

IN THE SENATE

SENATE BILL NO. 1421

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO LIQUOR; AMENDING SECTION 23-903, IDAHO CODE, TO REVISE PROVI-
2 SIONS REGARDING A LICENSE TO RETAIL LIQUOR AND TO ESTABLISH PROVISIONS
3 REGARDING THE TRANSFER AND ISSUANCE OF A LICENSE; AND DECLARING AN EMER-
4 GENCY AND PROVIDING AN EFFECTIVE DATE.
5

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

7 SECTION 1. That Section 23-903, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 23-903. LICENSE TO RETAIL LIQUOR. (1) The director of the Idaho state
10 police is hereby empowered, authorized, and directed to issue licenses to
11 qualified applicants, as provided in this chapter, whereby the licensee
12 shall be authorized and permitted to sell liquor by the drink at retail,
13 and, upon the issuance of such license, the licensee shall be authorized to
14 sell liquor at retail by the drink, but only in accordance with the rules
15 promulgated by the director and the provisions of this chapter. No license
16 shall be issued for the sale of liquor on any premises outside the incorpo-
17 rated limits of any city except as provided in this chapter, and the number
18 of licenses so issued for any city shall not exceed one (1) license for each
19 one thousand five hundred (1,500) of population of said city or fraction
20 thereof, as established in the last preceding census, or any subsequent spe-
21 cial census conducted by the United States census bureau or by an estimate
22 that is statistically valid including adding the number of new residential
23 utility connections or including adding the population of areas annexed into
24 the city after the last census or special census was conducted, except that
25 upon proper application thereof not more than two (2) licenses may be issued
26 for each incorporated city with a population of one thousand five hundred
27 (1,500) or less, unless the retail licensing of liquor by the drink has been
28 previously disapproved under the provisions of sections 23-917, 23-918,
29 23-919, 23-920 and 23-921, Idaho Code; provided however, that any license
30 heretofore issued may be renewed from year to year without regard to the pop-
31 ulation or status of the city for which such license is issued. Any license
32 issued that has remained in effect at its location for a consecutive period
33 of ten (10) years or more shall be deemed to have been validly issued and may
34 be renewed from year to year, provided that the applicant for the renewal of
35 such license is not otherwise disqualified for licensure pursuant to section
36 23-910, Idaho Code, and, if the premises required special characteristics
37 for original licensure, other than being either within or without the incor-
38 porated limits of a city, that said premises continue to have such special
39 characteristics at the time of the application for renewal.

40 (2) Nothing in this chapter shall prohibit the issuance of a license to
41 the owner, operator, or lessee of an actual bona fide golf course whether lo-
42 cated within or without the limits of any city, or located on premises also

1 operated as a winery or ski resort, or to the lessee of any premises situ-
2 ate thereon, whether located within or without the limits of any city. For
3 the purpose of this section, a golf course shall comprise an actual bona fide
4 golf course, which is regularly used for the playing of the game of golf, hav-
5 ing not less than nine (9) tees, fairways, and greens laid out and used in the
6 usual and regular manner of a golf course. Nine (9) hole courses must have a
7 total yardage of at least one thousand (1,000) yards, and eighteen (18) hole
8 courses must have a total yardage of at least two thousand (2,000) yards as
9 measured by totaling the tee-to-green distance of all holes. The course must
10 be planted in grass except that it may provide artificial tee mats. Where any
11 such golf course is owned or leased by an association of members and is used
12 or enjoyed by such members or their guests, none of the disqualifications
13 contained in section 23-910, Idaho Code, shall apply to such association as
14 a licensee where such disqualifications, or any of them, would apply only to
15 a member of such association where such member has no interest therein except
16 as a member thereof. Provided, a building that is located on a lake of not
17 less than one hundred sixty (160) acres with not less than two hundred (200)
18 feet of lake frontage, owned or leased and operated exclusively by an actual
19 bona fide golf course licensed for the sale of liquor by the drink, as oth-
20 erwise defined in this subsection, located not more than five tenths (.5) of
21 a mile from the golf course exterior boundaries, and accessible by that golf
22 course by private or public roadway or right-of-way shall be deemed part of
23 and contiguous to the licensed golf course premises for purposes of the sale
24 of liquor by the drink upon such premises.

25 (3) For purposes of this section, a ski resort shall comprise real prop-
26 erty of not less than ten (10) acres in size, exclusive of the terrain used
27 for skiing and upon which the owner, operator, or lessee of the ski resort has
28 made available himself or through others, including but not limited to the
29 owners of condominiums, permanent bona fide overnight accommodations avail-
30 able to the general public for one hundred (100) persons or more, and which
31 real property is contiguous to or located within the area in which skiing oc-
32 curs and is regularly operated as a ski resort in the wintertime where the
33 owner, operator, or lessee of the ski resort is also the owner, operator, or
34 lessee of the area served by a bona fide chair ski lift facility or facili-
35 ties. Alternatively, for the purpose of this section, a ski resort may also
36 be defined as a downhill ski area, open to the public, comprising real prop-
37 erty of not less than two hundred fifty (250) skiable acres, operating two
38 (2) or more chairlifts with a vertical lift of one thousand (1,000) feet or
39 more, and capable of transporting a minimum of one thousand eight hundred
40 (1,800) skiers per hour. A ski resort qualifying under this definition shall
41 also have on the premises a lodge facility providing shelter and food ser-
42 vice to the public, the operator of which shall also be the valid owner or
43 lessee of the grounds and facilities upon which the ski resort offers down-
44 hill skiing services to the public. The fees for licenses granted to ski re-
45 sorts shall be the same as those prescribed for golf courses as set forth in
46 section 23-904, Idaho Code. Not more than one (1) licensed premises shall be
47 permitted on any golf course or any ski resort or within the area comprising
48 the same.

49 (4) Nothing in this chapter shall prohibit the issuance of a license to
50 the owner, operator, or lessee of an actual bona fide equestrian facility lo-

1 cated on not less than forty (40) contiguous acres, with permanently erected
2 seating of not less than six thousand (6,000) seats, no part of which eques-
3 trian facility or the premises thereon is situate within the incorporated
4 limits of any city, and which facility shall have at least three (3) days per
5 year of a professionally sanctioned rodeo. Not more than one (1) licensed
6 premises shall be permitted at any equestrian facility or within an area com-
7 prising such a facility. The fees for licenses granted to equestrian facil-
8 ities shall be the same as those prescribed for golf courses as set forth in
9 section 23-904, Idaho Code.

10 (5) Nothing in this chapter shall prohibit the issuance of a license to
11 the owner, operator, or lessee of a restaurant operated on an airport owned
12 or operated by a county or municipal corporation or on an airport owned or
13 operated jointly by a county and municipal corporation, and which said air-
14 port is served by a trunk or local service air carrier holding a certificate
15 of public convenience and necessity issued by the civil aeronautics board of
16 the United States of America. Not more than one (1) license shall be issued
17 on any airport.

18 (6) Nothing in this chapter shall prohibit the issuance of one (1) club
19 license to a club as defined in section 23-902, Idaho Code. The holder of
20 a club license is authorized to sell and serve alcoholic beverages for con-
21 sumption only within the licensed establishment owned, leased, or occupied
22 by the club and only to bona fide members of the club and to bona fide mem-
23 bers' guests. A club license issued pursuant to the provisions of this sec-
24 tion is not transferable and may not be sold. Any club license issued pur-
25 suant to the provisions of this section will revert to the director when, in
26 his judgment, the licensee ceases to operate as a bona fide club as defined
27 in section 23-902, Idaho Code. No club may hold a liquor license and a club
28 license simultaneously. A club that on July 1, 1983, holds a liquor license
29 may continue to possess that license. Any club that possesses a liquor li-
30 cense on January 1, 1983, or thereafter, and then sells that liquor license,
31 may not obtain a club license, and the director shall not issue a club li-
32 cense to that club for a period of five (5) years following such sale. The
33 fee for any license issued to a qualifying club within an incorporated mu-
34 nicipality shall be as prescribed in subsections (1), (2) and (3) of sec-
35 tion 23-904, Idaho Code. The fee for any license issued to a qualifying club
36 not situate within an incorporated municipality shall be as specified for
37 golf courses under section 23-904(6), Idaho Code. The provisions of section
38 23-916, Idaho Code, regarding county and city licenses shall pertain to club
39 licenses. The burden of producing sufficient documentation of qualifica-
40 tions for club licensure shall be with the club applicant.

41 (7) Nothing in this chapter to the contrary shall prohibit the issuance
42 of a license to the owner, operator, or lessee of an actual bona fide conven-
43 tion center that is within the incorporated limits of a city having a pop-
44 ulation of three thousand (3,000) or greater, and which city does not have
45 located therein a convention center with a valid convention center license
46 to sell liquor by the drink. For the purpose of this section, a convention
47 center means a facility having at least thirty-five thousand (35,000) square
48 feet of floor space or a facility having at least one hundred twenty (120)
49 sleeping rooms and an adjoining meeting room that will accommodate not less
50 than three hundred fifty (350) persons, whether or not such room may be par-

1 tioned into smaller rooms, and provided that such meeting room shall con-
2 tain at least three thousand (3,000) square feet of floor space. Such li-
3 cense must be placed in actual use in said convention center within one (1)
4 year from the date of its issuance. The fee for any license issued to a qual-
5 ifying convention center shall be as prescribed in subsection (3) of section
6 23-904, Idaho Code. The holder of a convention center license shall not be
7 eligible for the issuance of a license in the same city pursuant to any other
8 provision of this chapter. For purposes of this section, the term "holder"
9 shall include an owner, operator, or lessee and shall include a stockholder,
10 director, or officer of a corporation or a partner in a partnership, which
11 corporation or partnership has been issued a convention center license pur-
12 suant to this chapter. Not more than one (1) licensed premises shall be per-
13 mitted on any convention center or within the area comprising the same, in-
14 cluding convention centers that also comprise golf courses or ski resorts as
15 defined in this section.

16 (8) If an owner, operator, or lessee has a validly issued retail liquor
17 by the drink license at the time of application, nothing in this chapter
18 shall prohibit the issuance of a license to the owner, operator, or lessee
19 of a food, beverage, and/or lodging facility that has been in continuous
20 operation in the same location for at least seventy-five (75) years, except
21 for temporary closings for refurbishing or reconstruction, or a food, bever-
22 age, and lodging facility serving the public by reservation only, having a
23 minimum of five (5) rooms operating in a structure that has been in existence
24 for at least seventy-five (75) years and has been on the historic register
25 for a minimum of ten (10) years, is situated within five hundred (500) yards
26 of a natural lake containing a minimum of thirty-six thousand (36,000) acre
27 feet of water when full with a minimum of thirty-two (32) miles of shoreline,
28 and is located in a county with a minimum population of sixty-five thousand
29 (65,000). The provisions of section 23-910, Idaho Code, shall apply to li-
30 censes issued to continuous operation facilities. The fees shall be the same
31 as those prescribed for golf courses as set forth in section 23-904, Idaho
32 Code. No license shall be issued under this subsection on or after July 1,
33 2028.

34 (9) Nothing in this chapter shall prohibit the issuance of a license
35 to a federally recognized Indian tribe as defined in section 67-4001, Idaho
36 Code, which is an owner, operator, or lessee of a food, conference, and lodg-
37 ing facility located within the boundaries of the Indian tribe's reservation
38 and containing a minimum of thirty-five thousand (35,000) square feet and
39 fifty (50) guest rooms. Licenses issued to Indian tribes are not transfer-
40 able.

41 (10) Nothing in this chapter shall prohibit the issuance of a license
42 to the owner, operator, or lessee of the lodging, dining, and entertainment
43 facilities owned by a gondola resort complex and operated in conjunction
44 with the other public services provided by a gondola resort complex located
45 within the ownership/leasehold boundaries of a gondola resort complex. For
46 purposes of this subsection, a gondola resort complex means an actual bona
47 fide gondola capable of transporting people for recreational or entertain-
48 ment purposes at least three (3) miles in length with a vertical rise of three
49 thousand (3,000) feet, portions of which may be located within or over the
50 limits of one (1) or more cities.

1 (11) Nothing in this chapter shall prohibit the issuance of a license to
2 the owner, operator, or lessee of a winery also operating a golf course on the
3 premises.

4 (12) Subject to approval of the mayor and city council, nothing in this
5 chapter shall prohibit the issuance of a license to the owner, operator, or
6 lessee of a food, conference, and lodging facility constructed after May 1,
7 2000, containing a minimum of thirty-five thousand (35,000) square feet and
8 fifty-five (55) guest rooms with a minimum taxable value of three million
9 dollars (\$3,000,000) in a city with a population of less than five thousand
10 (5,000) according to the most recent census.

11 (13) Nothing in this chapter shall prohibit the issuance of a license
12 to the owner, operator, or lessee of a conference and event center that is
13 within the city limits of a resort city as defined in section 50-1044, Idaho
14 Code, that has enacted local option nonproperty taxes in accordance with
15 section 50-1046, Idaho Code, including, at the time of issuance, a resort
16 city tax on sales of liquor by the drink, wine, and beer sold at retail for
17 consumption on the licensed premises. There shall be only one (1) conference
18 and event center license to sell liquor by the drink issued per resort city
19 pursuant to this subsection. For the purposes of this section, a confer-
20 ence and event center means facilities situated on premises consisting of a
21 building or buildings and the contiguous property owned or leased and under
22 common ownership or control by the licensee. Such facilities must provide
23 no less than four thousand (4,000) square feet of enclosed space for confer-
24 ence and event purposes, exclusive of space dedicated by the licensee to the
25 commercial kitchen. The commercial kitchen must include a type 1 commercial
26 hood and cooking equipment, exclusive of microwave ovens and grills. The
27 fee for any license issued to a qualifying licensee shall be as prescribed
28 in section 23-904(1), (2), or (3), Idaho Code, depending on the population
29 of the resort city in which the conference and event center is located and as
30 prescribed in section 23-916, Idaho Code. A license issued pursuant to this
31 subsection may be renewed without regard to the population or status of the
32 city for which the license was issued and without regard for the continuation
33 of local option nonproperty taxes by the city, provided the applicant for
34 renewal is not otherwise disqualified from licensure pursuant to section
35 23-910, Idaho Code. Not more than one (1) license shall be issued to a con-
36 ference and event center. A conference and event center license shall not
37 be transferable and may not be sold. For the purpose of issuance and mainte-
38 nance of a license under this subsection, such facilities may serve liquor
39 only while such facilities are hosting a conference or event. Nothing in
40 this subsection shall excuse a conference and event center from complying
41 with actual use standards in title 23, Idaho Code, or administrative rules
42 promulgated pursuant to statutory authority granted under this title.

43 (14) The provisions of section 23-910, Idaho Code, shall apply to li-
44 censes issued under the provisions of this section. The fees shall be the
45 same as those prescribed for golf courses as set forth in section 23-904,
46 Idaho Code. Except for licenses issued pursuant to subsection (1) of this
47 section, licenses issued under the provisions of this section are not trans-
48 ferable to any other location, facility, or premises.

49 (15) A license issued pursuant to subsection (1) of this section on or
50 after July 1, 2023:

1 (a) ~~May not be sold or leased;~~ transferred to another licensee except
 2 as provided in subsections (16) (a), (b), and (c) and subsection (18) of
 3 this section or section 23-950, Idaho Code, provided that the licensee
 4 must elect to associate such license with the real property at the time
 5 of the initial license issuance; and

6 ~~(b) Shall not be transferable to any other location, facility, or~~
 7 ~~premises; and~~

8 ~~(e) (b)~~ Shall not qualify for the discount established in section
 9 23-217(2), Idaho Code.

10 (16) A license issued pursuant to subsection (1) of this section prior
 11 to July 1, 2023, may be ~~sold or~~ transferred to another location, facility,
 12 ~~or premises only once~~ licensee one (1) time only on or after July 1, 2023,
 13 and shall thereafter be nontransferable. Prior to such ~~sale or onetime-only~~
 14 ~~transfer,~~ the licensee shall be entitled to the discount established in sec-
 15 tion 23-217(2), Idaho Code. ~~Subsequent to such sale or~~ After any onetime-
 16 only transfer, the licensee placing the license in actual use shall not be
 17 entitled to such discount. For purposes of this subsection only, the follow-
 18 ing circumstances shall not qualify as a ~~sale or onetime-only~~ transfer:

19 (a) The license is inherited or otherwise acquired through a will,
 20 trust, or other estate-planning document;

21 (b) The license is given to a person by the person's parent, grandpar-
 22 ent, child, grandchild, sibling, aunt, uncle, or first cousin without
 23 consideration or remuneration;

24 ~~(c) A business or other entity with which the license is associated is~~
 25 ~~sold or leased, and the license remains associated with such business~~
 26 ~~or entity, provided that such business or entity must have occupied its~~
 27 ~~location, facility, or premises at the time of sale or lease for at least~~
 28 ~~one (1) year prior to the sale or lease, and provided further, that such~~
 29 ~~business or entity may not move from its location, facility, or premises~~
 30 ~~within one (1) year following the sale or lease. Any sale or lease that~~
 31 ~~does not conform to the provisions of this paragraph shall be considered~~
 32 ~~a sale or transfer; or~~

33 (c) To the extent not already included in paragraphs (a) and (b) of this
 34 subsection, any of the events listed in section 23-908(5) (a) through
 35 (e), Idaho Code;

36 (d) The sale of the business assets of an entity or individual licensee,
 37 including the transfer of an associated license placed in actual use,
 38 either owned or leased prior to July 1, 2023, to a qualified applicant,
 39 provided that:

40 (i) The transferring licensee has occupied its location, facil-
 41 ity, or premises at the time of sale for at least one (1) year prior
 42 to the sale of business assets; and

43 (ii) The qualified new licensee operates at the same location,
 44 facility, or premises for one (1) year following the sale of as-
 45 sets and transfer of the associated liquor license placed in ac-
 46 tual use. Any sale that does not conform to the provisions of this
 47 paragraph shall be considered a onetime-only transfer of the li-
 48 cence pursuant to this subsection;

49 (e) The sale or transfer of some or all of the ownership interests of an
 50 entity licensee to a qualified applicant provided that:

1 (i) The entity licensee has occupied its location, facility, or
 2 premises at the time of sale for at least one (1) year prior to the
 3 sale and transfer of the ownership interests; and

4 (ii) The existing entity licensee operates at the same location,
 5 facility, or premises for one (1) year following the closing of the
 6 sale or transfer of the ownership interests. Any sale that does
 7 not conform to the provisions of this paragraph shall be consid-
 8 ered a onetime-only transfer of the license pursuant to this sub-
 9 section;

10 ~~(d) (f)~~ The licensee owns, operates, or leases more than one (1) busi-
 11 ness or entity and transfers the license from one business or entity to
 12 another owned, operated, or leased by such licensee-;

13 (g) A transfer pursuant to subsection (18) of this section; or

14 (h) A transfer pursuant to section 23-950, Idaho Code.

15 (17) ~~If a license that was issued pursuant to subsection (1) of this sec-~~
 16 ~~tion is was under lease before July 1, 2023, then such lease may continue pur-~~
 17 ~~suant to its own terms and may be amended or renewed, or such lease may be as-~~
 18 ~~signed to a purchaser pursuant to subsection (16) (d) or (e) of this section.~~
 19 ~~At the end of the term of such lease, the license shall revert to the license~~
 20 ~~owner's possession upon the conclusion of the lease period. Once such re-~~
 21 ~~version occurs, the license owner may sell or transfer the license subject~~
 22 ~~to the provisions of subsection (16) of this section. The license owner may~~
 23 ~~sell such license subject to the provisions of subsection (16) of this sec-~~
 24 ~~tion under an installment contract wherein such contract shall not exceed a~~
 25 ~~term of five (5) years-, and the license owner may opt for one (1) of the fol-~~
 26 ~~lowing alternatives:~~

27 (a) The owner may transfer the license pursuant to the provisions of
 28 subsection (16) of this section, including a onetime-only transfer un-
 29 der an installment contract wherein such contract shall not exceed a
 30 term of five (5) years;

31 (b) The owner may retain the license and apply to become the actual user
 32 of the license, which retention and use shall be exempt from the one-
 33 time-only transfer pursuant to subsection (16) of this section;

34 (c) The owner may proceed under subsections (16) (a) through (g) of this
 35 section; or

36 (d) If the owner of the license is also the owner of an estate in real
 37 property, the owner may proceed under subsection (18) of this section.

38 (18) (a) An entity or person who owns a license issued pursuant to sub-
 39 section (1) of this section and holds, in whole or in part, an estate in
 40 real property that is leased to a tenant pursuant to a written lease may
 41 permit such tenant to operate the license at the leased premises during
 42 the term of the premises lease, provided that the license shall identify
 43 on the face of the license the name of the license owner, the name of the
 44 premises tenant as the qualified licensee who places the licenses in ac-
 45 tual use, and the location of the associated licensed premises.

46 (b) The license owner may permit a subsequent tenant under a new
 47 premises lease to place the license into actual use upon termination of
 48 the prior premises lease as provided in this subsection.

1 (c) A license operated pursuant to this subsection may be transferred
2 to any third-party purchaser of the licensed premises where the license
3 is placed in actual use at the time of such transfer.

4 (d) The onetime-only transfer of the license under subsection (16)
5 of this section shall no longer be available to the license owner once
6 placed in use under this subsection, but the license owner may there-
7 after proceed under subsections (16) (a) through (g) or subsection (17)
8 of this section or under this subsection.

9 (e) The license owner shall be jointly responsible with the tenant to
10 the director for all renewals, filings, payment of fees, and adminis-
11 trative actions taken with respect to the license.

12 (19) If the director maintains a priority list of the applicants for a
13 license to be issued pursuant to subsection (1) of this section and an appli-
14 cant receives notice in writing from the director that a license is avail-
15 able, the applicant may elect to have the license issued in the name of:

16 (a) The original applicant;

17 (b) Persons as set forth in subsection (16) (a) through (c) of this sec-
18 tion as its designee; or

19 (c) A single purpose entity owned only by the original applicant or
20 any party set forth in subsection (16) (a) through (c) of this section
21 or such combination of the original applicant or a party set forth in
22 subsection (16) (a) through (c) of this section.

23 SECTION 2. An emergency existing therefor, which emergency is hereby
24 declared to exist, this act shall be in full force and effect on and after
25 July 1, 2024.