

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 232

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ALCOHOL; AMENDING SECTION 23-1002, IDAHO CODE, TO REVISE PRO-
2 VISIONS REGARDING THE ALCOHOLIC CONTENT OF BEER; AMENDING SECTION
3 23-1008, IDAHO CODE, TO PROVIDE FOR A CERTAIN TAX, TO PROVIDE FOR REV-
4 ENUE DISTRIBUTION, AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING
5 SECTION 23-1319, IDAHO CODE, TO PROVIDE FOR THE DISTRIBUTION OF CERTAIN
6 REVENUE TO THE IDAHO GRAPE GROWERS AND WINE PRODUCERS ACCOUNT AND TO
7 MAKE TECHNICAL CORRECTIONS.
8

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

10 SECTION 1. That Section 23-1002, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 23-1002. ALCOHOLIC CONTENT. ~~(1)~~ Beer containing not more than ~~six~~
13 sixteen percent (16%) of alcohol by ~~weight~~ volume may be manufactured, im-
14 ported, and/or sold and distributed in and into this state or possessed
15 therein in the manner and under the conditions prescribed in this act and not
16 otherwise.

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

19 SECTION 2. That Section 23-1008, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 23-1008. TAX -- DISTRIBUTION -- RULES -- REPORTS. (1) A tax of four
22 dollars and sixty-five cents (\$4.65) per barrel of thirty-one (31) gal-
23 lons, and a like rate for any other quantity or fraction thereof, is hereby
24 levied and imposed ~~upon~~ on each and every barrel of beer containing not more
25 than five percent (5%) of alcohol by volume sold for use within the state of
26 Idaho. A tax of thirteen dollars and ninety-five cents (\$13.95) per barrel
27 of thirty-one (31) gallons, and a like rate for any other quantity or frac-
28 tion thereof, is hereby levied and imposed on each and every barrel of beer
29 containing more than five percent (5%) of alcohol by volume.

30 Any wholesaler who shall sell beer, upon which the tax herein imposed
31 has not been paid, and any person who shall purchase, receive, transport,
32 store or sell any beer upon which the tax herein imposed has not been paid,
33 shall be guilty of a misdemeanor, and any beer so purchased, received, trans-
34 ported, stored or possessed or sold shall be subject to seizure by the com-
35 mission, any inspector or investigator of the commission, or by any sheriff,
36 constable or other police officer, and the same may be removed and kept for
37 evidence. Upon conviction of any person for violation of the provisions of
38 this section, the said beer, and all barrels, kegs, cases, cartons and cans
39 containing the same, shall be forfeited to the state of Idaho, and, in addi-

1 tion, the person so convicted shall be subject to the other penalties in this
2 chapter prescribed.

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

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

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

20 (b) For revenue deriving from beer containing not more than five per-
21 cent (5%) of alcohol by volume, the balance remaining after distribut-
22 ing the amount in paragraph (a) of this subsection shall be distributed
23 as follows:

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

27 (ii) Thirty-three percent (33%) shall be distributed to the per-
28 manent building fund; and

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

30 (c) For revenue deriving from beer containing more than five percent
31 (5%) of alcohol by volume, the balance remaining after distributing the
32 amount in paragraph (a) of this subsection shall be distributed as fol-
33 lows:

34 (i) Twelve percent (12%) shall be distributed to the substance
35 abuse treatment fund created in section 23-408, Idaho Code;

36 (ii) In fiscal year 2022 only, one and one-half percent (1.5%)
37 shall be distributed to the Idaho hop grower's commission fund
38 created in section 22-3112, Idaho Code, and three and one-half
39 percent (3.5%) shall be distributed to the Idaho grape growers and
40 wine producers account created in section 54-3607, Idaho Code. In
41 fiscal year 2023 only, three and one-half percent (3.5%) shall be
42 distributed to the Idaho hop grower's commission fund, and one and
43 one-half percent (1.5%) shall be distributed to the Idaho grape
44 growers and wine producers account. In fiscal year 2024 and each
45 fiscal year thereafter, five percent (5%) shall be distributed to
46 the Idaho hop grower's commission fund; and

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

48 (3) The commission is empowered to prescribe rules:

49 (a) For reports by carriers for hire and also all other carriers owned
50 and/or employed, directly or indirectly, by out-of-state brewers,

1 dealers or other persons, of all deliveries of beer in and into the state
2 of Idaho, stating especially the origin and destination of the beer, the
3 quantity thereof, and also the names and addresses, respectively, of
4 the consignors and consignees.

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

8 SECTION 3. That Section 23-1319, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 23-1319. EXCISE TAX -- SALES INCLUDED -- REFUND FOR EXPORT SALES -- RE-
11 FUND FOR BREAKAGE OR SPOILAGE -- DISTRIBUTION OF REVENUE. Upon all wines sold
12 by a distributor or winery to a retailer or consumer and upon all wines sold
13 and shipped directly to Idaho state residents by an out-of-state wine manu-
14 facturer holding a wine direct shipper permit under section 23-1309A, Idaho
15 Code, for use within the state of Idaho pursuant to this chapter, there is
16 hereby imposed an excise tax of forty-five cents (45¢) per gallon. Sales of
17 wine by a distributor or winery for the purpose of and resulting in export of
18 wine from this state for resale outside this state shall be exempt from the
19 taxes on wine imposed by this chapter.

20 (a) Every sale of wine by a distributor to a retailer shall constitute
21 a sale of wine for resale or consumption in this state, whether the sale is
22 made within or without this state, and the distributor shall be liable for
23 the payment of taxes. In every sale of wine by a winery through any of its
24 licensed retail outlets, the winery shall be liable for payment of taxes im-
25 posed by this section.

26 (b) When wine has been destroyed by breakage or has spoiled or otherwise
27 become unfit for beverage purposes prior to payment of taxes on it, the dis-
28 tributor, upon satisfactory proof of destruction or spoilage, shall be enti-
29 tled to deduct from existing inventories, subject to tax, the amount of wine
30 so destroyed or spoiled.

31 (c) If the state tax commission determines that any amount due under
32 this chapter has been paid more than once or has been erroneously or il-
33 legally collected or computed, the commission shall set forth that fact
34 in its records, and the excess amount paid or collected may be credited on
35 any amount then due and payable to the commission from that person and any
36 balance refunded to the person by whom it was paid or to his successors,
37 administrators, or executors. The commission is authorized and the state
38 board of tax appeals is authorized to order the commission in proper cases
39 to credit or refund such amounts whether or not the payments have been made
40 under protest and certify the refund to the state board of examiners.

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

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

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

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

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

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

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

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

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

21 3. In fiscal year 2024 and thereafter, eighty-eight percent
22 (88%) based on the sale of Idaho wine.

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

25 (f) Any person who is not a distributor or winery but who makes, whether
26 as principal, agent, or broker, any sales of wine not otherwise taxed un-
27 der this section and not exempt from such tax, shall be liable for payment of
28 taxes imposed by this section. This subsection shall not impose tax on wine
29 sold pursuant to section 23-1336, Idaho Code.