcoholic liquor in, on, or from the premises of any state liquor store or distributing station be allowed on any Sunday which does not fall on Christmas Day, No."

and the elector in order to vote must mark an "X" or other mark sufficient to show his intent, opposite one (1) of the questions in a space provided therefor.

[23-308A, added 2004, ch. 79, sec. 3, p. 304.]

23-308B. EFFECT OF LOCAL OPTION COUNTY ELECTION. Upon a canvass of the votes cast, the clerk of the county shall certify the result thereof to the director of the Idaho state police and to the director of the division. If a majority of the votes cast are "Shall the sale or delivery of any alcoholic liquor in, on, or from the premises of any state liquor store or distributing station be allowed on any Sunday which does not fall on Christmas Day, Yes," then all liquor stores and distributing stations in the county shall be allowed to transact the sale or delivery of any alcoholic liquor in, on, or from all such premises in the county on any Sunday which does not fall on Christmas Day.

[23-308B, added 2004, ch. 79, sec. 4, p. 305; am. 2009, ch. 23, sec. 24, p. 60.]

23-308C. SUBSEQUENT LOCAL OPTION COUNTY ELECTIONS. A similar local county option election may be subsequently called and held upon the issue of whether the sale or delivery of any alcoholic liquor in, on, or from the premises of any state liquor store or distributing station shall be allowed on any Sunday which does not fall on Christmas Day. Such subsequent election shall be held upon the filing of a petition, as provided in section 23-308, Idaho Code, signed by the requisite percentage of qualified electors. No such subsequent election shall be held more often than two (2) years after the holding of any local option county election or subsequent election.

[23-308C, added 2004, ch. 79, sec. 5, p. 305.]

23-309. SALES. No state liquor store or special distributor shall sell any alcoholic liquor or any other merchandise on behalf of the division except for cash, check, money order, credit card, electronic funds transfer or debit card. In addition, the division shall, under such rules as may be adopted by it, authorize state liquor stores or special distributors to accept a check, credit cards, electronic funds transfer or debit card from persons licensed for the retail sale of liquor by the drink pursuant to chapter 9, title 23, Idaho Code, as payment for purchases from the division. Dishonor of any credit device given by such person shall constitute grounds for suspension or revocation of such person's license pursuant to section 23-933, Idaho Code, in addition to any other remedy provided by law.

[23-309, added 1939, ch. 222, sec. 609, p. 465; am. 1977, ch. 124, sec. 1, p. 264; am. 1988, ch. 216, sec. 1, p. 410; am. 1999, ch. 206, sec. 1, p. 553; am. 2006, ch. 18, sec. 3, p. 69; am. 2009, ch. 23, sec. 25, p. 60; am. 2012, ch. 113, sec. 12, p. 314.]

23-310. ORIGINAL PACKAGE. Alcoholic liquor shall be sold and purchased only in the original package.

[23-310, added 1939, ch. 222, sec. 610, p. 465.]

23-311. CONTAINERS. No alcoholic liquor shall be sold to any purchaser, who is not a licensee as defined in chapter 9, title 23, Idaho Code, except in a sealed container and no such container shall be opened upon the premises of any state warehouse, store, or distributing station. No alcoholic liquor shall be sold to a licensee as defined in chapter 9, title 23, Idaho Code, except in a sealed container with the official seal or label prescribed by the division.

[23-311, added 1939, ch. 222, sec. 611, p. 465; am. 2009, ch. 23, sec. 26, p. 60; am. 2009, ch. 282, sec. 2, p. 850; am. 2010, ch. 19, sec. 2, p. 32; am. 2010, ch. 79, sec. 6, p. 137.]

23-312. PERSONS UNDER TWENTY-ONE AND INTOXICATED PERSONS -- INHIBITED SALES. No officer, agent, or employee of the division shall sell any alcoholic liquor to a person under the age of twenty-one (21) years or to any person intoxicated or apparently intoxicated.

[23-312, added 1939, ch. 222, sec. 612, p. 465; am. 1972, ch. 330, sec. 1, p. 828; am. 1987, ch. 212, sec. 2, p. 449; am. 2009, ch. 23, sec. 27, p. 60.]

23-313. LIQUOR NOT TO BE CONSUMED ON PREMISES. No vendor, officer, clerk, servant, agent, or employee of the division employed in any state liquor store, state-owned warehouse, or distributing station shall allow any alcoholic liquor to be consumed on the premises of such state warehouse, store, or distributing station, except for sampling purposes only, as described in section 23-314, Idaho Code. Nor shall any vendor, officer, clerk, servant, agent, or employee of the division consume any such liquor on such premises.

[23-313, added 1939, ch. 222, sec. 613, p. 465; am. 2009, ch. 23, sec. 28, p. 60; am. 2020, ch. 293, sec. 1, p. 845.]

23-314. SAMPLE TASTINGS IN RETAIL STORES. (1) As used in this section:

(a) "Distilled spirits supplier" means any manufacturer, rectifier, importer, or broker of liquor products offered for sale by the division.

(b) "Retail store" means any state liquor store and does not include any distributing station that is authorized by the state of Idaho.

(2) A distilled spirits supplier or its representative may offer sample tastings on the premises of a retail store.

(3) A distilled spirits supplier shall not charge for sample tastings.

(4) Sample sizes for tasting events permitted pursuant to the provisions of this section shall not exceed one-quarter of one ounce (0.25 oz) of alcoholic liquor. A sample may be mixed with another alcoholic liquor or nonalcoholic beverage.

(5) The maximum number of samples allowed shall not exceed three (3) samples per person in any twenty-four (24) hour period.

(6) Samples may be served only by persons twenty-one (21) years of age or older.

(7) In accordance with state law, alcoholic liquor shall be served only to persons who are twenty-one (21) years of age or older.

(8) Samples shall be served in a specifically identified sample area or areas within the retail store. Such area or areas shall be of a size and design such that the person conducting the tasting can observe and control persons in the area to ensure that no persons under twenty-one (21) years of age 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 retail store shall keep on file at the premises a floor plan identifying the tasting area or areas.

(9) The distilled spirits for sample tastings shall be purchased from the Idaho state liquor division, and all taxes for such distilled spirits shall be paid by the manufacturer of the distilled spirits.

(10) Any unused product must be removed from the premises by the supplier or its representative.

(11) The division must approve of the time, location, method, and items to be sampled at tastings. The distilled spirits supplier must notify the Idaho state police in advance of any tasting approved pursuant to the provisions of this section.

(12) The division may not advertise or otherwise promote to the public a tasting event permitted pursuant to the provisions of this section.

(13) It shall be the responsibility of the distilled spirits supplier to conduct a sample tasting in accordance with the provisions of this section. A retail store that hosts such a sample tasting shall not incur liability arising from a right of action directly resulting from consumption of liquor authorized by this section.

[23-314, added 2020, ch. 293, sec. 2, p. 845.]