

TITLE 23
ALCOHOLIC BEVERAGES

CHAPTER 9
RETAIL SALE OF LIQUOR BY THE DRINK

23-901. DECLARATION OF POLICY -- RETAIL SALE OF LIQUOR. It is hereby declared as the policy of the state of Idaho that it is necessary to further regulate and control the sale and distribution within the state of alcoholic beverages and to eliminate certain illegal traffic in liquor now existing and to insure the entire control of the sale of liquor it is advisable and necessary, in addition to the operation of the state liquor stores now provided by law, that the director of the Idaho state police and the county commissioners and the councils of cities in the state of Idaho be empowered and authorized to grant licenses to persons qualified under this act to sell liquor purchased by them at state liquor stores at retail posted prices in accordance with this act and under the rules promulgated by said director and under his strict supervision and control and to provide severe penalty for the sale of liquor except by and in state liquor stores and by persons licensed under this act. The restrictions, rules, and provisions contained in this act are enacted by the legislature for the protection, health, welfare and safety of the people of the state of Idaho and for the purpose of promoting and encouraging temperance in the use of alcoholic beverages within the state of Idaho.

[23-901, added 1947, ch. 274, sec. 1, p. 870; am. 1974, ch. 27, sec. 16, p. 811; am. 2000, ch. 469, sec. 61, p. 1510.]

23-902. DEFINITIONS. The following words and phrases used in this chapter shall be given the following interpretation:

(1) "Club" includes any of the following organizations where the sale of spirituous liquor for consumption on the premises is made to members and to bona fide guests of members only:

(a) A post, chapter, camp or other local unit composed solely of veterans and their duly recognized auxiliary, and which is a post, chapter, camp or other local unit composed solely of veterans which has been chartered by the congress of the United States for patriotic, fraternal or benevolent purposes, and which has, as the owner, lessee or occupant, operated an establishment for that purpose in this state; or

(b) A chapter, aerie, parlor, lodge or other local unit of an American national fraternal organization, which has, as the owner, lessee or occupant, operated an establishment for fraternal purposes in this state and actively operates in not less than thirty-six (36) states or has been in continuous existence for not less than twenty (20) years; and which has no fewer than fifty (50) bona fide members in each unit, and which owns, maintains or operates club quarters, and is authorized and incorporated to operate as a nonprofit club under the laws of this state, and which has recognized tax exempt status under section 501(c) (8) or 501(c) (10) of the Internal Revenue Code, and has been continuously incorporated and operating for a period of not less than one (1) year. The club shall have had, during that period of one (1) year, a bona fide membership with regular meetings conducted at least once each month, and the membership shall be and shall have been actively engaged in carrying out the objects of the club. The club

membership shall consist of bona fide dues-paying members, recorded by the secretary of the club, paying at least six dollars (\$6.00) per year in dues, payable monthly, quarterly or annually; and the members at the time of application for a club license shall be in good standing, having paid dues for at least one (1) full year.

(2) "Convention" means a formal meeting of members, representatives, or delegates, as of a political party, fraternal society, profession or industry.

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

(4) "Festival" means a period or program of festive activities, cultural events or entertainment lasting three (3) or more consecutive days.

(5) "Gaming" means any and all gambling or games of chance defined in chapters 38 and 49, title 18, Idaho Code, or any section or sections thereof, whether those games are licensed or unlicensed.

(6) "Interdicted person" means a person to whom the sale of liquor is prohibited under law.

(7) "License" means a license issued by the director to a qualified person, under which it shall be lawful for the licensee to sell and dispense liquor by the drink at retail, as provided by law.

(8) "Licensee" means the person to whom a license is issued under the provisions of law.

(9) "Liquor" means all kinds of liquor sold by and in a state liquor store of the state of Idaho.

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

(11) "Municipal license" means a license issued by a municipality of the state of Idaho under the provisions of law.

(12) "Party" means a social gathering especially for pleasure or amusement and includes, but is not limited to, such social events as weddings, birthdays, and special holiday celebrations to include, but not be limited to, New Year's celebrations, Super Bowl Sunday, St. Patrick's Day, the Fourth of July and Labor Day.

(13) "Person" means any individual, corporation, business corporation, nonprofit corporation, benefit corporation as defined in section 30-2002(1), Idaho Code, partnership, limited partnership, limited liability company, general cooperative association, limited cooperative association, estate, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate trust, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, any entity defined in section 30-21-102, Idaho Code, or any other commercial entity, whether conducting the business singularly or collectively.

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

(15) "Rules" means rules promulgated by the director in accordance with the provisions of law.

(16) "State liquor store" means a liquor store or distributor established under and pursuant to the laws of the state of Idaho for the package sale of liquor at retail.

(17) "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.

(18) "Brewery" means a place, premises or establishment for the manufacture, bottling or canning of beer.

(19) "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.

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

[23-902, added 1947, ch. 274, sec. 2, p. 870; am. 1949, ch. 276, sec. 1, p. 565; am. 1974, ch. 27, sec. 17, p. 811; am. 1978, ch. 44, sec. 1, p. 78; am. 1983, ch. 203, sec. 1, p. 552; am. 1986, ch. 36, sec. 1, p. 118; am. 1999, ch. 58, sec. 1, p. 146; am. 2000, ch. 469, sec. 62, p. 1511; am. 2003, ch. 111, sec. 1, p. 349; am. 2016, ch. 153, sec. 1, p. 422; am. 2016, ch. 268, sec. 1, p. 721; am. 2016, ch. 357, sec. 1, p. 1048; am. 2017, ch. 58, sec. 11, p. 106.]

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

than being either within or without the incorporated limits of a city, that said premises continue to have such special characteristics at the time of the application for renewal.

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

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

(4) Nothing herein contained shall prohibit the issuance of a license to the owner, operator or lessee of an actual bona fide equestrian facility located on not less than forty (40) contiguous acres, with permanently erected seating of not less than six thousand (6,000) seats, no part of which equestrian facility or the premises thereon is situate within the incorporated limits of any city, and which facility shall have at least three (3) days per year of a professionally sanctioned rodeo. Not more than one (1)

licensed premises shall be permitted at any equestrian facility or within an area comprising such a facility. The fees for licenses granted to equestrian facilities shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code.

(5) Nothing herein contained shall prohibit the issuance of a license to the owner, operator or lessee of a restaurant operated on an airport owned or operated by a county or municipal corporation or on an airport owned or operated jointly by a county and municipal corporation, and which said airport is served by a trunk or local service air carrier holding a certificate of public convenience and necessity issued by the civil aeronautics board of the United States of America. Not more than one (1) license shall be issued on any airport.

(6) Nothing herein contained shall prohibit the issuance of one (1) club license to a club as defined in section 23-902, Idaho Code. The holder of a club license is authorized to sell and serve alcoholic beverages for consumption only within the licensed establishment owned, leased or occupied by the club, and only to bona fide members of the club, and to serve and to sell alcoholic beverages for consumption to bona fide members' guests. A club license issued pursuant to the provisions of this section is not transferable and may not be sold. Any club license issued pursuant to the provisions of this section will revert to the director when, in his judgment, the licensee ceases to operate as a bona fide club as defined in section 23-902, Idaho Code. No club may hold a liquor license and a club license simultaneously. A club which on July 1, 1983, holds a liquor license, may continue to possess that license. Any club that possesses a liquor license on January 1, 1983, or thereafter, and then sells that liquor license, may not obtain a club license, and the director shall not issue a club license to that club for a period of five (5) years following such sale. The fee for any license issued to a qualifying club within an incorporated municipality shall be as prescribed in subsections (1), (2) and (3) of section 23-904, Idaho Code. The fee for any license issued to a qualifying club not situate within an incorporated municipality shall be as specified for golf courses under section 23-904(6), Idaho Code. The provisions of section 23-916, Idaho Code, regarding county and city licenses, shall pertain to club licenses. The burden of producing sufficient documentation of qualifications for club licensure shall be with the club applicant.

(7) Nothing in this chapter to the contrary shall prohibit the issuance of a license to the owner, operator or lessee of an actual bona fide convention center that is within the incorporated limits of a city having a population of three thousand (3,000) or greater, and which city does not have located therein a convention center with a valid convention center license to sell liquor by the drink. For the purpose of this section, a convention center means a facility having at least thirty-five thousand (35,000) square feet of floor space or a facility having at least one hundred twenty (120) sleeping rooms and an adjoining meeting room that will accommodate not less than three hundred fifty (350) persons, whether or not such room may be partitioned into smaller rooms, and provided that such meeting room shall contain at least three thousand (3,000) square feet of floor space. Such license must be placed in actual use in said convention center within one (1) year from the date of its issuance. The fee for any license issued to a qualifying convention center shall be as prescribed in subsection (3) of section 23-904, Idaho Code. The holder of a convention center license shall not be eligible for the issuance of a license in the same city pursuant to any other

provision of this chapter. For purposes of this section, the term "holder" shall include an owner, operator or lessee and shall include a stockholder, director or officer of a corporation or a partner in a partnership, which corporation or partnership has been issued a convention center license pursuant to this chapter. Not more than one (1) licensed premises shall be permitted on any convention center or within the area comprising the same, including convention centers that also comprise golf courses or ski resorts as herein defined.

(8) Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a food, beverage and/or lodging facility that has been in continuous operation in the same location for at least seventy-five (75) years, except for temporary closings for refurbishing or reconstruction, or a food, beverage and lodging facility serving the public by reservation only, having a minimum of five (5) rooms operating in a structure that has been in existence for at least seventy-five (75) years and has been on the historic register for a minimum of ten (10) years, is situated within five hundred (500) yards of a natural lake containing a minimum of thirty-six thousand (36,000) acre feet of water when full with a minimum of thirty-two (32) miles of shoreline, and is located in a county with a minimum population of sixty-five thousand (65,000). The provisions of section 23-910, Idaho Code, shall apply to licenses issued to continuous operation facilities. The fees shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code.

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

(10) Nothing in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of the lodging, dining and entertainment facilities owned by a gondola resort complex and operated in conjunction with the other public services provided by a gondola resort complex located within the ownership/leasehold boundaries of a gondola resort complex.

A gondola resort complex means an actual bona fide gondola capable of transporting people for recreational and/or entertainment purposes at least three (3) miles in length with a vertical rise of three thousand (3,000) feet, portions of which may be located within or over the limits of one (1) or more cities.

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

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

(13) Nothing contained in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a conference and event center that is within the city limits of a resort city as defined in section 50-1044, Idaho Code, that has enacted local option nonproperty taxes in accordance

with section 50-1046, Idaho Code, including, at the time of issuance, a resort city tax on sales of liquor by the drink, wine and beer sold at retail for consumption on the licensed premises. There shall be only one (1) conference and event center license to sell liquor by the drink issued per resort city pursuant to this subsection. For the purposes of this section, a conference and event center means facilities situated on premises consisting of a building or buildings and the contiguous property owned or leased and under common ownership or control by the licensee. Such facilities must provide not less than four thousand (4,000) square feet of enclosed space for conference and event purposes, exclusive of space dedicated by the licensee to the commercial kitchen. The commercial kitchen must include a type 1 commercial hood and cooking equipment, exclusive of microwave ovens and grills. The fee for any license issued to a qualifying licensee shall be as prescribed in section 23-904(1), (2) or (3), Idaho Code, depending on the population of the resort city in which the conference and event center is located and as prescribed in section 23-916, Idaho Code. A license issued pursuant to this section may be renewed without regard to the population or status of the city for which the license was issued and without regard for the continuation of local option nonproperty taxes by the city, provided the applicant for renewal is not otherwise disqualified from licensure pursuant to section 23-910, Idaho Code. Not more than one (1) license shall be issued to a conference and event center. A conference and event center license shall not be transferable and may not be sold. For the purpose of issuance and maintenance of a license under this subsection, such facilities may serve liquor only while such facilities are hosting a conference or event. Nothing in this subsection shall excuse a conference and event center from complying with actual use standards in title 23, Idaho Code, or administrative rules promulgated pursuant to statutory authority granted under this title.

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

[23-903, added 1947, ch. 274, sec. 3, p. 870; am. 1957, ch. 151, sec. 1, p. 250; am. 1959, ch. 118, sec. 1, p. 254; am. 1963, ch. 215, sec. 1, p. 622; am. 1965, ch. 35, sec. 1, p. 52; am. 1972, ch. 34, sec. 1, p. 52; am. 1974, ch. 27, sec. 18, p. 811, am. 1978, ch. 126, sec. 2, p. 285; am. 1983, ch. 167, sec. 1, p. 473; am. 1983, ch. 203, sec. 2, p. 553; am. 1984, ch. 244, sec. 1, p. 591; am. 1989, ch. 164, sec. 1, p. 411; am. 1989, ch. 207, sec. 1, p. 507; am. 1989, ch. 301, sec. 1, p. 749; am. 1990, ch. 252, sec. 1, p. 722; am. 1990, ch. 255, sec. 1, p. 729; am. 1990, ch. 392, sec. 1, p. 1098; am. 1992, ch. 233, sec. 1, p. 697; am. 1993, ch. 240, sec. 1, p. 846; am. 1995, ch. 358, sec. 1, p. 1215; am. 1996, ch. 349, sec. 1, p. 1168; am. 1997, ch. 263, sec. 1, p. 749; am. 2000, ch. 469, sec. 63, p. 1512; am. 2004, ch. 44, sec. 1, p. 165; am. 2006, ch. 449, sec. 3, p. 1335; am. 2008, ch. 335, sec. 1, p. 920; am. 2008, ch. 405, sec. 1, p. 1110; am. 2013, ch. 167, sec. 1, p. 382; am. 2013, ch. 278, sec. 1, p. 718; am. 2015, ch. 333, sec. 1, p. 1260.]

23-903a. LICENSE TO RETAIL LIQUOR -- SKI RESORTS -- CROSS-COUNTRY SKIING FACILITIES. If the director determines that an applicant or applicants are qualified to receive a ski resort or cross-country skiing facility li-

cense, he shall notify the chairman of the board of county commissioners in the county in which the ski resort or cross-country skiing facility license is to be issued. The county commissioners shall, within fifteen (15) days after receipt of notification from the director, approve or disapprove the issuance of the license. In the event the county commissioners do not approve the proposed license, a license shall not be issued.

[23-903a, added 1972, ch. 34, sec. 2, p. 52; am. 1974, ch. 27, sec. 19, p. 811; am. 1987, ch. 32, sec. 1, p. 53.]

23-903b. LICENSES ISSUED TO OWNERS, OPERATORS OR LESSEES OF GOLF COURSES, SKI RESORTS, CROSS-COUNTRY SKIING FACILITIES AND WATERFRONT RESORTS -- LIMITATIONS ON SALES OR TRANSFERS. No license issued to an owner, operator, or lessee of a golf course, ski resort, cross-country skiing facility or waterfront resort, as defined in sections 23-903, 23-948 and 23-952, Idaho Code, shall be transferable to another location or facility, except as otherwise provided in section 23-956, Idaho Code.

[23-903b, added 1979, ch. 256, sec. 1, p. 679; am. 1987, ch. 32, sec. 2, p. 54; am. 1991, ch. 137, sec. 1, p. 320; am. 2005, ch. 357, sec. 1, p. 1128.]

23-904. LICENSE FEES. Each licensee licensed under the provisions of this act shall pay an annual license fee to the director as follows:

(1) For each license in a city of one thousand (1,000) population or less, three hundred dollars (\$300) per annum.

(2) For each license in a city of from one thousand (1,000) to three thousand (3,000) population, five hundred dollars (\$500) per annum.

(3) For each license in a city having a population of more than three thousand (3,000), seven hundred fifty dollars (\$750) per annum.

(4) For each railroad train for sale only in buffet, club or dining cars, fifty dollars (\$50.00) per annum of the scheduled run of such train within the state of Idaho; provided, that such license shall be in full, and in lieu of all other licenses herein provided for.

(5) For each common carrier boat line for sale only in buffet, club dining rooms, two hundred fifty dollars (\$250) per annum. Such license shall be in full, and in lieu of all other licenses herein provided for.

(6) For each license issued to the owner, operator, or lessee of a golf course as described in section 23-903, Idaho Code, or to the lessee of any premises situate on such golf course, situate in any county having a population of:

(a) Less than twenty thousand (20,000), two hundred dollars (\$200) per annum;

(b) Twenty thousand (20,000) but less than forty thousand (40,000), three hundred dollars (\$300) per annum; and

(c) Forty thousand (40,000) or more, four hundred dollars (\$400) per annum.

(7) For each common carrier airline for sale only in common carrier aircraft, two hundred fifty dollars (\$250) per annum. Such license shall be in full, and in lieu of all other licenses herein provided for.

(8) For each license issued to the owner, operator, or lessee of a restaurant operated on an airport, as described in section 23-903, Idaho Code, situate within the corporate limits of a city, the fee shall be the same as provided in paragraphs (1) through (3), inclusive, of this section.

(9) For each license issued to the owner, operator, or lessee of a restaurant operated on an airport, as described in section 23-903, Idaho Code, situate without the corporate limits of a city, the fee shall be the same as provided in paragraph (6) of this section. Licenses issued under and pursuant to the provisions of this act shall expire at 1:00 o'clock a.m. on the first day of January of the following year.

(10) For each license issued to an owner or operator of a year-round resort as described in section 23-957, Idaho Code, a one (1) time fee of twenty-five thousand dollars (\$25,000), with a subsequent renewal fee of three thousand five hundred dollars (\$3,500) per annum. For each license issued to an owner or operator of a beverage, lodging or dining facility within the premises of a year-round resort as described in section 23-957, Idaho Code, a one (1) time fee of twenty-five thousand dollars (\$25,000) with a subsequent renewal fee of three thousand five hundred dollars (\$3,500) per annum. For each license issued to a lessee of a beverage, lodging or dining facility within the premises of the year-round resort as described in section 23-957, Idaho Code, a one (1) time fee of twenty-five thousand dollars (\$25,000) with a subsequent renewal fee of three thousand five hundred dollars (\$3,500) per annum.

Provided that any licensee who operates for only a portion of a year may have his license fee prorated from the date he commences operation to the end of the calendar year, but in no event for less than six (6) months.

In the event a licensee who was previously issued a license on a prorated basis under the provisions hereof desires to have such license renewed for the same period for the next succeeding year, he shall file his intention to so apply for such license with the director, accompanied by the fee required for the issuance of such license on or before December 31 of the year preceding.

The license fees herein provided for are exclusive of and in addition to other license fees chargeable in the state of Idaho.

The basis upon which respective populations of municipalities shall be determined is the last preceding census or any subsequent special census conducted by the United States bureau of the census, unless a direct enumeration of the inhabitants thereof be made by the state of Idaho, in which case such later direct enumeration shall constitute such basis.

[23-904, added 1947, ch. 274, sec. 4, p. 870; am. 1949, ch. 277, sec. 1, p. 567; am. 1953, ch. 125, sec. 1, p. 196; am. 1957, ch. 151, sec. 2, p. 250; am. 1959, ch. 118, sec. 2, p. 254; am. 1963, ch. 423, sec. 1, p. 1098; am. 1965, ch. 35, sec. 2, p. 52; am. 1967, ch. 143, sec. 1, p. 326; am. 1967, ch. 417, sec. 1, p. 1227; am. 1974, ch. 27, sec. 20, p. 811; am. 1991, ch. 137, sec. 2, p. 320; am. 2006, ch. 449, sec. 1, p. 1333; am. 2008, ch. 178, sec. 1, p. 529.]

23-905. APPLICATION FOR LICENSES -- PENALTY FOR FALSE STATEMENTS. Prior to the issuance of a license as herein provided, the applicant shall file with the director an application, in writing, signed by the applicant and containing such information and statements relative to the applicant and the premises where the liquor is to be sold as may be required by the director. The application shall be verified by the affidavit of the person making the same before a person authorized to administer oaths and shall be accompanied with the license fee herein required.

In addition to setting forth the qualifications required by other provisions of this act, the application must show:

(1) A detailed description of the premises for which a license is sought and its location.

(2) A detailed statement of the assets and liabilities of the applicant.

(3) The names and addresses of all persons who will have any financial interest in any business to be carried on in and upon the licensed premises, whether such interest results from open loans, mortgages, conditional sales contracts, silent partnerships, trusts or any other basis than open trade accounts incurred in the ordinary course of business, and the amounts of such interests.

(4) The name and address of the applicant, which shall include all members of a partnership or association and the officers, members of the governing board and ten (10) principal stockholders of a corporation.

(5) A copy of the articles of incorporation and bylaws of any corporation, the articles of association and the bylaws of any association, or the articles of partnership of any partnership.

(6) If during the period of any license issued hereunder any change shall take place in any of the requirements of subparagraph (3), (4), or (5) of this section, the licensee shall forthwith make a written report of such change to the director.

(7) If during the period of any license issued hereunder the licensee seeks to move his business from one premise to another in the same city, he may do so subject to the director's approval that the new premise is suitable for the carrying on of the business.

If any false statement is made in any part of said application, or any subsequent report, the applicant, or applicants, shall be deemed guilty of a felony and upon conviction thereof shall be imprisoned in the state prison for not less than one (1) year nor more than five (5) years and fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or both such fine and imprisonment.

[23-905, added 1947, ch. 274, sec. 5, p. 870; am. 1974, ch. 27, sec. 21, p. 811; am. 1980, ch. 313, sec. 1, p. 803; am. 1991, ch. 137, sec. 3, p. 321; am. 1994, ch. 14, sec. 3, p. 22.]

23-906. LICENSES FOR DINING, BUFFET AND CLUB CARS, COMMON CARRIER BOATS, AND COMMON CARRIER AIRLINES. Any person operating any line of railroad using dining club or buffet cars in connection with regularly operated train service, or any common carrier boat or boats, or any common carrier airline, desiring a license to sell liquor under the provisions of this act in any such cars, boats, or common carrier aircraft shall apply to the director for a license, as in this act provided, accompanying the application with the license fee herein prescribed.

[23-906, added 1947, ch. 274, sec. 6, p. 870; am. 1963, ch. 423, sec. 2, p. 1098; am. 1974, ch. 27, sec. 22, p. 811.]

23-907. INVESTIGATION OF APPLICATIONS. Upon receipt of an application for a license under this act, accompanied by the necessary license fee, the director, within ninety (90) days thereafter, shall cause to be made a thorough investigation of all matters pertaining thereto. The investigation 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. If the director shall determine that the contents of the application are true, that such applicant is qualified to receive a license, that his premises are suitable for the carrying on of the business, and that the requirements of this act and the rules promulgated by the director are met and complied with, he shall issue such license; otherwise the application shall be denied and the license fee, less the costs and expenses of investigation, returned to the applicant.

In making the investigation required by this section the director shall have the power to investigate and examine the books and records of the licensee and any person having a financial interest in any business to be conducted on the licensed premises, including, but not limited to, their bank accounts, returns filed under the Idaho income tax act, as amended, and any other sources of information deemed desirable by the director and not specifically prohibited by law.

[23-907, added 1947, ch. 274, sec. 7, p. 870; am. 1974, ch. 27, sec. 23, p. 811; am. 2001, ch. 284, sec. 1, p. 1015; am. 2016, ch. 77, sec. 1, p. 254.]

23-908. FORM OF LICENSE -- AUTHORITY -- EXPIRATION -- LIMITATIONS. (1) Every license issued under the provisions of this chapter shall set forth the name of the person to whom issued, the location by street and number, or other definite designation, of the premises, and such other information as the director shall deem necessary. If issued to a partnership, the names of the persons constituting such partnership shall be set forth in the application. If issued to a corporation or association, the names of the principal officers and the governing board shall be set forth in the application. Such license shall be signed by the licensee and prominently displayed in the place of business at all times. Every license issued under the provisions of this chapter is separate and distinct and no person except the licensee therein named except as herein otherwise provided, shall exercise any of the privileges granted thereunder. All licenses shall expire at 1:00 o'clock a.m. on the first day of the renewal month which shall be determined by the director by administrative rule and shall be subject to annual renewal upon proper application. The director will determine the renewal month by county based on the number of current licenses within each county, distributing renewals throughout the licensing year. The director may adjust the renewal month to accommodate population increases. Each licensee will be issued a temporary license to operate until their renewal month has been determined. Thereafter, renewals will occur annually on their renewal month. Renewal applications for liquor by the drink 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 his current license on or before the first day of the designated renewal month shall have a grace period of an additional thirty-one (31) days in which to file an application for renewal of the license. The licensee shall not be permitted to sell and dispense liquor by the drink at retail during the thirty-one (31) day extended time period unless and until the license is renewed. In any city of less than sixteen thousand (16,000) population, as established in the last preceding census or any subsequent special census conducted by the United States bureau of the census, no person shall be granted more than one (1) license in any city for any one (1) year; and no partnership, association or corporation in such city of less

than sixteen thousand (16,000) population holding a license under the provisions of this chapter shall have as a member, officer or stockholder any person who has any financial interest of any kind in, or is a member of, another partnership or association or an officer of another corporation holding a license in the same city for the same year; provided that this section shall not prevent any person, firm or corporation, owning two (2) or more buildings on connected property in a city from making application for and receiving licenses permitting the sale of liquor by the drink in such building.

(2) An application to transfer any license issued pursuant to chapter 9, title 23, Idaho Code, shall be made to the director. Upon receipt of such an application, the director shall make the same investigation and determinations with respect to the transferee as are required by section 23-907, Idaho Code, and if the director shall determine that all of the conditions required of a licensee under chapter 9, title 23, Idaho Code, have been met by the proposed transferee, then the license shall be indorsed over to the proposed transferee by said licensee for the remainder of the period for which such license has been issued and the director shall issue a license to the transferee.

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

(4) Each new license issued on or after July 1, 1980, shall be placed into actual use by the original licensee at the time of issuance and remain in use for at least six (6) consecutive months or be forfeited to the state and be eligible for issue to another person by the director after compliance with the provisions of section 23-907, Idaho Code. Such license shall not be transferable for a period of two (2) years from the date of original issuance, except as provided by subsection (5) (a), (b), (c), (d) or (e) of this section.

(5) The fee for transferring a liquor license shall be ten percent (10%) of the purchase price of the liquor license or the cost of good will, whichever is greater; except no fee shall be collected in the following events:

- (a) The transfer of a license between husband and wife in the event of a property division; or
- (b) The transfer of a license to a receiver, trustee in bankruptcy or similar person or officer; or
- (c) The transfer of a license to the heirs or personal representative of the estate in the event of the death of the licensee; or
- (d) The transfer of a license arising out of the dissolution of a partnership where the license is transferred to one (1) or more of the partners; or
- (e) The transfer of a license within a family whether an individual, partnership or corporation.

(6) The fee for transferring a liquor license for other than a sale shall be fifty percent (50%) of the per annum license fee set forth in section 23-904, Idaho Code; except no fee shall be collected for transfers as outlined in subsection (5) (a), (b), (c), (d) or (e) of this section.

[23-908, added 1947, ch. 274, sec. 8, p. 870; am. 1949, ch. 276, sec. 2, p. 565; am. 1959, ch. 118, sec. 3, p. 254; am. 1967, ch. 143, sec. 2, p. 326; am. 1974, ch. 27, sec. 24, p. 811; am. 1977, ch. 143, sec. 1, p. 316; am. 1978, ch. 353, sec. 1, p. 936; am. 1980, ch. 313, sec. 2, p. 804; am.

1981, ch. 75, sec. 1, p. 107; am. 1991, ch. 28, sec. 1, p. 55; am. 1991, ch. 283, sec. 1, p. 729; am. 2001, ch. 30, sec. 1, p. 43.]

23-910. PERSONS NOT QUALIFIED TO BE LICENSED. No license shall be issued to:

(1) Any person, or any one (1) of its members, officers, or governing board, who has, within three (3) years prior to the date of making application, been convicted of any violation of the laws of the United States, the state of Idaho, or any other state of the United States, or of the resolutions or ordinances of any county or city of this state, relating to the importation, transportation, manufacture or sale of alcoholic liquor or beer; or who has been convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment or completed any sentence of confinement for any felony within five (5) years prior to the date of making application for any license.

(2) A person who is engaged in the operation, or interested therein, of any house or place for the purpose of prostitution or who has been convicted of any crime or misdemeanor opposed to decency and morality.

(3) A person whose license issued under this act has been revoked; an individual who was a member of a partnership or association which was a licensee under this act and whose license has been revoked; an individual who was an officer, member of the governing board or one (1) of the ten (10) principal stockholders of a corporation which was a licensee under this act and whose license has been revoked; a partnership or association one (1) of whose members was a licensee under this act and whose license was revoked; a corporation one (1) of whose officers, member of the governing board or ten (10) principal stockholders was a licensee under the provisions of this act and whose license has been revoked; an association or partnership, one (1) of whose members was a member of a partnership or association licensed under the provisions of this act and whose license has been revoked; a partnership or association, one (1) of whose members was an officer, a member of the governing board, or one (1) of the ten (10) principal stockholders of a corporation licensed under the provisions of this act and whose license has been revoked; a corporation, one (1) of whose officers, member of the governing board, or ten (10) principal stockholders was a member of a partnership or association licensed under the provisions of this act and whose license was revoked; a corporation, one (1) of whose officers, member of the governing board, or ten (10) principal stockholders was an officer, member of the governing board, or one (1) of the ten (10) principal stockholders of a corporation licensed under the provisions of this act and whose license was revoked.

(4) Any officer, agent, or employee of any distillery, winery, brewery, or any wholesaler, or jobber, of liquor or malt beverages except as provided in section 23-912, Idaho Code. This prohibition shall not apply to officers, agents, or employees of any winery operating a golf course on the same premises as the winery.

(5) A person who does not hold a retail beer license issued under the laws of the state of Idaho.

(6) Any license, held by any licensee disqualified under the provisions of this section from being issued a license, shall forthwith be revoked by the director.

[23-910, added 1947, ch. 274, sec. 10, p. 870; am. 1957, ch. 124, sec. 1, p. 205; am. 1961, ch. 28, sec. 1, p. 37; am. 1963, ch. 423, sec. 3, p. 1098; am. 1969, ch. 406, sec. 1, p. 1126; am. 1991, ch. 179, sec. 1, p.

442; am. 1992, ch. 315, sec. 1, p. 937; am. 1994, ch. 14, sec. 5, p. 23; am. 1996, ch. 349, sec. 2, p. 1171; am. 1999, ch. 141, sec. 1, p. 404.]

23-911. RESTRICTIONS ON MANUFACTURERS, TRANSPORTERS OR DISTILLERS. Except as provided in section 23-912, Idaho Code, no manufacturer, rectifier, wholesaler, stockholder, shareholder, partner, or the owner of any other interest in any corporations, association or partnership financially interested in the manufacture, transportation or sale of liquor shall furnish, give, rent, lend or sell any equipment or fixtures directly or indirectly, or through a subsidiary or affiliate or by any officer, director, or firm member of the industry or otherwise furnish financial aid to any person engaged in the sale of liquor hereunder and no licensee hereunder shall receive or be the beneficiary of any of the benefits hereby prohibited.

[23-911, added 1947, ch. 274, sec. 11, p. 870; am. 1973, ch. 75, sec. 1, p. 121; am. 1999, ch. 141, sec. 2, p. 405.]

23-912. RESTRICTIONS OF PERSONS INTERESTED IN PREMISES. (1) Except as provided in subsection (2) of this section, no manufacturer, rectifier, wholesaler, stockholder, shareholder, partner or the owner of any other interest in any corporation, association or partnership financially interested in the manufacture, transportation (except public carriers) or sale of liquor shall hold any interest in any premise licensed hereunder for the sale of liquor or receive any rental or remuneration from any such premise.

(2) A manufacturer, rectifier, wholesaler, stockholder, shareholder, partner or the owner of any interest in any corporation, association or partnership financially interested in the manufacture, transportation or sale of liquor may hold interest in a licensed premises if the licensed premises serves food cooked on the site of the licensed premises, and the person or entity can show through recordkeeping that no more than fifty percent (50%) of the gross revenue to the licensed premises is derived from the sale of alcoholic beverages on-site. The owner of the licensed premises pursuant to this subsection shall comply with and be subject to all other rules, regulations or other provisions of law which apply to manufacturers, rectifiers, wholesalers, stockholders, shareholders, partners or the owners of any interest in any corporation, association or partnership financially interested in the manufacture, transportation or sale of liquor save and except as such rules, regulations or laws may restrict such sales at the licensed premises. The holder of a license pursuant to this section shall not be disqualified from holding a beer license, a retail wine license or wine by the drink license for the sale of beer or wine at the licensed premises on the grounds that the licensee is also a manufacturer, wholesaler, stockholder, shareholder, partner or the owner of any interest in any corporation, association or partnership financially interested in the manufacture, transportation or sale of liquor, beer or wine. This subsection shall not be deemed to grant a license for the retail sale of liquor by the drink and the license must be obtained through normal lawful means.

[23-912, added 1947, ch. 274, sec. 12, p. 870; am. 1999, ch. 141, sec. 3, p. 405.]

23-913. LICENSEE NOT ALLOWED NEAR CHURCHES OR SCHOOLS -- EXCEPTIONS. No license shall be issued for any premises in any neighborhood which is predominantly residential or within 300 feet of any public school, church, or any other place of worship, measured in a straight line to the nearest entrance

to the licensed premises, except with the approval of the governing body of the municipality; provided, that this limitation shall not apply to any duly licensed premises that at the time of licensing did not come within the restricted area but subsequent to licensing same [came] therein.

[23-913, added 1947, ch. 274, sec. 13, p. 870.]

23-914. LICENSEE MUST PURCHASE FROM DIVISION -- PRICE. All liquor sold by any licensee shall be purchased from the division through its regular retail stores and distributing stations at the posted price thereof. The division is hereby authorized and directed to make such sales pursuant to section 23-309, Idaho Code, upon a special permit issued to such licensee in such form as shall be prescribed by the director of the division. The posted price as used herein shall mean the retail price of such liquor as fixed and determined by the division.

It shall be unlawful for any licensee to sell, or keep for sale, or have on his premises for any purpose whatsoever, any liquor except that purchased as herein authorized and provided, and any licensee found in possession of, selling or keeping for sale any liquor not purchased as herein authorized shall be guilty of a felony and upon conviction thereof shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or by imprisonment in the state prison for not more than five (5) years, or by both such fine and imprisonment. Any license issued to such person shall be immediately and permanently revoked. The amount of liquor to be sold to licensees hereunder in any city or village shall be determined by the director or other executive officer of the division, but such sales shall be regulated so as to maintain adequate stocks of merchandise for sale to persons other than said licensees.

The provisions of this section notwithstanding, railroad companies shall have the right to have in their possession liquors other than those purchased from the division.

[23-914, added 1947, ch. 274, sec. 14, p. 870; am. 1949, ch. 277, sec. 2, p. 567; am. 1988, ch. 216, sec. 2, p. 411; am. 2009, ch. 23, sec. 53, p. 67; am. 2012, ch. 113, sec. 18, p. 316.]

23-915. OFFICERS MAY SEIZE ILLEGAL LIQUOR. The director, or any of his agents, any sheriff, constable, or other police officer who shall find any liquor kept or held by any person in violation of the provisions of this act may forthwith seize and remove the same and keep the same as evidence and upon conviction of the person for violation of the provisions hereof, the said liquor, and all packages or receptacles containing the same, shall be forfeited to the state of Idaho and in addition the person so violating this act shall be subject to the other penalties herein prescribed.

[23-915, added 1947, ch. 274, sec. 15, p. 870; am. 1974, ch. 27, sec. 25, p. 811.]

23-916. COUNTY AND CITY LICENSES. In addition to the licensing and control herein provided for the retail sale of liquor by the drink, each county and incorporated city in the state of Idaho is hereby authorized and empowered to license the sale of liquor by the drink at retail within the corporate limits of such city. The respective local authorities may impose and collect license fees for the use and benefit of such city not to exceed seventy-five percent (75%) of the amount of the license fee collected by the director as herein provided and for the use and benefit of such county not to

exceed twenty-five percent (25%) of the amount of the license fee collected by the director as herein provided. The governing authority of such city may provide further regulations for the control of such business, and the board of county commissioners of any county may fix the fee for, and may regulate and control the use of, any license issued for the sale of liquor by the drink at retail in any licensed premises not situate within the incorporated limits of any city, not in conflict with the provisions of this act.

[23-916, added 1947, ch. 274, sec. 16, p. 870; am. 1957, ch. 151, sec. 3, p. 250; am. 1974, ch. 27, sec. 26, p. 811.]

23-917. REFERENDUM -- LOCAL OPTION. No license shall be issued hereunder until on or after July 1, 1947. Within sixty (60) days after the effective date of this chapter a petition in writing signed by not less than twenty percent (20%) of the registered, qualified electors of any city may be filed with the clerk of said city as their protest against the issuance of any license in said city under the provisions of this chapter. In the event said petition is presented, the governing body of any such city shall, within five (5) days after the presentation of said petition, meet and determine the sufficiency thereof by ascertaining whether said petition is signed by the required number of registered, qualified electors of the city affected. In the event the governing body of said city determines that said petition is signed by the required percentage of registered, qualified electors, said city governing body shall forthwith make an order calling an election to be held within said city, subject to the provisions of section 34-106, Idaho Code, in accordance with the provisions of title 34, Idaho Code, which shall apply to the holding of the election provided for in this section, except where specifically modified herein. 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.

[23-917, added 1947, ch. 274, sec. 17, p. 870; am. 1995, ch. 118, sec. 12, p. 440; am. 2009, ch. 341, sec. 7, p. 1000.]

23-918. FORM OF BALLOT. The county clerk must furnish the ballots to be used in such election, which ballots must contain the following words:

"Sale of liquor by the drink, Yes,"

"Sale of liquor by the drink, No,"

and the elector in order to vote must indicate the elector's choice opposite one (1) of the questions in a space provided therefor.

[23-918, added 1947, ch. 274, sec. 18, p. 870; am. 2009, ch. 341, sec. 8, p. 1000.]

23-919. EFFECT OF ELECTION -- LIQUOR STORE SALES NOT AFFECTED. Upon a canvass of the votes cast, the county board of canvassers shall certify the result to the city who shall report the results to the director. If a majority of the votes cast are "Sale of liquor by the drink, Yes," licenses shall be issued in said city as in this chapter provided. If a majority of the votes cast are "Sale of liquor by the drink, No," then no licenses shall be issued in said city unless thereafter authorized by a subsequent election in said city; provided, however, that nothing herein contained shall be construed to prevent or prohibit the sale of liquor at or by a state liquor store or state distributor.

[23-919, added 1947, ch. 274, sec. 19, p. 870; am. 1974, ch. 27, sec. 27, p. 811; am. 2009, ch. 341, sec. 9, p. 1000.]

23-920. SUBSEQUENT ELECTIONS. A similar election may be subsequently called and held upon the issue of whether the sale of liquor by the drink shall be prohibited or, if prohibited, then an election to determine whether the sale of liquor by the drink shall be licensed. Such subsequent election shall be held upon the filing of a petition, as provided in section 23-917, signed by the requisite percentage of qualified electors. No such subsequent election shall be held prior to November 1, 1949, or oftener than two (2) years after the holding of any such subsequent election.

[23-920, added 1947, ch. 274, sec. 20, p. 870.]

23-921. NO RETAIL SALE EXCEPT BY THE DRINK. It shall be unlawful for any licensee to sell, keep for sale, dispense, give away, or otherwise dispose of any liquor in the original containers or otherwise than by retail sale by the drink.

[23-921, added 1947, ch. 274, sec. 21, p. 870.]

23-926. DESTRUCTION OF STAMPS -- SANITARY REQUIREMENTS. It shall be the duty of any licensee hereunder immediately upon emptying any liquor container to deface, so that the same may not again be used, all government or state stamps or labels. Any licensed premises shall be maintained in sanitary condition according to the requirements of chapter 16, title 39, Idaho Code, and any city ordinances pertaining thereto.

[23-926, added 1947, ch. 274, sec. 24, p. 870; am. 1974, ch. 247, sec. 1, p. 1624.]

23-927. HOURS OF SALE OF LIQUOR. (1) No liquor shall be sold, offered for sale, or given away upon any licensed premises, and all liquor not in sealed bottles must be locked in a separate room or cabinet during the following hours:

a. Sunday, Memorial Day, Thanksgiving and Christmas from 1 o'clock A.M., to 10 o'clock A.M. the following day; provided however, that on any Sunday not otherwise being a prescribed holiday, it shall be lawful for a licensee having banquet area or meeting room facilities, separate and apart from the usual dispensing area (bar room) and separate and apart from a normal public dining room unless such dining room is closed to the public, to therein dispense liquor between the hours of 2 o'clock P.M. and 11 o'clock P.M. to bona fide participants of banquets, receptions or conventions for consumption only within the confines of such banquet area or meeting room facility.

b. On any other day between 1 o'clock A.M. and 10 o'clock A.M.

c. When any city or county has any ordinance further limiting the hours of sale of liquor, by the drink, then such hours shall be fixed by such ordinance.

(2) A county or city may, however, by ordinance, allow the sale of liquor by the drink on a Sunday, Memorial Day and Thanksgiving, and may also extend until 2 o'clock A.M. the hours of the sale of liquor by the drink.

(3) Any patron present on the licensed premises after the sale of liquor has stopped as provided in subsection (1) and subsection (2) above shall have a reasonable time, not to exceed thirty (30) minutes, to consume any beverages already served.

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

(5) It shall be the duty of every person who is employed at or upon a licensed premises or who owns or manages a licensed premises and is present upon the licensed premises during the hours and at the time set forth in subsection (1) and subsection (2) of this section to lock up and keep locked up in a locked room or locked cabinet all unsealed containers of liquor during the hours and at the times set forth in subsection (1) and subsection (2) of this section, and any such person who fails to perform the duty provided herein shall be guilty of a misdemeanor.

[23-927, added 1947, ch. 274, sec. 25, p. 870; am. 1971, ch. 95, sec. 1, p. 207; am. 1977, ch. 143, sec. 3, p. 318; am. 1986, ch. 223, sec. 1, p. 610; am. 1987, ch. 110, sec. 1, p. 222; am. 1989, ch. 64, sec. 8, p. 104; am. 2003, ch. 284, sec. 1, p. 769; am. 2008, ch. 248, sec. 2, p. 729.]

23-928. SALE AWAY FROM LICENSED PREMISES PROHIBITED -- GAMBLING PROHIBITED. (1) It shall be unlawful for any licensee to sell, give away, dispense, vend, or deliver any liquor in any fashion or by means or device, except upon the licensed premises.

(2) It shall be unlawful for any licensee granted a license under the authority of title 23, Idaho Code, to permit, conduct, play, carry on, open or cause to be opened any gaming in or upon the licensed premises or in or upon any premises directly connected by a door, hallway, or other means of access from the licensed premises. Any licensee authorized under the authority of this title and who is also authorized by other Idaho law to conduct the lawful activities of lottery, bingo, raffles, and pari-mutuel betting on the licensed premises shall be exempt from the provisions of this subsection as long as the lawful activities are conducted in conformity with statute and rules promulgated pursuant thereto.

[23-928, added 1947, ch. 274, sec. 26, p. 870; am. 1997, ch. 343, sec. 1, p. 1027.]

23-930. OFFICERS MAY EXAMINE PREMISES. The director or his duly authorized representative, the sheriff of any county, a constable, or other police officer, shall have the right at any time to make an examination of the premises of any licensee as to whether the laws of the state of Idaho, the rules and regulations of the director, and the ordinances of any city are being complied with and shall also have the right to inspect the cars of any railroad system licensed under this act.

[23-930, added 1947, ch. 274, sec. 28, p. 870; am. 1974, ch. 27, sec. 30, p. 811.]

23-931. ADVERTISING PROHIBITED. It shall be unlawful for any licensee to adopt or use any name, sign or advertisement outside of the licensed premises advertising the handling or sale of liquor.

[23-931, added 1947, ch. 274, sec. 29, p. 870.]

23-932. DIRECTOR TO MAKE REGULATIONS -- FURNISH FORMS AND RECORDS. For the purpose of the administration of this act the director shall make, promulgate and publish such rules and regulations as the said 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. Every licensee shall advise himself of such rules and regulations, and ignorance thereof shall be no

defense. Without limiting the generality of the foregoing provisions, the said director shall be empowered and it is made his duty to prescribe forms to be used in the administration of this act, the proof to be furnished and the conditions to be observed in the issuance of licenses, prescribing forms or records to be kept of the sale of liquor by stores, prescribing notices required by this act or the regulations thereof, and the manner of giving and serving the same, prescribing, subject to the provisions of this act, the conditions and qualifications necessary to obtain a license, the books and records to be kept by the licensee, the form of returns to be made by them, and providing for the inspection of such licensed premises, specifying and describing the place and manner in which the liquor may be lawfully kept or stored, covering the conduct, management and equipment of premises licensed to sell liquor and make regulations respecting the sale and consumption of liquor in clubs, hotels and other places of business to licensees.

[23-932, added 1947, ch. 274, sec. 30, p. 870; am. 1974, ch. 27, sec. 31, p. 811.]

23-933. SUSPENSION, REVOCATION, AND REFUSAL TO RENEW LICENSES. (1) The director may suspend, revoke, or refuse to renew a 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. 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 beer or wine shall automatically result in the suspension of any license for the sale of liquor 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.

[23-933, added 1980, ch. 223, sec. 2, p. 497; am. 1981, ch. 199, sec. 1, p. 351; am. 1991, ch. 50, sec. 1, p. 91; am. 1993, ch. 347, sec. 1, p. 1291.]

23-933A. LICENSES -- SUSPENSION OR REVOCATION FOR VIOLATION OF OBSCENITY LAWS. In the event of a conviction for a violation of chapter 41, title 18, Idaho Code, relating to obscenity, by any:

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

[I.C., sec. 23-933A, as added by 1973, ch. 305, sec. 19, p. 655; am. 1974, ch. 27, sec. 33, p. 811.]

23-933B. PROCEDURE FOR OTHER LICENSING AUTHORITIES. The licensing authority of any county or incorporated municipality shall have and exercise the same powers to revoke, suspend, or to refuse grant of renewal of a retailer's license issued or issuable by it, as are granted to the director in this act. The determination of any such licensing authority to revoke, suspend, or to refuse grant of renewal of any retailer's license, shall be upon the same grounds referred to in section 23-933, Idaho Code, and may also be upon the grounds that the licensee has violated an ordinance validly enacted by it and regulating, governing or prohibiting the sale, manufacture, transportation or possession of beer or intoxicating liquor and notice thereof shall be given, and proceedings to contest said determination allowed, as provided for in this act with respect to state licenses issued by the director. The order to show cause shall be addressed to the board of county commissioners of the county or to the city council of the incorporated municipality, requiring the commissioners or councilmen, or such representative as they may designate, to appear in response thereto. Service of the order to show cause and petition shall be ordered to be made upon the chairman of the board of county commissioners or mayor or city manager of the municipality, as the case may be.

[23-933B, added 1977, ch. 143, sec. 4, p. 319.]

23-934. UNLICENSED ROOMS UNLAWFUL -- EXCEPTION. It shall be unlawful for any person to keep or maintain any rooms or premises in which liquor is received or kept, whether owned by such person or by another, or to which liquor is brought, for consumption on the premises by members of the public or of any club, incorporated or unincorporated, or a corporation or association, unless such person and the premises are licensed under this act, except as provided under a liquor catering permit.

[23-934, added 1955, ch. 227, sec. 1, p. 500; am. 1965, ch. 211, sec. 1, p. 484.]

23-934A. ALCOHOL BEVERAGE CATERING PERMIT -- APPLICATION. An alcohol beverage catering permit is a permit issued pursuant to this section that authorizes the permittee to serve and sell liquor by the drink, beer and wine,

or beer, or wine, at a festival or convention, for a time period not to exceed five (5) consecutive days, with an option to request one (1) permit extension on the same terms and conditions as the original permit, which extension may be issued or denied at the sole and absolute discretion of the original issuing entity, or at a party for a time period not to exceed two (2) consecutive days. An alcohol beverage catering permit shall be limited to authorization to sell liquor or beer or wine, or any combination thereof, based upon the type of license the applicant possesses. Applications for such permit shall be made to the city within which the liquor, beer or wine is to be served, or if not within a city then to the county, on such form as prescribed by the city or county which shall contain at a minimum, but not limited to, the following information:

(1) The name and address of the applicant and the number of his state liquor, beer or wine license.

(2) The dates and hours during which the original permit is to be effective, not to exceed five (5) consecutive days.

(3) The names of the organizations, groups, or persons sponsoring the event.

(4) The address at which the liquor, beer or wine is to be served, and if a public building, the rooms in which the liquor, beer or wine is to be served.

The application shall be verified by the applicant and filed with the appropriate governing body or its designee. A filing fee in the amount of twenty dollars (\$20.00) for each day the permit is to be effective shall be paid to the treasury of the governing body which shall not be refunded in any event. Any alcohol beverage catering permit shall be valid only within the issuing jurisdiction.

No alcohol beverage catering permit issued pursuant to this section shall be used on a licensed premise. An alcohol beverage catering permit issued pursuant to this section shall only be exercised by the licensee on record.

[23-934A, added 1965, ch. 211, sec. 2, p. 484; am. 1970, ch. 258, sec. 1, p. 690; am. 1974, ch. 27, sec. 34, p. 811; am. 1987, ch. 58, sec. 1, p. 104; am. 1992, ch. 57, sec. 1, p. 167; am. 1999, ch. 58, sec. 2, p. 148; am. 2016, ch. 268, sec. 2, p. 722.]

23-934B. FILING OF APPLICATION -- APPROVAL. Upon the filing of an application for an alcohol beverage catering permit, the city council or its designee, or county commissioners or their designee receiving the application shall, upon the advice and recommendation of the chief of police and chief of fire or sheriff, approve or disapprove the application and indicate the determination on the face of the application by endorsement signed by the clerk of the city or county. The chief of police and chief of fire are, or the sheriff is, authorized to endorse an application for an alcohol beverage catering permit with sufficient conditions to ensure public safety. Copies of the application with signed endorsements thereon shall be mailed, delivered by electronic mail or delivered immediately to the chief of police or sheriff, the director and the applicant, and a signed copy retained by the clerk. An application approved in this manner shall constitute an alcohol beverage catering permit.

[23-934B, added 1965, ch. 211, sec. 2, p. 484; am. 1970, ch. 258, sec. 2, p. 690; am. 1974, ch. 27, sec. 35, p. 811; am. 1987, ch. 58, sec. 2, p.

104; am. 1992, ch. 57, sec. 2, p. 168; am. 1999, ch. 58, sec. 3, p. 149; am. 2016, ch. 268, sec. 3, p. 723.]

23-934C. REGULATORY AND PENALTY PROVISIONS APPLICABLE. All of the regulatory and penal provisions of title 23, Idaho Code, shall apply to the exercise of alcohol beverage catering permits, including the penalties for violations thereof, except such provisions declared to be inapplicable to alcohol beverage catering permits by rules prescribed by the director of the Idaho state police; provided, however, the director shall have no power to declare inapplicable any of the provisions of section 23-927, Idaho Code.

[I.C., sec. 23-934C, as added by 1965, ch. 211, sec. 2, p. 484; am. 1999, ch. 58, sec. 4, p. 149; am. 2000, ch. 469, sec. 64, p. 1516.]

23-935. VIOLATION -- MISDEMEANORS. A violation of any of the provisions of this act by any agent, employee, servant, or other person in any way acting in behalf of the licensee shall be presumed to be a violation by the licensee. Any person violating any of the provisions of this act, except where a specific penalty is provided, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than the sum of one hundred dollars (\$100) nor more than the sum of three hundred dollars (\$300) or be imprisoned in the county jail for not less than thirty (30) days nor more than six (6) months, or both such fine and imprisonment. Any court in which a judgment of conviction against any licensee shall be entered shall forthwith certify a copy thereof to the director and the director shall thereupon give intended notice of revocation of any license to such convicted person.

[23-935, added 1947, ch. 274, sec. 32, p. 870; am. 1970, ch. 258, sec. 3, p. 690; am. 1974, ch. 27, sec. 36, p. 811.]

23-936. DUTY OF PUBLIC OFFICERS. It is hereby made the duty of the prosecuting attorneys, sheriffs, and all constables and peace officers of the counties or municipalities knowing of any violation of this act to make complaint before the proper tribunal and perform the duties of their offices with respect to the prosecution and conviction of such offenders. Any such officer knowingly refusing to inform against or prosecute any offender under the provisions of this act shall be subject to action against him as provided in chapter 41, title 19, Idaho Code.

[23-936, added 1947, ch. 274, sec. 33, p. 870; am. 1999, ch. 103, sec. 3, p. 328.]

23-937. VIOLATION A MORAL NUISANCE. Any violation of the provisions of this act or any rule or regulation of the director promulgated hereunder shall constitute a moral nuisance under the provisions of section 52-204, Idaho Code.

[23-937, added 1947, ch. 274, sec. 34, p. 870; am. 1974, ch. 27, sec. 37, p. 811.]

23-938. SELLING LIQUOR WITHOUT LICENSE -- PENALTY. Any person who sells or keeps for sale any liquor without a license as provided in this act shall be guilty of a felony and upon conviction thereof shall be fined not less than one thousand dollars (\$1,000) or [nor] more than five thousand dollars (\$5,000), or be imprisoned in the state prison for not less than one (1) year nor more than five (5) years, or both such fine and imprisonment.

[23-938, added 1947, ch. 274, sec. 35, p. 870.]

23-939. SEPARABILITY. If any clause, sentence, paragraph, section, or any part of this act, shall be declared and adjudged to be invalid and/or unconstitutional, such invalidity or unconstitutionality shall not affect, invalidate, or nullify the remainder of this act.

[23-939, added 1947, ch. 274, sec. 36, p. 870.]

23-940. ALCOHOL BEVERAGE CONTROL FUND. (1) There is hereby created in the state treasury the 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. Expenditures of moneys in the fund shall be subject to legislative appropriation for the use of the Idaho state police alcohol beverage control bureau in carrying out the provisions of title 23, Idaho Code, and the rules promulgated by the director thereunder. At the beginning of each fiscal year, those moneys in the alcohol beverage control fund that exceed two hundred percent (200%) of that fiscal year appropriation, as certified by the state treasurer, shall be transferred to the general fund.

(2) 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.

[23-940, added 1947, ch. 274, sec. 37, p. 870; am. 1974, ch. 27, sec. 38, p. 811; am. 2012, ch. 160, sec. 1, p. 435.]

23-941. DECLARATION OF PUBLIC POLICY. It is hereby declared that the intent of this act is to restrict persons under the ages herein specified from entering, remaining in or loitering in or about certain places, as herein defined, which are operated and commonly known as taverns, barrooms, taprooms and cocktail lounges and which do not come within the definition of restaurant as herein contained and are not otherwise expressly exempted from the restrictions herein contained.

[23-941, added 1955, ch. 195, sec. 1, p. 420.]

23-942. DEFINITIONS. The following definitions shall apply in the interpretation of the enforcement of this act:

(a) "Licensee" shall mean any person licensed to sell liquor by the drink at retail pursuant to the provisions of chapter 9, title 23, Idaho Code, and any person licensed to sell beer for consumption on the premises where sold pursuant to the provisions of chapter 10, title 23, Idaho Code, or county or municipal ordinance.

(b) "Place," as used in this act, means any room of any premises licensed for the sale of liquor by the drink at retail wherein there is a bar and liquor, bar supplies and equipment are kept and where beverages containing alcoholic liquor are prepared or mixed and served for consumption therein, and any room of any premises licensed for the sale of beer for consumption on the premises wherein there is a bar and beer, bar supplies and equipment are kept and where beer is drawn or poured and served for consumption therein.

(c) "Restaurant," as used in this act, means any restaurant, cafe, hotel dining room, coffee shop, cafeteria, railroad dining car or other eating establishment having kitchen and cooking facilities for the preparation of food and where hot meals are regularly served to the public.

[23-942, added 1955, ch. 195, sec. 2, p. 420.]

23-943. PERSONS UNDER SPECIFIED AGES FORBIDDEN TO ENTER, REMAIN IN OR LOITER AT CERTAIN LICENSED PLACES. No person under the age of twenty-one (21) years shall enter, remain in or loiter in or about any place, as herein defined, licensed for the sale of liquor by the drink at retail, or sale of beer for consumption on the premises; nor shall any licensee of either such place, or any person in charge thereof, or on duty while employed by the licensee therein, permit or allow any person under the age specified with respect thereto to remain in or loiter in or about such place.

Provided, however, it is lawful for persons who are musicians and singers eighteen (18) years of age or older, to enter and to remain in any place as defined in section 23-942, Idaho Code, but only during and in the course of their employment as musicians and singers. Provided further, that it is lawful for persons who are nineteen (19) years of age or older to sell, serve, possess or dispense liquor, beer or wine in the course of their employment in any place as defined in section 23-942, Idaho Code, or in any other place where liquor, beer or wine are lawfully present, so long as such place is the place of employment for such person under twenty-one (21) years of age. However the foregoing shall not permit the sale or distribution of any alcoholic beverages to any person under the ages specified for sale of alcoholic beverages.

[23-943, added 1955, ch. 195, sec. 3, p. 420; am. 1971, ch. 59, sec. 1, p. 134; am. 1972, ch. 330, sec. 5, p. 828; am. 1972, ch. 332, sec. 1, p. 834; am. 1987, ch. 212, sec. 6, p. 450.]

23-943A. IDENTIFICATION. It shall be a misdemeanor for any person to refuse to present identification indicating age, when requested by a peace officer of the state of Idaho when: (a) he or she shall possess, purchase, attempt to purchase or consume alcoholic liquor, as defined by section 23-105, Idaho Code; or (b) he or she shall possess, purchase, attempt to purchase or consume beer as defined by section 23-1001, Idaho Code; or (c) he or she is on a premises licensed to sell liquor by the drink at retail, or licensed to sell beer for consumption on the premises.

[23-943A, added 1977, ch. 264, sec. 1, p. 772.]

23-944. EXCEPTIONS FROM RESTRICTION ON ENTERING OR REMAINING. It shall not be unlawful for, nor shall section 23-943, Idaho Code, be construed to restrict, any person under the age of twenty-one (21) years from entering or being:

(1) Upon the premises of any restaurant, as herein defined, or in any railroad observation or club car or any airplane of a commercial airline, notwithstanding that such premises may also be licensed for the sale of liquor by the drink or for the sale of beer for consumption on the premises or that alcohol beverages, or beer, or both, are prepared, mixed or dispensed and served and consumed therein;

(2) In any building, a part or portion of which is used as a place, as herein defined, provided such place is separated or partitioned from the remainder of said building and access to such place through a doorway or doorways or other means of ingress can be controlled to prevent persons under the ages specified with respect thereto in section 23-943, Idaho Code, from entering therein;

(3) In any baseball park, sports arena, convention center, multipurpose arena, theater that is presenting live performances or fairgrounds, notwithstanding that such premises or any portion thereof may be licensed

for the sale of liquor by the drink, wine or beer for consumption on the premises or that such products are dispensed and served and consumed therein; provided, that the person under the age of twenty-one (21) years is attending a lawful activity, show, exhibition, performance or event on the premises or is required to be present as a condition of his employment. It is lawful for persons under the age of twenty-one (21) years to enter and remain in a baseball park, sports arena, convention center, multipurpose arena, theater that is presenting live performances or fairgrounds so long as the activity, show, exhibition, performance or event is lawful and the person does not violate section 23-949, Idaho Code;

(4) Upon the premises of any licensed brewery or winery notwithstanding that such premises or any portion thereof may also be licensed for the sale of beer or wine for consumption on the premises or that beer or wine is dispensed and served and consumed therein;

(5) Upon the licensed premises of a wine retailer, wholly owned and operated by a licensed winery which retails exclusively the products of that winery;

(6) At a location, other than a liquor, beer, or wine licensed premises, authorized to serve alcohol beverages under a valid alcohol beverage catering permit; or

(7) In any movie theater that is allowed to sell beer or wine for consumption on the premises pursuant to a valid license and which movie theater had a license that was valid and not suspended or revoked on January 1, 2006. No films, still pictures, electronic reproductions or other visual reproductions which are in violation of chapter 41, title 18, Idaho Code (indecentcy and obscenity), or are in violation of federal law regarding pornography, indecentcy or obscenity shall be shown or displayed on the premises. As used in this subsection, "movie theater" means a motion picture theater that is being utilized solely for exhibition of a motion picture.

[23-944, added 1955, ch. 195, sec. 4, p. 420; am. 1972, ch. 330, sec. 6, p. 828; am. 1972, ch. 332, sec. 2, p. 834; am. 1987, ch. 212, sec. 7, p. 451; am. 1990, ch. 320, sec. 1, p. 876; am. 1999, ch. 58, sec. 5, p. 149; am. 2000, ch. 361, sec. 1, p. 1198; am. 2003, ch. 111, sec. 2, p. 350; am. 2006, ch. 378, sec. 1, p. 1171; am. 2016, ch. 357, sec. 2, p. 1050.]

23-945. POSTING SIGNS AS TO RESTRICTION. Every licensee herein referred to shall keep a sign conspicuously posted over or near each entrance to any place from which persons under twenty-one (21) years are herein restricted giving public notice of such fact. The wording and size of such signs shall be in accordance with such regulations as the director may prescribe.

[23-945, added 1955, ch. 195, sec. 5, p. 420; am. 1972, ch. 330, sec. 7, p. 828; am. 1972, ch. 332, sec. 3, p. 834; am. 1974, ch. 27, sec. 39, p. 811; am. 1987, ch. 212, sec. 8, p. 451.]

23-946. STATEMENT MADE BY LICENSEES OF PREMISES OPERATED AS RESTAURANTS -- INDORSEMENT UPON LICENSE. (a) Every applicant for a state license for the sale of liquor by the drink or for the sale of beer for consumption on the premises claiming that the premises for which such license is sought constitute and are operated as a restaurant, as herein defined, shall, on each application for state license and on each application for renewal of license, state that such premises constitute and are operated as such restaurant. Upon issuance of state license for the sale of liquor by the

drink or for the sale of beer for consumption on the premises, for premises constituting and operated as a restaurant, the licensee of which has made the proper statement on the application, the director shall indorse on the face of the license the fact that it has been issued to a restaurant as herein defined. Unless such statement shall have been filed with the director and his said indorsement shall appear on the face of the license, the restrictions contained in section 23-943, Idaho Code, shall apply, notwithstanding that such premises may in fact constitute and be operated as a restaurant, and the posting of signs as provided for in section 23-945, Idaho Code, shall be required. The filing of any false statement on the application as herein required shall be grounds for suspension or revocation of license. If premises, licensed as a restaurant under this act, subsequently ceases to meet the qualifications of a restaurant, as defined in section 23-942, Idaho Code, the restrictions contained in section 23-943, Idaho Code, shall apply and the posting of signs as provided for in section 23-945, Idaho Code, shall be required. In such event the licensee shall advise the director, by mail, that his premises no longer constitute a restaurant, so that the license may be modified accordingly.

(b) The powers of the director to make, promulgate and publish rules and regulations as set forth in section 23-932, Idaho Code, shall apply to sections 23-941 to 23-946, Idaho Code.

[23-946, added 1955, ch. 195, sec. 5, p. 420; am. 1957, ch. 45, sec. 1, p. 80; am. 1974, ch. 27, sec. 40, p. 811; am. 1991, ch. 137, sec. 8, p. 324.]

23-947. VIOLATIONS OF ACT A MISDEMEANOR. The violation of any of the provisions of this act shall constitute a misdemeanor.

[23-947, added 1955, ch. 195, sec. 7, p. 420.]

23-948. WATERFRONT RESORTS -- LICENSING EVEN IF OUTSIDE CORPORATE LIMITS OF CITY. (a) Nothing contained in section 23-903, Idaho Code, shall prohibit the issuance of a license to the owner, operator or lessee of a waterfront resort, even if situated outside the incorporated limits of a city. The provisions of section 23-910, Idaho Code, shall apply to licenses issued under the provisions of this section. For the purpose of this section, a waterfront resort shall comprise real property with not less than two hundred (200) feet of lake frontage upon a lake or reservoir as defined by the army corps of engineers of not less than one hundred sixty (160) acres, or river frontage upon a river with at least an average six (6) months' flow of eleven thousand (11,000) cubic feet per second, and shall be open to the public, where people assemble for the purpose of vacationing, boating or fishing, and each waterfront resort must have suitable docks or permanent improved boat launching facilities not less than sixteen (16) feet in width on property owned or leased by the resort operator or on property contiguous thereto owned by this state or the federal government open to the public for recreational uses for the purpose of caring for vacationers, or other recreational users and either of the following:

- (1) Hotel or motel accommodations for not less than fifty (50) persons, including a full-service restaurant that serves regularly at least two (2) meals per day to the public during a continuous period of at least four (4) months per year; or
- (2) A building of not less than three thousand (3,000) square feet of public use floor space, including a full-service restaurant that

serves regularly at least two (2) meals per day to the public during a continuous period of at least four (4) months per year and paved or gravelled parking for fifty (50) automobiles on the operator's owned or leased property and any contiguous property upon which are the docks or boat launching facilities described above.

(b) The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code, unless said resort is located within the corporate limits of a city or village, in which case the license fee shall be the same as for other licensees within such corporate limits.

(c) The provisions of this section shall not be construed to interfere with the privileges of the holder of a lake resort license issued under this section prior to the effective date of this section.

(d) Licenses issued pursuant to this section shall remain valid and may be transferred according to the provisions of this chapter even if the lake, reservoir or river on which the waterfront resort is situated ceases to meet the requirements provided in subsection (a) of this section.

[23-948, added 1959, ch. 151, sec. 1, p. 348; am. 1967, ch. 123, sec. 1, p. 118; am. 1986, ch. 145, sec. 1, p. 407; am. 1988, ch. 333, sec. 1, p. 999; am. 2018, ch. 226, sec. 1, p. 517.]

23-949. PERSONS NOT ALLOWED TO SELL, SERVE OR DISPENSE BEER, WINE OR OTHER ALCOHOLIC LIQUOR. It is unlawful for any person under the age of twenty-one (21) years to sell, serve or dispense beer, wine or other alcoholic liquor; provided, however, that any person who is nineteen (19) years of age or older may sell, serve and dispense liquor, beer or wine in the course of his employment in any place as defined in section 23-942, Idaho Code, or other place where liquor, beer or wine is lawfully present so long as such place is the place of employment for such person under twenty-one (21) years of age.

For purposes of this section, a person who sells, serves or dispenses liquor, beer or wine in compliance with the provisions of this section shall not be deemed to "possess" alcohol in violation of section 23-604, Idaho Code.

Any person violating the provisions of this section shall be guilty and punished in accordance with section 18-1502, Idaho Code.

[23-949, added 1961, ch. 18, sec. 1, p. 21; am. 1972, ch. 330, sec. 8, p. 828; am. 1978, ch. 374, sec. 1, p. 980; am. 1981, ch. 222, sec. 4, p. 413; am. 1982, ch. 110, sec. 5, p. 313; am. 1987, ch. 212, sec. 9, p. 452; am. 2000, ch. 334, sec. 1, p. 1125; am. 2016, ch. 344, sec. 5, p. 990.]

23-950. RESTRICTION AGAINST TRANSFER OF LICENSE. (1) No license issued under the provisions of this chapter shall be renewed, transferred, assigned, leased or sold if:

(a) The state tax commission has notified the director and the licensee in writing that any tax imposed by chapters 30 and 36, title 63, Idaho Code, interest, penalty, and additional amount, which has accrued as a result of the operation of the licensed premises has been assessed as that term is defined in section 63-3045A, Idaho Code, against the licensee or any person operating the licensed premises with the permission of the licensee; or

(b) The department of labor has notified the director and the licensee in writing that a lien has been filed against the licensee or any person

operating the licensed premises with the permission of the licensee, as a result of the operation of the licensed premises securing amounts due pursuant to chapter 13, title 72, Idaho Code.

(2) At such time as the state tax commission or the department of labor has notified the director and licensee as herein provided, the license issued for the premises the operation of which has resulted in the accrual of the tax for which the warrant or lien is outstanding shall be subject to levy and distraint pursuant to chapter 30, title 63, Idaho Code, or seizure pursuant to section 72-1360A, Idaho Code.

[23-950, added 1981, ch. 6, sec. 1, p. 13; am. 1987, ch. 86, sec. 6, p. 164; am. 2005, ch. 5, sec. 1, p. 6; am. 2007, ch. 360, sec. 12, p. 1073.]

23-951. DISTILLED SPIRITS FUELS. (1) Any person, partnership, association or corporation registered to produce alcohol for use in motor fuels and in possession of a federal operating permit pursuant to title 27, code of federal regulations, part 201.131 - 201.138 or part 201.64, 201.65 shall not be deemed to be making alcoholic liquor within the meaning of section 23-105, Idaho Code, provided:

(a) Such person, partnership, association or corporation prior to commencing operation furnishes the Idaho state police with a true copy of the operating permit application described in title 27, code of federal regulations, part 201.137 or 201.65 and a true copy of the operating permit or other authorizing document;

(b) Such person, partnership, association or corporation faithfully complies with all security and supervision requirements of the federal government; and

(c) Alcohol possessed or produced under the federal operating permit is not used, sold or made available for human consumption.

(2) The Idaho state police shall maintain a list of persons, partnerships, associations or corporations in the state of Idaho who hold federal operating permits as described in subsection (1) of this section.

[(23-951) 23-950, added 1981, ch. 6, sec. 1, p. 13; am. 1987, ch. 86, sec. 6, p. 164; am. and redesignated 2000, ch. 469, sec. 65, p. 1516.]

23-952. CROSS-COUNTRY SKIING FACILITY -- LICENSING EVEN IF OUTSIDE CORPORATE LIMITS OF CITY. Nothing contained in law shall prohibit the issuance of a license to the owner, operator or lessee of an actual cross-country skiing facility if situated five (5) or more miles outside the corporate limits of a city. The provisions of section 23-910, Idaho Code, shall be applicable to licenses issued pursuant to this section. For the purposes of this section, a cross-country skiing facility shall comprise real property, open to the public, with not less than fifteen (15) miles of groomed cross-country skiing trails, and overnight accommodations for not less than twenty (20) persons. The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Not more than one (1) licensed premises shall be permitted on any cross-country skiing facility or within the area comprising the facility.

[23-952, added 1987, ch. 32, sec. 3, p. 54.]

23-953. RACING FACILITIES -- LICENSING. Nothing contained in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a racing facility, even if situated outside the incorporated

limits of a city. A "racing facility" means an actual, bona fide racing facility located on not less than twenty (20) contiguous acres with permanently erected seating of not less than one thousand (1,000) capacity, and which has a license to conduct pari-mutuel racing. The provisions of section 23-910, Idaho Code, shall apply to licenses issued under the provisions of this section. The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Licenses issued under the provisions of this section are not transferable.

[23-953, added 1988, ch. 287, sec. 1, p. 921.]

23-954. THEME PARKS -- LICENSING. Nothing contained in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a theme park, even if situated outside the incorporated limits of a city. A "theme park" means a facility located on not less than forty (40) contiguous acres, and permanently constructed for the purpose of conducting, presenting or providing activities and services normally related to family oriented entertainment and recreational programs, which is open to the public and which provides meeting facilities. The provisions of section 23-910, Idaho Code, shall apply to licenses issued under the provisions of this section. The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code.

[23-954, added 1988, ch. 307, sec. 1, p. 962.]

23-955. SPLIT OWNERSHIP FACILITY -- LICENSING. Nothing contained in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a premises that has been, because of a split in ownership of the original premises, separated from a ski resort facility or golf course already licensed under the provisions of section 23-903, Idaho Code. The provisions of section 23-910, Idaho Code, shall be applicable to licenses issued pursuant to this section. The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Licenses issued under the provisions of this section are not transferable.

[23-955, added 1994, ch. 432, sec. 1, p. 1396; am. 1995, ch. 145, sec. 1, p. 612; am. 2004, ch. 259, sec. 1, p. 734.]

23-956. CONTINUATION OF GOLF COURSE LIQUOR LICENSE FOLLOWING CHANGE OF LAND USE. Nothing contained in this chapter shall prohibit the issuance of a license to the owner, operator, or lessee of a premises previously licensed as a golf course under the provisions of section 23-903, Idaho Code, following termination of the golf course use and conversion of the premises to another use or uses, provided that the golf course was licensed as a golf course under the provisions of section 23-903, Idaho Code, for a minimum of twenty (20) years prior to such termination. The provisions of section 23-910, Idaho Code, shall be applicable to licenses issued pursuant to this section. The fees for licenses granted under the provisions of this section shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code, unless the premises is located within the incorporated limits of any city, in which case the fee shall be the same as that prescribed for a license in a city of that size as set forth in section 23-904, Idaho Code. Licenses issued under the provisions of this section are not trans-

ferable away from the premises. Upon termination of the golf course use, no part of the premises shall be eligible for the issuance of an additional license pursuant to section 23-955, Idaho Code, due to a split in ownership which occurs after such termination. The eligibility to obtain a license pursuant to this section following termination of the golf course use shall, in the event of a later split in ownership of the premises, be allocated to one (1) of the parcels resulting from such split, either by contract between the parties to the split or by grant or reservation in the deed of conveyance. In the event the contract between the parties or the deed of conveyance fails to specify which parcel retains eligibility under this section, eligibility shall be deemed to be retained by the parcel upon which is, or was, located the greater share of physical improvements at or within which alcohol was served prior to the split in ownership. Upon any further split of the parcel retaining eligibility to obtain a license pursuant to this section, the same restrictions shall apply to the new split in ownership and any future splits of the parcel retaining such eligibility, such that there shall never be more than one (1) license issued pursuant to this section for the land constituting the original golf course premises. Nothing in this section shall prohibit the issuance of a license to the owner, operator or lessee of any split-off parcel to the extent such parcel qualifies for a license under any other provision of this chapter.

[23-956, added 2005, ch. 357, sec. 2, p. 1128.]

23-957. YEAR-ROUND LIQUOR LICENSE. (1) Nothing in this chapter shall prohibit the issuance of not more than twelve (12) licenses to the owner, operator or lessee of beverage, lodging or dining facilities located and operated within the ownership or leasehold premises of a year-round resort.

(2) Nothing contained in this chapter shall prohibit the issuance of a license to the owner, operator or lessee of a golf course, ski resort, cross-country skiing facility or waterfront resort, as defined in sections 23-903, 23-903a and 23-948, Idaho Code, located within the ownership or leasehold premises of a year-round resort, provided that such license shall count against the maximum number of licenses allowed by subsection (1) of this section.

(3) No license issued to the owner, operator or lessee of beverage, lodging or dining facilities located and operated within the ownership or leasehold premises of a year-round resort shall be transferable to another location or facility located outside the ownership or leasehold premises of the year-round resort.

(4) The fees for licenses granted to the owner, operator or lessee of beverage, lodging or dining facilities located and operated within the ownership or leasehold premises of a year-round resort shall be the same as those prescribed for year-round resorts in section 23-904(10), Idaho Code.

(5) "Year-round resort" means a resort open to the public year around which offers all of the following within the ownership or leasehold premises of the resort:

- (a) Cross-country skiing on not less than thirty (30) kilometers of groomed cross-country skiing trails;
- (b) Alpine skiing on real property of not less than eight hundred fifty (850) acres, operating two (2) or more chair lifts with a vertical lift of two thousand eight hundred (2,800) feet or more, and having operating snowmaking equipment providing coverage to at least seventy-five (75) acres of skiing;

- (c) A golf course having:
- (i) No less than eighteen (18) holes with greens, fairways and tees laid out and used in the usual and regular manner of a golf course;
 - (ii) A total distance of seven thousand (7,000) yards as measured by totaling the tee-to-green distance of all holes; and
 - (iii) The course planted in grass;
- (d) Mountain bike activities which include at least twelve (12) miles of single track trails, chair lift served access to at least two thousand eight hundred (2,800) feet of vertical descent and a full service bike rental and repair facility; and
- (e) At least seventy (70) private residences and accommodations available to provide overnight lodging and dining facilities serving at least two (2) meals per day for at least five hundred (500) persons located within the ownership or leasehold premises of the resort.

[23-957, added 2006, ch. 449, sec. 2, p. 1334; am. 2008, ch. 178, sec. 2, p. 530.]