

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 597, As Amended in the Senate

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO BREWERIES; AMENDING SECTION 23-902, IDAHO CODE, TO DEFINE "BREW-  
2 ERY" AND "WINERY"; AND AMENDING SECTION 23-944, IDAHO CODE, TO ALLOW  
3 PERSONS UNDER TWENTY-ONE YEARS OF AGE TO ENTER OR BE ON THE PREMISES OF  
4 A LICENSED BREWERY WHERE BEER IS CONSUMED ON THE PREMISES AND TO MAKE  
5 TECHNICAL CORRECTIONS.  
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) "Club" includes any of the following organizations where the sale  
13 of spirituous liquor for consumption on the premises is made to members and  
14 to bona fide guests of members only:

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

21 (b) A chapter, aerie, parlor, lodge or other local unit of an Ameri-  
22 can national fraternal organization, which has as the owner, lessee  
23 or occupant, operated an establishment for fraternal purposes in this  
24 state and actively operates in not less than thirty-six (36) states or  
25 has been in continuous existence for not less than twenty (20) years;  
26 and which has not less than fifty (50) bona fide members in each unit,  
27 and which owns, maintains or operates club quarters, and is autho-  
28 rized and incorporated to operate as a nonprofit club under the laws of  
29 this state, and which has recognized tax exempt status under section  
30 501(c) (8) or 501(c) (10) of the Internal Revenue Code, and has been con-  
31 tinuously incorporated and operating for a period of not less than one  
32 (1) year. The club shall have had during that period of one (1) year, a  
33 bona fide membership with regular meetings conducted at least once each  
34 month, and the membership shall be and shall have been actively engaged  
35 in carrying out the objects of the club. The club membership shall  
36 consist of bona fide dues paying members, recorded by the secretary of  
37 the club, paying at least six dollars (\$6.00) per year in dues, payable  
38 monthly, quarterly or annually; and the members at the time of applica-  
39 tion for a club license shall be in good standing, having paid dues for  
40 at least one (1) full year.

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

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

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

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

10 (6) "License" means a license issued by the director to a qualified per-  
11 son, under which it shall be lawful for the licensee to sell and dispense  
12 liquor by the drink at retail, as provided by law.

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

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

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

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

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

26 (12) "Person" means every individual, partnership, corporation, organ-  
27 ization, or association holding a retail liquor license, whether conducting  
28 the business singularly or collectively.

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

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

38 (15) "State liquor store" means a liquor store or distributor estab-  
39 lished under and pursuant to the laws of the state of Idaho for the package  
40 sale of liquor at retail.

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

44 (17) "Brewery" means a place, premises or establishment within the  
45 state of Idaho for the manufacture, bottling or canning of beer for sale.

46 (18) "Winery" means a place, premises or establishment within the state  
47 of Idaho for the manufacture or bottling of table wine or dessert wine for  
48 sale. Two (2) or more wineries may use the same premises and the same equip-  
49 ment to manufacture their respective wines, to the extent permitted by fed-  
50 eral law.

1 (179) All other words and phrases used in this chapter, the definitions  
 2 of which are not herein given, shall be given their ordinary and commonly un-  
 3 derstood and acceptable meanings.

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

6 23-944. EXCEPTIONS FROM RESTRICTION ON ENTERING OR REMAINING. It  
 7 shall not be unlawful for, nor shall section 23-943, Idaho Code, be construed  
 8 to restrict, any person under the age of twenty-one (21) years from entering  
 9 or being:

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

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

22 (3) ~~In~~ any baseball park, sports arena, convention center, multipur-  
 23 pose arena, theater that is presenting live performances or fairgrounds,  
 24 notwithstanding that such premises or any portion thereof may be licensed  
 25 for the sale of liquor by the drink, wine or beer for consumption on the  
 26 premises or that such products are dispensed and served and consumed  
 27 therein; provided, that the person under the age of twenty-one (21) years is  
 28 attending a lawful activity, show, exhibition, performance or event on the  
 29 premises or is required to be present as a condition of his employment. It is  
 30 lawful for persons under the age of twenty-one (21) years to enter and remain  
 31 in a baseball park, sports arena, convention center, multipurpose arena,  
 32 theater that is presenting live performances or fairgrounds so long as the  
 33 activity, show, exhibition, performance or event is lawful and the person  
 34 does not violate section 23-949, Idaho Code;~~i~~

35 (4) ~~Upon~~ the premises of any licensed brewery or winery notwithstand-  
 36 ing that such premises or any portion thereof may also be licensed for the  
 37 sale of beer or wine for consumption on the premises or that beer or wine is  
 38 dispensed and served and consumed therein;~~i~~

39 (5) ~~Upon~~ the licensed premises of a wine retailer, wholly owned and op-  
 40 erated by a licensed winery which retails exclusively the products of that  
 41 winery;~~i~~

42 (6) ~~At~~ a location, other than a liquor, beer, or wine licensed  
 43 premises, authorized to serve alcohol beverages under a valid alcohol bever-  
 44 age catering permit;~~i~~ or

45 (7) ~~In~~ any movie theater that is allowed to sell beer or wine for con-  
 46 sumption on the premises pursuant to a valid license and which movie theater  
 47 had a license that was valid and not suspended or revoked on January 1, 2006.  
 48 No films, still pictures, electronic reproductions or other visual repro-  
 49 ductions which are in violation of chapter 41, title 18, Idaho Code (inde-

1 cency and obscenity), or are in violation of federal law regarding pornogra-  
2 phy, indecency or obscenity shall be shown or displayed on the premises. As  
3 used in this subsection, "movie theater" means a motion picture theater that  
4 is being utilized solely for exhibition of a motion picture.