

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 157

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ALCOHOL; AMENDING SECTION 23-944, IDAHO CODE, TO PROVIDE AN  
2 EXCEPTION FOR CERTAIN THEATERS AND TO MAKE TECHNICAL CORRECTIONS; AND  
3 AMENDING SECTION 23-1010, IDAHO CODE, TO PROVIDE FOR CERTAIN MOVIE THE-  
4 ATERS AND TO MAKE TECHNICAL CORRECTIONS.  
5

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

7 SECTION 1. That Section 23-944, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

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

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

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

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

38 (4) Upon the premises of any licensed brewery or winery notwithstanding  
39 that such premises or any portion thereof may also be licensed for the sale of  
40 beer or wine for consumption on the premises or that beer or wine is dispensed  
41 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~~ that retails exclusively the products of  
 3 that winery;

4 (6) At a location, other than a liquor, beer, or wine licensed premises,  
 5 authorized to serve ~~alcohol~~ alcoholic beverages under a valid alcohol beverage  
 6 catering 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 or any other theater or movie theater built prior to January 1, 1950, and  
 11 listed on the national register of historic places. No films, still pic-  
 12 tures, electronic reproductions or other visual reproductions ~~which~~ that  
 13 are in violation of chapter 41, title 18, Idaho Code (indecent and obscen-  
 14 ity), or are in violation of federal law regarding pornography, indecency  
 15 or obscenity shall be shown or displayed on the premises. As used in this  
 16 subsection, "movie theater" means a motion picture theater that is being  
 17 utilized solely for exhibition of a motion picture.

18 SECTION 2. That Section 23-1010, Idaho Code, be, and the same is hereby  
 19 amended to read as follows:

20 23-1010. LICENSE TO SELL BEER AT RETAIL -- APPLICATION PROCEDURE AND  
 21 FORM -- SHOWING OF ELIGIBILITY FOR LICENSE AND DISQUALIFICATIONS. (1) Every  
 22 person who shall apply for a state license to sell beer at retail shall tender  
 23 the license fee to, and file written application for license with, the direc-  
 24 tor. The application shall be on a form prescribed by the director ~~which~~ that  
 25 shall require such information concerning the applicant, the premises for  
 26 which license is sought and the business to be conducted thereon by the ap-  
 27 plicant as the director may deem necessary or advisable, and which shall en-  
 28 able the director to determine that the applicant is eligible and has none of  
 29 the disqualifications for license, as provided for in this section. If the  
 30 applicant is applying for a license solely for a theater that is presenting  
 31 live performances as those terms are defined in section 23-1001, Idaho Code,  
 32 or a movie theater, as defined in section 23-944, Idaho Code, built prior to  
 33 January 1, 1950, and listed on the national register of historic places, the  
 34 application shall so state. Such information shall include the following:

35 (a) The name and place of residence of the applicant and length of his  
 36 residence within the state of Idaho, ~~and,~~ if the applicant is a partner-  
 37 ship, the names, places of residence and lengths of residence within the  
 38 state of Idaho of each partner, ~~and,~~ if the applicant is a corporation or  
 39 association, the date and place of incorporation or organization, the  
 40 location of its principal place of business in Idaho and the names and  
 41 places of residence of its officers, directors or members of its govern-  
 42 ing board, ~~and~~ of the person who manages or will manage the business of  
 43 selling beer at retail;

44 (b) The particular place for which the license is desired, designating  
 45 the same by a street and number, if practicable, or by such other apt de-  
 46 scription as definitely locates such place, and the name of the owner of  
 47 the premises for which license is sought;

48 (2) The application shall affirmatively show:

1 (a) That the applicant is the bona fide owner of the business ~~which that~~  
2 will be engaged in the sale of beer at retail and with respect to which  
3 license is sought;

4 (b) That the condition of the place or building wherein it is proposed  
5 to sell beer at retail conforms to all laws and rules of the state of  
6 Idaho and to the ordinances of the county and municipality applicable  
7 thereto relating to public health and safety and to the zoning ordi-  
8 nances of the municipality applicable thereto;

9 (c) That there is no stamp or permit outstanding and in force ~~which~~  
10 that has been issued to any person by the United States government for  
11 the premises for which license to sell beer at retail is sought, which  
12 stamp or permit denotes payment of any special tax imposed by the United  
13 States government on a retail dealer in liquor or wines, unless said  
14 premises are premises for which a retail license for sale of liquor by  
15 the drink, issued under the provisions of chapter 9, title 23, Idaho  
16 Code, is in force and effect;

17 (d) That the individual applicant, or each partner of a partnership  
18 applicant, or a corporation applicant or an association applicant is  
19 qualified to do business within the state of Idaho;

20 (e) That the applicant, if an individual, is not less than nineteen (19)  
21 years of age;

22 (f) That, within three (3) years immediately preceding the date of  
23 filing the application, the applicant has not been convicted of the vio-  
24 lation of any law of the state of Idaho, any other state, or of the United  
25 States, regulating, governing or prohibiting the sale, manufacture,  
26 transportation or possession of alcoholic beverages or intoxicating  
27 liquors, or, within said time, suffered the forfeiture of a bond for  
28 failure to appear in answer to charges of any such violation;

29 (g) That, within five (5) years immediately preceding the date of fil-  
30 ing the application, the applicant has not been convicted of any felony  
31 or paid any fine or completed any sentence of confinement therefor  
32 within said time;

33 (h) That, within three (3) years next preceding the date of filing said  
34 application, the applicant has not had any license provided for herein,  
35 or any license or permit issued to the applicant pursuant to the law  
36 of this state, or any other state, or of the United States, to sell,  
37 manufacture, transport or possess alcoholic beverages or intoxicating  
38 liquors, revoked.

39 (3) To determine qualification for a license, the director shall also  
40 cause an investigation ~~which that~~ shall include a fingerprint-based crimi-  
41 nal history check of the Idaho central criminal history database and the fed-  
42 eral bureau of investigation criminal history database. Each person listed  
43 as an applicant on an initial application shall submit a full set of finger-  
44 prints and the fee to cover the cost of the criminal history background check  
45 for such person with the application.

46 (4) The affirmative showing required with respect to an applicant under  
47 paragraphs (e), (f), (g) and (h) of subsection (2) of this section shall also  
48 be required to be made with respect to each partner of a partnership appli-  
49 cant and to each incumbent officer, director or member of the governing board  
50 of a corporation or association applicant.

1           (5) The application must be subscribed and sworn to by the individual  
2 applicant, or by a partner of a partnership applicant, or by an officer or  
3 manager of a corporation or association applicant, before a notary public or  
4 other person authorized by law to administer oaths.

5           (6) If an applicant shall be unable to make any affirmative showing re-  
6 quired in this section or if an application shall contain a false material  
7 statement, knowingly made, the same shall constitute a disqualification for  
8 license and license shall be refused. If license is received on any appli-  
9 cation containing a false material statement, knowingly made, such license  
10 shall be revoked. If at any time during the period for which license is is-  
11 sued, a licensee becomes unable to make the affirmative showings required by  
12 this section, license shall be revoked, or, if disqualification can be re-  
13 moved, the license shall be suspended until the same shall be removed. The  
14 procedure to be followed upon refusal, revocation or suspension of license  
15 as herein provided for shall be in accordance with the procedure set forth in  
16 this act.

17           (7) All licenses shall expire at 1:00 ~~o'clock~~ a.m. on the first day of  
18 the renewal month, which shall be determined by the director by administra-  
19 tive rule and shall be subject to annual renewal upon proper application.  
20 The director will determine the renewal month by county based on the num-  
21 ber of current licenses within each county, distributing renewals through-  
22 out the licensing year. The director may adjust the renewal month to accom-  
23 modate population increases. Each licensee will be issued a temporary li-  
24 cense to operate until ~~their~~ the renewal month has been determined. There-  
25 after, renewals will occur annually on their renewal month. Renewal appli-  
26 cations for licenses accompanied by the required fee must be filed with the  
27 director on or before the first day of the designated renewal month. Any  
28 licensee holding a valid license who fails to file an application for re-  
29 newal of the current license on or before the first day of the designated re-  
30 newal month shall have a grace period of an additional thirty-one (31) days  
31 in which to file an application for renewal of the license. The licensee  
32 shall not be permitted to sell beer at retail during the thirty-one (31) day  
33 extended time period unless and until the license is renewed.