

IN THE SENATE

SENATE BILL NO. 1046

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 23-903, IDAHO CODE, TO RE-
2 VISE A PROVISION REGARDING ISSUANCE OF A LIQUOR LICENSE TO A GOLF COURSE
3 AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PRO-
4 VIDING 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 herein provided, whereby the licensee shall be
12 authorized and permitted to sell liquor by the drink at retail, and, upon
13 the issuance of such license, the licensee therein named shall be autho-
14 rized to sell liquor at retail by the drink, but only in accordance with the
15 rules promulgated by the director and the provisions of this chapter. No
16 license shall be issued for the sale of liquor on any premises outside the
17 incorporated limits of any city except as provided in this chapter, and the
18 number of licenses so issued for any city shall not exceed one (1) license
19 for each one thousand five hundred (1,500) of population of said city or
20 fraction thereof, as established in the last preceding census, or any sub-
21 sequent special census conducted by the United States bureau of the census
22 or by an estimate that is statistically valid including adding the number
23 of new residential utility connections or including adding the population
24 of areas annexed into the city after the last census or special census was
25 conducted, except that upon proper application thereof not more than two
26 (2) licenses may be issued for each incorporated city with a population of
27 one thousand five hundred (1,500) or less, unless the retail licensing of
28 liquor by the drink has been previously disapproved under the provisions of
29 sections 23-917, 23-918, 23-919, 23-920 and 23-921, Idaho Code; provided
30 however, that any license heretofore issued may be renewed from year to year
31 without regard to the population or status of the city for which such license
32 is issued. Any license issued ~~and which~~ that has remained in effect at its
33 location for a consecutive period of ten (10) years or more shall be deemed
34 to have been validly issued and may be renewed from year to year, provided
35 ~~however,~~ that the applicant for the renewal of such license is not otherwise
36 disqualified for licensure pursuant to section 23-910, Idaho Code, and, if
37 the premises required special characteristics for original licensure, other
38 than being either within or without the incorporated limits of a city, that
39 said premises continue to have such special characteristics at the time of
40 the application for renewal.

41 (2) Nothing herein contained shall prohibit the issuance of a license
42 to the owner, operator or lessee of an actual bona fide golf course whether

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

27 (3) Also for the purpose of this section, a ski resort shall comprise
28 real property of not less than ten (10) acres in size, exclusive of the ter-
29 rain used for skiing and upon which the owner, operator or lessee of the ski
30 resort has made available himself or through others, including, but not lim-
31 ited to, the owners of condominiums, permanent bona fide overnight accom-
32 modations available to the general public for one hundred (100) persons or
33 more, and which real property is contiguous to or located within the area in
34 which skiing occurs, ~~and which real property~~ is regularly operated as a ski
35 resort in the wintertime, ~~and where the owner, operator or lessee of the ski~~
36 ~~resort is also the owner, operator or lessee of the area served by a bona fide~~
37 ~~chair ski lift facility or facilities.~~ Alternatively, for the purpose of
38 this section, a ski resort may also be defined as a downhill ski area, open to
39 the public, comprising real property of not less than two hundred fifty (250)
40 skiable acres, operating two (2) or more chairlifts with a vertical lift of
41 one thousand (1,000) feet or more, and capable of transporting a minimum of
42 one thousand eight hundred (1,800) skiers per hour. A ski resort qualifying
43 under this definition shall also have on the premises a lodge facility pro-
44 viding shelter and food service to the public, the operator of which shall
45 also be the valid owner or lessee of the grounds and facilities upon which the
46 ski resort offers downhill skiing services to the public. The fees for li-
47 censes granted to ski resorts shall be the same as those prescribed for golf
48 courses as set forth in section 23-904, Idaho Code. Not more than one (1) li-
49 censed premises shall be permitted on any golf course or any ski resort or
50 within the area comprising the same.

1 (4) Nothing herein contained shall prohibit the issuance of a license
2 to the owner, operator or lessee of an actual bona fide equestrian facil-
3 ity located on not less than forty (40) contiguous acres, with permanently
4 erected seating of not less than six thousand (6,000) seats, no part of which
5 equestrian facility or the premises thereon is situate within the incorpo-
6 rated limits of any city, and which facility shall have at least three (3)
7 days per year of a professionally sanctioned rodeo. Not more than one (1)
8 licensed premises shall be permitted at any equestrian facility or within
9 an area comprising such a facility. The fees for licenses granted to eques-
10 trian facilities shall be the same as those prescribed for golf courses as
11 set forth in section 23-904, Idaho Code.

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

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

44 (7) Nothing in this chapter to the contrary shall prohibit the issuance
45 of a license to the owner, operator or lessee of an actual bona fide conven-
46 tion center that is within the incorporated limits of a city having a pop-
47 ulation of three thousand (3,000) or greater, and which city does not have
48 located therein a convention center with a valid convention center license
49 to sell liquor by the drink. For the purpose of this section, a convention
50 center means a facility having at least thirty-five thousand (35,000) square

1 feet of floor space or a facility having at least one hundred twenty (120)
2 sleeping rooms and an adjoining meeting room that will accommodate not less
3 than three hundred fifty (350) persons, whether or not such room may be par-
4 titioned into smaller rooms, and provided that such meeting room shall con-
5 tain at least three thousand (3,000) square feet of floor space. Such li-
6 cense must be placed in actual use in said convention center within one (1)
7 year from the date of its issuance. The fee for any license issued to a qual-
8 ifying convention center shall be as prescribed in subsection (3) of section
9 23-904, Idaho Code. The holder of a convention center license shall not be
10 eligible for the issuance of a license in the same city pursuant to any other
11 provision of this chapter. For purposes of this section, the term "holder"
12 shall include an owner, operator or lessee and shall include a stockholder,
13 director or officer of a corporation or a partner in a partnership, which
14 corporation or partnership has been issued a convention center license pur-
15 suant to this chapter. Not more than one (1) licensed premises shall be per-
16 mitted on any convention center or within the area comprising the same, in-
17 cluding convention centers that also comprise golf courses or ski resorts as
18 herein defined.

19 (8) Nothing in this chapter shall prohibit the issuance of a license
20 to the owner, operator or lessee of a food, beverage and/or lodging facil-
21 ity that has been in continuous operation in the same location for at least
22 seventy-five (75) years, except for temporary closings for refurbishing or
23 reconstruction, or a food, beverage and lodging facility serving the pub-
24 lic by reservation only, having a minimum of five (5) rooms operating in a
25 structure that has been in existence for at least seventy-five (75) years and
26 has been on the historic register for a minimum of ten (10) years, is situ-
27 ated within five hundred (500) yards of a natural lake containing a minimum
28 of thirty-six thousand (36,000) acre feet of water when full with a minimum
29 of thirty-two (32) miles of shoreline, and is located in a county with a min-
30 imum population of sixty-five thousand (65,000). The provisions of section
31 23-910, Idaho Code, shall apply to licenses issued to continuous operation
32 facilities. The fees shall be the same as those prescribed for golf courses
33 as set forth in section 23-904, Idaho Code.

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 lodging
37 facility located within the boundaries of the Indian tribe's reservation and
38 containing a minimum of thirty-five thousand (35,000) square feet and fifty
39 (50) guest rooms. Licenses issued to Indian tribes are not transferable.

40 (10) Nothing in this chapter shall prohibit the issuance of a license
41 to the owner, operator or lessee of the lodging, dining and entertainment
42 facilities owned by a gondola resort complex and operated in conjunction
43 with the other public services provided by a gondola resort complex located
44 within the ownership/leasehold boundaries of a gondola resort complex. A
45 gondola resort complex means an actual bona fide gondola capable of trans-
46 porting people for recreational and/or entertainment purposes at least
47 three (3) miles in length with a vertical rise of three thousand (3,000)
48 feet, portions of which may be located within or over the limits of one (1) or
49 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 contained in this chapter shall prohibit the issuance of
12 a license to the owner, operator or lessee of a conference and event center
13 that is within the city limits of a resort city as defined in section 50-1044,
14 Idaho Code, that has enacted local option nonproperty taxes in accordance
15 with section 50-1046, Idaho Code, including, at the time of issuance, a re-
16 sort 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) confer-
18 ence and event center license to sell liquor by the drink issued per resort
19 city pursuant to this subsection. For the purposes of this section, a con-
20 ference and event center means facilities situated on premises consisting of
21 a 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 not 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
30 as prescribed in section 23-916, Idaho Code. A license issued pursuant to
31 this section 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 continua-
33 tion of local option nonproperty taxes by the city, provided the applicant
34 for 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.

1 SECTION 2. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after
3 July 1, 2023.