

IN THE SENATE

SENATE BILL NO. 1074

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO A LICENSE TO RETAIL LIQUOR; AMENDING SECTION 23-903, IDAHO CODE,
2 TO REVISE A PROVISION RELATING TO THE ISSUANCE OF A LICENSE TO RETAIL
3 LIQUOR TO THE OWNER, OPERATOR OR LESSEE OF AN EQUESTRIAN FACILITY AND TO
4 MAKE TECHNICAL CORRECTIONS.
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. 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 li-
32 cense is issued. Any license issued and which 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 Nothing herein contained shall prohibit the issuance of a license to the
42 owner, operator, or lessee of an actual, bona fide golf course whether lo-

1 cated 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 to
 15 such association as a licensee where such disqualifications, or any of them,
 16 would apply only to a member of such association where such member has no in-
 17 terest therein except as a member thereof.

18 Also for the purpose of this section, a ski resort shall comprise real
 19 property of not less than ten (10) acres in size, exclusive of the terrain
 20 used for skiing and upon which the owner, operator, or lessee of the ski re-
 21 sort has made available himself, or through others, including, but not lim-
 22 ited to, the owners of condominiums, permanent bona fide overnight accom-
 23 modations available to the general public for one hundred (100) persons or
 24 more, and which real property is contiguous to or located within the area
 25 in which skiing occurs, and which real property is regularly operated as a
 26 ski resort in the ~~winter time~~ wintertime, and where the owner, operator, or
 27 lessee of the ski resort is also the owner, operator, or lessee of the area
 28 served by a bona fide chair ski lift facility or facilities. Alternatively,
 29 for the purpose of this section, a ski resort may also be defined as a down-
 30 hill ski area, open to the public, comprising real property of not less than
 31 two hundred fifty (250) skiable acres, operating two (2) or more ~~chair lifts~~
 32 chairlifts with a vertical lift of one thousand (1,000) feet or more, and ca-
 33 pable of transporting a minimum of one thousand eight hundred (1,800) skiers
 34 per hour. A ski resort qualifying under this definition shall also have on
 35 the premises a lodge facility providing shelter and food service to the pub-
 36 lic, the operator of which shall also be the valid owner or lessee of the
 37 grounds and facilities upon which the ski resort offers downhill skiing ser-
 38 vices to the public. The fees for licenses granted to ski resorts shall be
 39 the same as those prescribed for golf courses as set forth in section 23-904,
 40 Idaho Code. Not more than one (1) licensed premises shall be permitted on any
 41 golf course or any ski resort or within the area comprising the same.

42 Nothing herein contained shall prohibit the issuance of a license to the
 43 owner, operator or lessee of an actual, bona fide equestrian facility lo-
 44 cated on not less than ~~forty~~ twenty-five (25) contiguous acres, with per-
 45 manently erected seating of not less than six thousand (6,000) seats, ~~no part~~
 46 ~~of which equestrian facility or the premises thereon is situate within the~~
 47 ~~incorporated limits of any city,~~ and which facility shall have at least three
 48 (3) days per year of a professionally sanctioned rodeo. Not more than one (1)
 49 licensed premises shall be permitted at any equestrian facility or within an
 50 area comprising such a facility. The license shall be solely for the eques-

1 trian facility and shall not be transferred to any other location. The fees
2 for licenses granted to equestrian facilities shall be the same as those pre-
3 scribed for golf courses as set forth in section 23-904, Idaho Code.

4 Nothing herein contained shall prohibit the issuance of a license to the
5 owner, operator, or lessee of a restaurant operated on an airport owned or
6 operated by a county or municipal corporation or on an airport owned or oper-
7 ated jointly by a county and municipal corporation, and which said airport is
8 served by a trunk or local service air carrier holding a certificate of pub-
9 lic convenience and necessity issued by the Civil Aeronautics Board of the
10 United States of America. Not more than one (1) license shall be issued on
11 any airport.

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

36 Nothing in this chapter to the contrary shall prohibit the issuance of
37 a license to the owner, operator, or lessee of an actual, bona fide conven-
38 tion center which is within the incorporated limits of a city having a pop-
39 ulation of three thousand (3,000) or greater, and which city does not have
40 located therein a convention center with a valid convention center license
41 to sell liquor by the drink. For the purpose of this section, a convention
42 center means a facility having at least thirty-five thousand (35,000) square
43 feet of floor space or a facility having at least one hundred twenty (120)
44 sleeping rooms and an adjoining meeting room which will accommodate not less
45 than three hundred fifty (350) persons, whether or not such room may be par-
46 titioned into smaller rooms, and provided that such meeting room shall con-
47 tain at least three thousand (3,000) square feet of floor space. Such li-
48 cense must be placed in actual use in said convention center within one (1)
49 year from the date of its issuance. The fee for any license issued to a qual-
50 ifying convention center shall be as prescribed in subsection (3) of section

1 23-904, Idaho Code. No license issued to a convention center hereunder shall
2 be transferable to another location or facility, nor shall the holder of a
3 convention center license be eligible for the issuance of a license in the
4 same city pursuant to any other provision of this chapter. For purposes of
5 this section, the term "holder" shall include an owner, operator or lessee
6 and shall include a stockholder, director, or officer of a corporation, or a
7 partner in a partnership, which corporation or partnership has been issued
8 a convention center license pursuant to this chapter. Not more than one (1)
9 licensed premises shall be permitted on any convention center or within the
10 area comprising the same, including convention centers that also comprise
11 golf courses or ski resorts as herein defined.

12 Nothing in this chapter shall prohibit the issuance of a license to the
13 owner, operator or lessee of a food, beverage and/or lodging facility that
14 has been in continuous operation in the same location for at least seventy-
15 five (75) years, except for temporary closings for refurbishing or recon-
16 struction, or a food, beverage and lodging facility serving the public by
17 reservation only, having a minimum of five (5) rooms operating in a struc-
18 ture that has been in existence for at least seventy-five (75) years and has
19 been on the historic register for a minimum of ten (10) years, is situated
20 within five hundred (500) yards of a natural lake containing a minimum of
21 thirty-six thousand (36,000) acre feet of water when full with a minimum of
22 thirty-two (32) miles of shoreline, and is located in a county with a mini-
23 mum population of sixty-five thousand (65,000). The provisions of section
24 23-910, Idaho Code, shall apply to licenses issued to continuous operation
25 facilities. The fees shall be the same as those prescribed for golf courses
26 as set forth in section 23-904, Idaho Code. Licenses issued to continuous
27 operation facilities are not transferable.

28 Nothing in this chapter shall prohibit the issuance of a license to the
29 owner, operator or lessee of the lodging, dining and entertainment facili-
30 ties owned by a gondola resort complex and operated in conjunction with the
31 other public services provided by a gondola resort complex located within
32 the ownership/leasehold boundaries of a gondola resort complex. A gondola
33 resort complex means an actual, bona fide gondola capable of transporting
34 people for recreational and/or entertainment purposes at least three (3)
35 miles in length with a vertical rise of three thousand (3,000) feet, portions
36 of which may be located within or over the limits of one (1) or more cities.

37 Nothing in this chapter shall prohibit the issuance of a license to the
38 owner, operator or lessee of a winery also operating a golf course on the
39 premises.

40 Subject to approval of the mayor and city council, nothing in this chap-
41 ter shall prohibit the issuance of a license to the owner, operator or lessee
42 of a food, conference and lodging facility constructed after May 1, 2000,
43 containing a minimum of thirty-five thousand (35,000) square feet and fifty-
44 five (55) guest rooms with a minimum taxable value of three million dollars
45 (\$3,000,000) in a city with a population of less than five thousand (5,000)
46 according to the most recent census.

47 The provisions of section 23-910, Idaho Code, shall apply to licenses
48 issued under the provisions of this section. The fees shall be the same as
49 those prescribed for golf courses as set forth in section 23-904, Idaho Code.
50 Licenses issued under the provisions of this section are not transferable.