

IN THE SENATE

SENATE BILL NO. 1171

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 23-902, IDAHO CODE, TO DE-
2 FINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-944,
3 IDAHO CODE, TO PROVIDE AN EXCEPTION FROM RESTRICTION ON ENTERING OR RE-
4 MAINTAINING UPON THE PREMISES OF A RETAIL WINE ESTABLISHMENT; AND AMENDING
5 SECTION 23-217, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE.
6

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

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

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

12 (1) "Brewery" means a place, premises, or establishment for the manu-
13 facture, bottling, or canning of beer.

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

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

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

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

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

5 (45) "Festival" means a period or program of festive activities, cul-
6 tural events or entertainment lasting three (3) or more consecutive days.

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

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

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

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

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

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

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

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

28 (134) "Person" means any individual, corporation, business corpora-
29 tion, nonprofit corporation, benefit corporation as defined in section
30 30-2002(1), Idaho Code, partnership, limited partnership, limited liabil-
31 ity company, general cooperative association, limited cooperative asso-
32 ciation, estate, unincorporated nonprofit association, statutory trust,
33 business trust, common-law business trust, estate trust, association,
34 joint venture, public corporation, government or governmental subdivision,
35 agency or instrumentality, any entity defined in section 30-21-102, Idaho
36 Code, or any other commercial entity, whether conducting the business sin-
37 gularly or collectively.

38 (145) "Plaza" means a public square, marketplace, or similar open space
39 in a city or town.

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

47 (17) "Retail wine establishment" means an establishment holding a re-
48 tail wine license issued pursuant to section 23-1306, Idaho Code, and which
49 establishment is maintained, advertised, and held out to the public as pri-
50 marily a wine shop where bottles, cases, or other sealed containers of wine

1 are sold at retail to consumers primarily for off-premises consumption. The
 2 licensee shall demonstrate to the director that at least forty percent (40%)
 3 of the establishment's gross sales are derived from sales of wine for off-
 4 premises consumption.

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

7 (179) "State liquor store" means a liquor store or distributor estab-
 8 lished under and pursuant to the laws of the state of Idaho for the package
 9 sale of liquor at retail.

10 ~~(1820)~~ "Theater" means a room, place or outside structure for perfor-
 11 mances or readings of dramatic literature, plays or dramatic representa-
 12 tions of an art form not in violation of any provision of Idaho law.

13 ~~(19) "Brewery" means a place, premises or establishment for the manu-~~
 14 ~~facture, bottling or canning of beer.~~

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

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

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

25 23-944. EXCEPTIONS FROM RESTRICTION ON ENTERING OR REMAINING. It
 26 shall not be unlawful for, nor shall section 23-943, Idaho Code, be construed
 27 to restrict, any person under the age of twenty-one (21) years from entering
 28 or being:

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

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

41 (3) In any baseball park, sports arena, convention center, multi-
 42 purpose arena, plaza, theater that is presenting live performances, or
 43 fairgrounds, notwithstanding that such premises or any portion thereof may
 44 be licensed for the sale of liquor by the drink, wine or beer for consumption
 45 on the premises or that such products are dispensed and served and consumed
 46 therein; provided, that the person under the age of twenty-one (21) years is
 47 attending a lawful activity, show, exhibition, performance or event on the
 48 premises or is required to be present as a condition of his employment. It is
 49 lawful for persons under the age of twenty-one (21) years to enter and remain

1 in a baseball park, sports arena, convention center, multipurpose arena,
2 plaza, theater that is presenting live performances, or fairgrounds as long
3 as the activity, show, exhibition, performance or event is lawful and the
4 person does not violate section 23-949, Idaho Code;

5 (4) Upon the premises of any licensed brewery or winery notwithstanding
6 that such premises or any portion thereof may also be licensed for the sale of
7 beer or wine for consumption on the premises or that beer or wine is dispensed
8 and served and consumed therein or upon the premises of a retail wine estab-
9 lishment licensed by the Idaho alcohol beverage control bureau to dispense
10 wine or beer by the glass;

11 (5) Upon the licensed premises of a wine retailer, wholly owned and op-
12 erated by a licensed winery that retails exclusively the products of that
13 winery;

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

17 (7) In any movie theater that is allowed to sell beer or wine for con-
18 sumption on the premises pursuant to a valid license and which movie the-
19 ater had a license that was valid and not suspended or revoked on January 1,
20 2006, or any other theater or movie theater built prior to January 1, 1950,
21 and listed on the national register of historic places. No films, still pic-
22 tures, electronic reproductions or other visual reproductions that are in
23 violation of chapter 41, title 18, Idaho Code (indecenty and obscenity), or
24 are in violation of federal law regarding pornography, indecenty or obscen-
25 ity shall be shown or displayed on the premises. As used in this subsection,
26 "movie theater" means a motion picture theater that is being utilized solely
27 for exhibition of a motion picture.

28 SECTION 3. That Section 23-217, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 23-217. SURCHARGE ADDED TO PRICE OF ALCOHOLIC LIQUOR AND ALL OTHER
31 MERCHANDISE SOLD -- COLLECTION AND REMISSION BY DIRECTOR. (1) The director
32 of the division is hereby authorized and directed to include in the price
33 of alcoholic liquor and all other merchandise sold in the division, and its
34 branches, a surcharge equal to two percent (2%) of the current price per unit
35 computed to the nearest multiple of five cents (5¢).

36 (2) After the price of the surcharge has been included, the director of
37 the division is hereby authorized and directed to allow a discount of five
38 percent (5%) from the price of each order of alcoholic liquor and all other
39 merchandise sold to any licensee, as defined in section 23-902~~(8)~~, Idaho
40 Code.

41 (3) The surcharge imposed pursuant to this section shall be collected
42 and credited monthly to the drug court, mental health court and family court
43 services fund, as set forth in section 1-1625, Idaho Code.