

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 134

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 23-902, IDAHO CODE, TO DE-
2 FINE A TERM; AND AMENDING SECTION 23-944, IDAHO CODE, TO PROVIDE THAT IT
3 SHALL NOT BE UNLAWFUL FOR ANY PERSON UNDER THE AGE OF TWENTY-ONE YEARS TO
4 ENTER OR BE IN A PLAZA UNDER CERTAIN CONDITIONS.
5

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

7 SECTION 1. That Section 23-902, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 23-902. DEFINITIONS. The following words and phrases used in this
10 chapter shall be given the following interpretation:

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

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

20 (b) A chapter, aerie, parlor, lodge or other local unit of an Ameri-
21 can national fraternal organization, which has, as the owner, lessee
22 or occupant, operated an establishment for fraternal purposes in this
23 state and actively operates in not less than thirty-six (36) states or
24 has been in continuous existence for not less than twenty (20) years;
25 and which has no fewer than fifty (50) bona fide members in each unit,
26 and which owns, maintains or operates club quarters, and is autho-
27 rized and incorporated to operate as a nonprofit club under the laws of
28 this state, and which has recognized tax exempt status under section
29 501(c) (8) or 501(c) (10) of the Internal Revenue Code, and has been con-
30 tinuously incorporated and operating for a period of not less than one
31 (1) year. The club shall have had, during that period of one (1) year,
32 a bona fide membership with regular meetings conducted at least once
33 each month, and the membership shall be and shall have been actively en-
34 gaged in carrying out the objects of the club. The club membership shall
35 consist of bona fide dues-paying members, recorded by the secretary of
36 the club, paying at least six dollars (\$6.00) per year in dues, payable
37 monthly, quarterly or annually; and the members at the time of applica-
38 tion for a club license shall be in good standing, having paid dues for
39 at least one (1) full year.

40 (2) "Convention" means a formal meeting of members, representatives,
41 or delegates, as of a political party, fraternal society, profession or in-
42 dustry.

- 1 (3) "Director" means the director of the Idaho state police.
- 2 (4) "Festival" means a period or program of festive activities, cul-
3 tural events or entertainment lasting three (3) or more consecutive days.
- 4 (5) "Gaming" means any and all gambling or games of chance defined in
5 chapters 38 and 49, title 18, Idaho Code, or any section or sections thereof,
6 whether those games are licensed or unlicensed.
- 7 (6) "Interdicted person" means a person to whom the sale of liquor is
8 prohibited under law.
- 9 (7) "License" means a license issued by the director to a qualified per-
10 son, under which it shall be lawful for the licensee to sell and dispense
11 liquor by the drink at retail, as provided by law.
- 12 (8) "Licensee" means the person to whom a license is issued under the
13 provisions of law.
- 14 (9) "Liquor" means all kinds of liquor sold by and in a state liquor
15 store of the state of Idaho.
- 16 (10) "Live performance" means a performance occurring in a theater and
17 not otherwise in violation of any provision of Idaho law.
- 18 (11) "Municipal license" means a license issued by a municipality of the
19 state of Idaho under the provisions of law.
- 20 (12) "Party" means a social gathering especially for pleasure or amuse-
21 ment and includes, but is not limited to, such social events as weddings,
22 birthdays, and special holiday celebrations to include, but not be limited
23 to, New Year's celebrations, Super Bowl Sunday, St. Patrick's Day, the
24 Fourth of July and Labor Day.
- 25 (13) "Person" means any individual, corporation, business corpora-
26 tion, nonprofit corporation, benefit corporation as defined in section
27 30-2002(1), Idaho Code, partnership, limited partnership, limited liabil-
28 ity company, general cooperative association, limited cooperative asso-
29 ciation, estate, unincorporated nonprofit association, statutory trust,
30 business trust, common-law business trust, estate trust, association,
31 joint venture, public corporation, government or governmental subdivision,
32 agency or instrumentality, any entity defined in section 30-21-102, Idaho
33 Code, or any other commercial entity, whether conducting the business sin-
34 gularly or collectively.
- 35 (14) "Plaza" means a public square, marketplace, or similar open space
36 in a city or town.
- 37 (15) "Premises" means the building and contiguous property owned or
38 leased or used under a government permit by a licensee, as part of the busi-
39 ness establishment in the business of sale of liquor by the drink at retail,
40 which property is improved to include decks, docks, boardwalks, lawns,
41 gardens, golf courses, ski resorts, courtyards, patios, poolside areas or
42 similar improved appurtenances in which the sale of liquor by the drink at
43 retail is authorized under the provisions of law.
- 44 (156) "Rules" means rules promulgated by the director in accordance
45 with the provisions of law.
- 46 (167) "State liquor store" means a liquor store or distributor estab-
47 lished under and pursuant to the laws of the state of Idaho for the package
48 sale of liquor at retail.

1 (178) "Theater" means a room, place or outside structure for perfor-
2 mances or readings of dramatic literature, plays or dramatic representa-
3 tions of an art form not in violation of any provision of Idaho law.

4 (189) "Brewery" means a place, premises or establishment for the manu-
5 facture, bottling or canning of beer.

6 (1920) "Winery" means a place, premises or establishment within the
7 state of Idaho for the manufacture or bottling of table wine or dessert wine
8 for sale. Two (2) or more wineries may use the same premises and the same
9 equipment to manufacture their respective wines, to the extent permitted by
10 federal law.

11 (201) All other words and phrases used in this chapter, the definitions
12 of which are not herein given, shall be given their ordinary and commonly un-
13 derstood and acceptable meanings.

14 SECTION 2. That Section 23-944, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 23-944. EXCEPTIONS FROM RESTRICTION ON ENTERING OR REMAINING. It
17 shall not be unlawful for, nor shall section 23-943, Idaho Code, be construed
18 to restrict, any person under the age of twenty-one (21) years from entering
19 or being:

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

26 (2) In any building, a part or portion of which is used as a place, as
27 herein defined, provided such place is separated or partitioned from the re-
28 mainder of said building and access to such place through a doorway or door-
29 ways or other means of ingress can be controlled to prevent persons under the
30 ages specified with respect thereto in section 23-943, Idaho Code, from en-
31 tering therein;

32 (3) In any baseball park, sports arena, convention center, multi-
33 purpose arena, theater, or plaza that is presenting live performances or
34 fairgrounds, notwithstanding that such premises or any portion thereof may
35 be licensed for the sale of liquor by the drink, wine or beer for consumption
36 on the premises or that such products are dispensed and served and consumed
37 therein; provided, that the person under the age of twenty-one (21) years is
38 attending a lawful activity, show, exhibition, performance or event on the
39 premises or is required to be present as a condition of his employment. It is
40 lawful for persons under the age of twenty-one (21) years to enter and remain
41 in a baseball park, sports arena, convention center, multipurpose arena,
42 theater that is presenting live performances or fairgrounds so long as the
43 activity, show, exhibition, performance or event is lawful and the person
44 does not violate section 23-949, Idaho Code;

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

1 (5) Upon the licensed premises of a wine retailer, wholly owned and op-
2 erated by a licensed winery which retails exclusively the products of that
3 winery;

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

7 (7) In any movie theater that is allowed to sell beer or wine for con-
8 sumption on the premises pursuant to a valid license and which movie theater
9 had a license that was valid and not suspended or revoked on January 1, 2006.
10 No films, still pictures, electronic reproductions or other visual repro-
11 ductions which are in violation of chapter 41, title 18, Idaho Code (inde-
12 cency and obscenity), or are in violation of federal law regarding pornogra-
13 phy, indecency or obscenity shall be shown or displayed on the premises. As
14 used in this subsection, "movie theater" means a motion picture theater that
15 is being utilized solely for exhibition of a motion picture.