

IN THE SENATE

SENATE BILL NO. 1160

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ALCOHOL; AMENDING SECTION 23-217, IDAHO CODE, TO REVISE A PROVI-  
2 SION REGARDING A CERTAIN DISCOUNT AND TO PROVIDE EXCEPTIONS; AMENDING  
3 SECTION 23-902, IDAHO CODE, TO DEFINE TERMS, TO REMOVE A DEFINITION, AND  
4 TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-903, IDAHO CODE, TO  
5 PROVIDE CERTAIN REQUIREMENTS FOR QUOTA LICENSES AND TO PROVIDE FOR THE  
6 ISSUANCE OF A LICENSE TO AN EATING ESTABLISHMENT OR LODGING FACILITY;  
7 AMENDING CHAPTER 9, TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW SEC-  
8 TION 23-903c, IDAHO CODE, TO PROVIDE FOR CERTAIN REQUIREMENTS REGARDING  
9 EATING ESTABLISHMENT LICENSES; AMENDING CHAPTER 9, TITLE 23, IDAHO  
10 CODE, BY THE ADDITION OF A NEW SECTION 23-903d, IDAHO CODE, TO PROVIDE  
11 FOR CERTAIN REQUIREMENTS REGARDING LODGING FACILITY LICENSES; AMENDING  
12 SECTION 23-904, IDAHO CODE, TO PROVIDE FOR CERTAIN FEES AND TO REMOVE A  
13 PROVISION REGARDING THE POPULATION OF MUNICIPALITIES; AMENDING SECTION  
14 23-908, IDAHO CODE, TO PROVIDE A CERTAIN LIMITATION FOR ISSUANCE OF A  
15 LICENSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-930,  
16 IDAHO CODE, TO PROVIDE THAT MINORS MAY ASSIST IN CERTAIN INSTANCES;  
17 AMENDING SECTION 23-942, IDAHO CODE, TO DEFINE A TERM; AMENDING SECTION  
18 23-943, IDAHO CODE, TO PROVIDE FOR EATING ESTABLISHMENTS AND TO MAKE  
19 TECHNICAL CORRECTIONS; AMENDING SECTION 23-944, IDAHO CODE, TO PROVIDE  
20 FOR EATING ESTABLISHMENTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING  
21 SECTION 23-946, IDAHO CODE, TO PROVIDE FOR EATING ESTABLISHMENTS AND  
22 TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-950, IDAHO CODE,  
23 TO PROVIDE FOR CERTAIN RESTRICTIONS AGAINST THE TRANSFER OF LICENSES;  
24 AND AMENDING TITLE 23, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 12,  
25 TITLE 23, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE FOR APPROVED TRAINING,  
26 TO PROVIDE FOR MANDATORY TRAINING AND ON-PREMISES SALES, TO PROVIDE  
27 FOR VOLUNTARY TRAINING AND OFF-PREMISES RETAILERS, AND TO PROVIDE FOR  
28 ENFORCEMENT.  
29

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

31 SECTION 1. That Section 23-217, Idaho Code, be, and the same is hereby  
32 amended to read as follows:

33 23-217. SURCHARGE ADDED TO PRICE OF ALCOHOLIC LIQUOR AND ALL OTHER  
34 MERCHANDISE SOLD -- COLLECTION AND REMISSION BY DIRECTOR. (1) The director  
35 of the division is hereby authorized and directed to include in the price  
36 of alcoholic liquor and all other merchandise sold in the division, and its  
37 branches, a surcharge equal to two percent (2%) of the current price per unit  
38 computed to the nearest multiple of five cents (5¢).

39 (2) After the price of the surcharge has been included, the director of  
40 the division is hereby authorized and directed to allow a discount of five  
41 ten percent (510%) from the price of each order of alcoholic liquor and all  
42 other merchandise sold to any licensee, as defined in person holding a quota

1 license issued pursuant to section 23-9023(81), Idaho Code, and a discount  
 2 of five percent (5%) to any person holding another type of license issued pur-  
 3 suant to chapter 9, title 23, Idaho Code; provided however, that no discount  
 4 shall be allowed for a person holding an eating establishment license issued  
 5 pursuant to section 23-903c, Idaho Code, or a lodging facility license is-  
 6 sued pursuant to section 23-903d, Idaho Code.

7 (3) The surcharge imposed pursuant to this section shall be collected  
 8 and credited monthly to the drug court, mental health court and family court  
 9 services fund, as set forth in section 1-1625, Idaho Code.

10 SECTION 2. That Section 23-902, Idaho Code, be, and the same is hereby  
 11 amended to read as follows:

12 23-902. DEFINITIONS. The following words and phrases used in this  
 13 chapter shall be given the following interpretation:

14 (1) "Club" includes any of the following organizations where the sale  
 15 of spirituous liquor for consumption on the premises is made to members and  
 16 to bona fide guests of members only:

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

23 (b) A chapter, aerie, parlor, lodge or other local unit of an Ameri-  
 24 can national fraternal organization, which has as the owner, lessee  
 25 or occupant, operated an establishment for fraternal purposes in this  
 26 state and actively operates in not less than thirty-six (36) states or  
 27 has been in continuous existence for not less than twenty (20) years;  
 28 and which has not less than fifty (50) bona fide members in each unit,  
 29 and which owns, maintains or operates club quarters, and is autho-  
 30 rized and incorporated to operate as a nonprofit club under the laws of  
 31 this state, and which has recognized tax exempt status under section  
 32 501(c) (8) or 501(c) (10) of the Internal Revenue Code, and has been con-  
 33 tinuously incorporated and operating for a period of not less than one

34 (1) year. The club shall have had during that period of one (1) year, a  
 35 bona fide membership with regular meetings conducted at least once each  
 36 month, and the membership shall be and shall have been actively engaged  
 37 in carrying out the objects of the club. The club membership shall  
 38 consist of bona fide dues paying members, recorded by the secretary of  
 39 the club, paying at least six dollars (\$6.00) per year in dues, payable  
 40 monthly, quarterly or annually; and the members at the time of applica-  
 41 tion for a club license shall be in good standing, having paid dues for  
 42 at least one (1) full year.

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

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

47 (4) "Eating establishment" means a restaurant, cafe, dining room,  
 48 coffee shop, cafeteria or other establishment that must utilize at least  
 49 seventy-five percent (75%) of the gross floor area for the preparation,

1 cooking, and serving of complete meals, have and actively operate a commer-  
 2 cial kitchen that includes a type 1 commercial hood and commercial cooking  
 3 equipment, excluding microwave ovens and grills, capable of cooking com-  
 4 plete meals, and be a public place kept, maintained, and advertised as a  
 5 place where complete meals are served and where complete meals are actually  
 6 and regularly served during the time the establishment is open to the public.  
 7 Limited food service, such as is provided by luncheonettes, drive-ins, sand-  
 8 wich shops, and other similar uses, does not meet the requirements of this  
 9 definition.

10 (5) "Festival" means a period or program of festive activities, cul-  
 11 tural events or entertainment lasting three (3) or more consecutive days.

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

15 (67) "Interdicted person" means a person to whom the sale of liquor is  
 16 prohibited under law.

17 (78) "License" means a license issued by the director to a qualified  
 18 person, under which it shall be lawful for the licensee to sell and dispense  
 19 liquor by the drink at retail, as provided by law.

20 (89) "Licensee" means the person to whom a license is issued under the  
 21 provisions of law.

22 (910) "Liquor" means all kinds of liquor sold by and in a state liquor  
 23 store of the state of Idaho.

24 (101) "Live performance" means a performance occurring in a theater and  
 25 not otherwise in violation of any provision of Idaho law.

26 (12) "Lodging facility" means a building with permanent bona fide  
 27 overnight accommodations available to the general public that includes no  
 28 fewer than twenty-five (25) rooms for lodging and at least one (1) room for  
 29 events and conferences.

30 ~~(11) "Municipal license" means a license issued by a municipality of the~~  
 31 ~~state of Idaho under the provisions of law.~~

32 (123) "Party" means a social gathering especially for pleasure or  
 33 amusement and includes, but is not limited to, such social events as wed-  
 34 dings, birthdays, and special holiday celebrations to include, but not be  
 35 limited to, New Year's celebrations, Super Bowl Sunday, St. Patrick's Day,  
 36 the Fourth of July and Labor Day.

37 (134) "Person" means any individual, corporation, business corpora-  
 38 tion, nonprofit corporation, benefit corporation as defined in section  
 39 30-2002(1), Idaho Code, partnership, limited partnership, limited liabil-  
 40 ity company, general cooperative association, limited cooperative asso-  
 41 ciation, estate, unincorporated nonprofit association, statutory trust,  
 42 business trust, common-law business trust, estate trust, association,  
 43 joint venture, public corporation, government or governmental subdivision,  
 44 agency or instrumentality, any entity defined in section 30-21-102, Idaho  
 45 Code, or any other commercial entity, whether conducting the business sin-  
 46 gularly or collectively.

47 (145) "Premises" means the building and contiguous property owned, or  
 48 leased or used under a government permit by a licensee as part of the busi-  
 49 ness establishment in the business of sale of liquor by the drink at retail,  
 50 which property is improved to include decks, docks, boardwalks, lawns, gar-

1 dens, golf courses, ski resorts, courtyards, patios, poolside areas or simi-  
 2 lar improved appurtenances in which the sale of liquor by the drink at retail  
 3 is authorized under the provisions of law.

4 (16) "Qualified applicant" means any person who has a valid retail beer  
 5 license issued under the laws of the state of Idaho.

6 (157) "Rules" means rules promulgated by the director in accordance  
 7 with the provisions of law.

8 (168) "State liquor store" means a liquor store or distributor estab-  
 9 lished under and pursuant to the laws of the state of Idaho for the package  
 10 sale of liquor at retail.

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

14 (1820) "Brewery" means a place, premises or establishment for the manu-  
 15 facture, bottling or canning of beer.

16 (1921) "Winery" means a place, premises or establishment within the  
 17 state of Idaho for the manufacture or bottling of table wine or dessert wine  
 18 for sale. Two (2) or more wineries may use the same premises and the same  
 19 equipment to manufacture their respective wines, to the extent permitted by  
 20 federal law.

21 (202) All other words and phrases used in this chapter, the definitions  
 22 of which are not herein given in this section, shall be given their ordinary  
 23 and commonly understood and acceptable meanings.

24 SECTION 3. That Section 23-903, Idaho Code, be, and the same is hereby  
 25 amended to read as follows:

26 23-903. LICENSE TO RETAIL LIQUOR. (1) Quota licenses. The director of  
 27 the Idaho state police is hereby empowered, authorized, and directed to is-  
 28 sue licenses to qualified applicants, as herein provided, whereby the li-  
 29 censee shall be authorized and permitted to sell liquor by the drink at re-  
 30 tail and, upon the issuance of such license, the licensee therein named shall  
 31 be authorized to sell liquor at retail by the drink, but only in accordance  
 32 with the rules promulgated by the director and the provisions of this chap-  
 33 ter. No license shall be issued for the sale of liquor on any premises out-  
 34 side the incorporated limits of any city except as provided in this chapter  
 35 and the number of licenses so issued for any city shall not exceed one (1) li-  
 36 cense for each one thousand five hundred (1,500) of population of said city  
 37 or fraction thereof, as established in the last preceding census, or any sub-  
 38 sequent special census conducted by the United States bureau of the census  
 39 or by an estimate that is statistically valid including adding the number of  
 40 new residential utility connections or including adding the population of  
 41 areas annexed into the city after the last census or special census was con-  
 42 ducted, except that upon proper application thereof not more than two (2)  
 43 licenses may be issued for each incorporated city with a population of one  
 44 thousand five hundred (1,500) or less, unless the retail licensing of liquor  
 45 by the drink has been previously disapproved under the provisions of sec-  
 46 tions 23-917, 23-918, 23-919, 23-920 and 23-921, Idaho Code; provided how-  
 47 ever, that any license heretofore issued may be renewed from year to year  
 48 without regard to the population or status of the city for which such license  
 49 is issued. Any license issued and which has remained in effect at its lo-

1 cation for a consecutive period of ten (10) years or more shall be deemed to  
2 have been validly issued and may be renewed from year to year provided how-  
3 ever, that the applicant for the renewal of such license is not otherwise  
4 disqualified for licensure pursuant to section 23-910, Idaho Code, and, if  
5 the premises required special characteristics for original licensure, other  
6 than being either within or without the incorporated limits of a city, that  
7 said premises continue to have such special characteristics at the time of  
8 the application for renewal. The number of quota licenses shall be frozen  
9 on December 31, 2019, and no additional licenses shall be issued based upon  
10 population increases or new city incorporations; however, quota licenses  
11 revoked or surrendered to the director may be reissued to applicants on the  
12 priority lists. Applicants that have been on a priority list and have been  
13 officially offered a quota license prior to January 1, 2020, must notify the  
14 director and complete the process for issuance as set forth in rule.

15 (2) Nothing herein contained shall prohibit the issuance of a license  
16 to the owner, operator or lessee of an actual bona fide golf course whether  
17 located within or without the limits of any city, or located on premises also  
18 operated as a winery or ski resort, or to the lessee of any premises situ-  
19 ate thereon, whether located within or without the limits of any city. For  
20 the purpose of this section, a golf course shall comprise an actual bona fide  
21 golf course, which is regularly used for the playing of the game of golf, and  
22 having not less than nine (9) tees, fairways and greens laid out and used in  
23 the usual and regular manner of a golf course. Nine (9) hole courses must  
24 have a total yardage of at least one thousand (1,000) yards, and eighteen  
25 (18) hole courses must have a total yardage of at least two thousand (2,000)  
26 yards as measured by totaling the tee-to-green distance of all holes. The  
27 course must be planted in grass except that it may provide artificial tee  
28 mats. Where any such golf course is owned or leased by an association of  
29 members and is used or enjoyed by such members or their guests, none of the  
30 disqualifications contained in section 23-910, Idaho Code, shall apply to  
31 such association as a licensee where such disqualifications, or any of them,  
32 would apply only to a member of such association where such member has no in-  
33 terest therein except as a member thereof.

34 (3) Also for the purpose of this section, a ski resort shall comprise  
35 real property of not less than ten (10) acres in size, exclusive of the ter-  
36 rain used for skiing and upon which the owner, operator or lessee of the ski  
37 resort has made available himself or through others, including, but not lim-  
38 ited to, the owners of condominiums, permanent bona fide overnight accom-  
39 modations available to the general public for one hundred (100) persons or  
40 more, and which real property is contiguous to or located within the area in  
41 which skiing occurs, and which real property is regularly operated as a ski  
42 resort in the wintertime, and where the owner, operator or lessee of the ski  
43 resort is also the owner, operator or lessee of the area served by a bona fide  
44 chair ski lift facility or facilities. Alternatively, for the purpose of  
45 this section, a ski resort may also be defined as a downhill ski area, open to  
46 the public, comprising real property of not less than two hundred fifty (250)  
47 skiable acres, operating two (2) or more chairlifts with a vertical lift of  
48 one thousand (1,000) feet or more, and capable of transporting a minimum of  
49 one thousand eight hundred (1,800) skiers per hour. A ski resort qualifying  
50 under this definition shall also have on the premises a lodge facility pro-

1     viding shelter and food service to the public, the operator of which shall  
2     also be the valid owner or lessee of the grounds and facilities upon which the  
3     ski resort offers downhill skiing services to the public. The fees for li-  
4     censes granted to ski resorts shall be the same as those prescribed for golf  
5     courses as set forth in section 23-904, Idaho Code. Not more than one (1) li-  
6     censed premises shall be permitted on any golf course or any ski resort or  
7     within the area comprising the same.

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

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

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

1 (7) Nothing in this chapter to the contrary shall prohibit the issuance  
2 of a license to the owner, operator or lessee of an actual bona fide conven-  
3 tion center that is within the incorporated limits of a city having a pop-  
4 ulation of three thousand (3,000) or greater, and which city does not have  
5 located therein a convention center with a valid convention center license  
6 to sell liquor by the drink. For the purpose of this section, a convention  
7 center means a facility having at least thirty-five thousand (35,000) square  
8 feet of floor space or a facility having at least one hundred twenty (120)  
9 sleeping rooms and an adjoining meeting room that will accommodate not less  
10 than three hundred fifty (350) persons, whether or not such room may be par-  
11 titioned into smaller rooms, and provided that such meeting room shall con-  
12 tain at least three thousand (3,000) square feet of floor space. Such li-  
13 cense must be placed in actual use in said convention center within one (1)  
14 year from the date of its issuance. The fee for any license issued to a qual-  
15 ifying convention center shall be as prescribed in subsection (3) of section  
16 23-904, Idaho Code. The holder of a convention center license shall not be  
17 eligible for the issuance of a license in the same city pursuant to any other  
18 provision of this chapter. For purposes of this section, the term "holder"  
19 shall include an owner, operator or lessee and shall include a stockholder,  
20 director or officer of a corporation or a partner in a partnership, which  
21 corporation or partnership has been issued a convention center license pur-  
22 suant to this chapter. Not more than one (1) licensed premises shall be per-  
23 mitted on any convention center or within the area comprising the same, in-  
24 cluding convention centers that also comprise golf courses or ski resorts as  
25 herein defined.

26 (8) Nothing in this chapter shall prohibit the issuance of a license  
27 to the owner, operator or lessee of a food, beverage and/or lodging facil-  
28 ity that has been in continuous operation in the same location for at least  
29 seventy-five (75) years, except for temporary closings for refurbishing or  
30 reconstruction, or a food, beverage and lodging facility serving the pub-  
31 lic by reservation only, having a minimum of five (5) rooms operating in a  
32 structure that has been in existence for at least seventy-five (75) years and  
33 has been on the historic register for a minimum of ten (10) years, is situ-  
34 ated within five hundred (500) yards of a natural lake containing a minimum  
35 of thirty-six thousand (36,000) acre feet of water when full with a minimum  
36 of thirty-two (32) miles of shoreline, and is located in a county with a min-  
37 imum population of sixty-five thousand (65,000). The provisions of section  
38 23-910, Idaho Code, shall apply to licenses issued to continuous operation  
39 facilities. The fees shall be the same as those prescribed for golf courses  
40 as set forth in section 23-904, Idaho Code.

41 (9) Nothing in this chapter shall prohibit the issuance of a license  
42 to a federally recognized Indian tribe as defined in section 67-4001, Idaho  
43 Code, which is an owner, operator or lessee of a food, conference and lodging  
44 facility located within the boundaries of the Indian tribe's reservation and  
45 containing a minimum of thirty-five thousand (35,000) square feet and fifty  
46 (50) guest rooms. Licenses issued to Indian tribes are not transferable.

47 (10) Nothing in this chapter shall prohibit the issuance of a license  
48 to the owner, operator or lessee of the lodging, dining and entertainment  
49 facilities owned by a gondola resort complex and operated in conjunction

1 with the other public services provided by a gondola resort complex located  
2 within the ownership/leasehold boundaries of a gondola resort complex.

3 A gondola resort complex means an actual bona fide gondola capable of  
4 transporting people for recreational and/or entertainment purposes at least  
5 three (3) miles in length with a vertical rise of three thousand (3,000)  
6 feet, portions of which may be located within or over the limits of one (1) or  
7 more cities.

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

11 (12) Subject to approval of the mayor and city council, nothing in this  
12 chapter shall prohibit the issuance of a license to the owner, operator or  
13 lessee of a food, conference and lodging facility constructed after May 1,  
14 2000, containing a minimum of thirty-five thousand (35,000) square feet and  
15 fifty-five (55) guest rooms with a minimum taxable value of three million  
16 dollars (\$3,000,000) in a city with a population of less than five thousand  
17 (5,000) according to the most recent census.

18 (13) Nothing contained in this chapter shall prohibit the issuance of  
19 a license to the owner, operator or lessee of a conference and event center  
20 that is within the city limits of a resort city as defined in section 50-1044,  
21 Idaho Code, that has enacted local option nonproperty taxes in accordance  
22 with section 50-1046, Idaho Code, including, at the time of issuance, a re-  
23 sort city tax on sales of liquor by the drink, wine and beer sold at retail for  
24 consumption on the licensed premises. There shall be only one (1) confer-  
25 ence and event center license to sell liquor by the drink issued per resort  
26 city pursuant to this subsection. For the purposes of this section, a con-  
27 ference and event center means facilities situated on premises consisting of  
28 a building or buildings and the contiguous property owned or leased and under  
29 common ownership or control by the licensee. Such facilities must provide  
30 not less than four thousand (4,000) square feet of enclosed space for confer-  
31 ence and event purposes, exclusive of space dedicated by the licensee to the  
32 commercial kitchen. The commercial kitchen must include a type 1 commercial  
33 hood and cooking equipment, exclusive of microwave ovens and grills. The  
34 fee for any license issued to a qualifying licensee shall be as prescribed  
35 in section 23-904(1), (2) or (3), Idaho Code, depending on the population  
36 of the resort city in which the conference and event center is located and  
37 as prescribed in section 23-916, Idaho Code. A license issued pursuant to  
38 this section may be renewed without regard to the population or status of the  
39 city for which the license was issued and without regard for the continua-  
40 tion of local option nonproperty taxes by the city, provided the applicant  
41 for renewal is not otherwise disqualified from licensure pursuant to section  
42 23-910, Idaho Code. Not more than one (1) license shall be issued to a con-  
43 ference and event center. A conference and event center license shall not  
44 be transferable and may not be sold. For the purpose of issuance and mainte-  
45 nance of a license under this subsection, such facilities may serve liquor  
46 only while such facilities are hosting a conference or event. Nothing in  
47 this subsection shall excuse a conference and event center from complying  
48 with actual use standards in title 23, Idaho Code, or administrative rules  
49 promulgated pursuant to statutory authority granted under this title.



1           (14) Nothing in this chapter shall prohibit the issuance of a license to  
2 the owner, operator, or lessee of an eating establishment or a lodging facil-  
3 ity within the limits of any city.

4           (15) The provisions of section 23-910, Idaho Code, shall apply to li-  
5 censes issued under the provisions of this section. The fees shall be the  
6 same as those prescribed for golf courses as set forth in section 23-904,  
7 Idaho Code. Except for licenses issued pursuant to subsection (1) of this  
8 section, licenses issued under the provisions of this section are not trans-  
9 ferable to any other location, facility or premises.

10           SECTION 4. That Chapter 9, Title 23, Idaho Code, be, and the same is  
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
12 ignated as Section 23-903c, Idaho Code, and to read as follows:

13           23-903c. LICENSE TO RETAIL LIQUOR -- EATING ESTABLISHMENTS. If the di-  
14 rector determines that an applicant or applicants are qualified to receive  
15 an eating establishment license, he shall notify the mayor in the city in  
16 which the eating establishment license is to be issued. The city council  
17 shall, within thirty (30) days after receipt of notification from the direc-  
18 tor, approve or disapprove the issuance of the license. In the event the city  
19 council does not approve the proposed license, a license shall not be issued.

20           SECTION 5. That Chapter 9, Title 23, Idaho Code, be, and the same is  
21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
22 ignated as Section 23-903d, Idaho Code, and to read as follows:

23           23-903d. LICENSE TO RETAIL LIQUOR -- LODGING FACILITIES. If the di-  
24 rector determines that an applicant or applicants are qualified to receive  
25 a lodging facility license, he shall notify the mayor in the city in which  
26 the lodging facility license is to be issued. The city council shall, within  
27 thirty (30) days after receipt of notification from the director, approve or  
28 disapprove the issuance of the license. In the event the city council does  
29 not approve the proposed license, a license shall not be issued.

30           SECTION 6. That Section 23-904, Idaho Code, be, and the same is hereby  
31 amended to read as follows:

32           23-904. LICENSE FEES. Each licensee licensed under the provisions of  
33 this act shall pay an annual license fee to the director as follows:

34           (1) For each license in a city of one thousand (1,000) population or  
35 less, three hundred dollars (\$300) per annum.

36           (2) For each license in a city of from one thousand (1,000) to three  
37 thousand (3,000) population, five hundred dollars (\$500) per annum.

38           (3) For each license in a city having a population of more than three  
39 thousand (3,000), seven hundred fifty dollars (\$750) per annum.

40           (4) For each railroad train for sale only in buffet, club or dining  
41 cars, fifty dollars (\$50.00) per annum of the scheduled run of such train  
42 within the state of Idaho; provided, that such license shall be in full, and  
43 in lieu of all other licenses herein provided for.

1 (5) For each common carrier boat line for sale only in buffet, club din-  
2 ing rooms, two hundred fifty dollars (\$250) per annum. Such license shall be  
3 in full, and in lieu of all other licenses herein provided for.

4 (6) For each license issued to the owner, operator, or lessee of a golf  
5 course as described in section 23-903, Idaho Code, or to the lessee of any  
6 premises situate on such golf course, situate in any county having a popula-  
7 tion of:

8 (a) Less than twenty thousand (20,000), two hundred dollars (\$200) per  
9 annum;

10 (b) Twenty thousand (20,000) but less than forty thousand (40,000),  
11 three hundred dollars (\$300) per annum; and

12 (c) Forty thousand (40,000) or more, four hundred dollars (\$400) per  
13 annum.

14 (7) For each common carrier airline for sale only in common carrier air-  
15 craft, two hundred fifty dollars (\$250) per annum. Such license shall be in  
16 full, and in lieu of all other licenses herein provided for.

17 (8) For each license issued to the owner, operator, or lessee of a  
18 restaurant operated on an airport, as described in section 23-903, Idaho  
19 Code, situate within the corporate limits of a city, the fee shall be the same  
20 as provided in paragraphs (1) through (3), inclusive, of this section.

21 (9) For each license issued to the owner, operator, or lessee of a  
22 restaurant operated on an airport, as described in section 23-903, Idaho  
23 Code, situate without the corporate limits of a city, the fee shall be the  
24 same as provided in paragraph (6) of this section. Licenses issued under and  
25 pursuant to the provisions of this act shall expire at 1:00 o'clock a.m. on  
26 the first day of January of the following year.

27 (10) For each license issued to an owner or operator of a year-round  
28 resort as described in section 23-957, Idaho Code, a one (1) time fee of  
29 twenty-five thousand dollars (\$25,000), with a subsequent renewal fee of  
30 three thousand five hundred dollars (\$3,500) per annum. For each license  
31 issued to an owner or operator of a beverage, lodging or dining facility  
32 within the premises of a year-round resort as described in section 23-957,  
33 Idaho Code, a one (1) time fee of twenty-five thousand dollars (\$25,000) with  
34 a subsequent renewal fee of three thousand five hundred dollars (\$3,500) per  
35 annum. For each license issued to a lessee of a beverage, lodging or dining  
36 facility within the premises of the year-round resort as described in sec-  
37 tion 23-957, Idaho Code, a one (1) time fee of twenty-five thousand dollars  
38 (\$25,000) with a subsequent renewal fee of three thousand five hundred dol-  
39 lars (\$3,500) per annum.

40 (11) For each license issued to an owner, operator, or lessee of an eat-  
41 ing establishment or lodging facility, three thousand dollars (\$3,000) per  
42 annum with a nonrefundable application fee of four hundred dollars (\$400).

43 Provided that any licensee who operates for only a portion of a year may  
44 have his license fee prorated from the date he commences operation to the end  
45 of the calendar year, but in no event for less than six (6) months.

46 In the event a licensee who was previously issued a license on a prorated  
47 basis under the provisions hereof desires to have such license renewed for  
48 the same period for the next succeeding year, he shall file his intention to  
49 so apply for such license with the director, accompanied by the fee required

1 for the issuance of such license on or before December 31 of the year preced-  
2 ing.

3 The license fees herein provided for are exclusive of and in addition to  
4 other license fees chargeable in the state of Idaho.

5 ~~The basis upon which respective populations of municipalities shall be~~  
6 ~~determined is the last preceding census or any subsequent special census~~  
7 ~~conducted by the United States bureau of the census, unless a direct enumer-~~  
8 ~~ation of the inhabitants thereof be made by the state of Idaho, in which case~~  
9 ~~such later direct enumeration shall constitute such basis.~~

10 SECTION 7. That Section 23-908, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 23-908. FORM OF LICENSE -- AUTHORITY -- EXPIRATION -- LIMITATIONS. (1)  
13 Every license issued under the provisions of this chapter shall set forth the  
14 name of the person to whom issued, the location by street and number, or other  
15 definite designation, of the premises, and such other information as the di-  
16 rector shall deem necessary. If issued to a partnership, the names of the  
17 persons constituting such partnership shall be set forth in the application.  
18 If issued to a corporation or association, the names of the principal offi-  
19 cers and the governing board shall be set forth in the application. Such li-  
20 cense shall be signed by the licensee and prominently displayed in the place  
21 of business at all times. Every license issued under the provisions of this  
22 chapter is separate and distinct and no person except the licensee therein  
23 named except as herein otherwise provided, shall exercise any of the priv-  
24 ileges granted thereunder. All licenses shall expire at 1:00 o'clock a.m.  
25 on the first day of the renewal month which shall be determined by the di-  
26 rector by administrative rule and shall be subject to annual renewal upon  
27 proper application. The director will determine the renewal month by county  
28 based on the number of current licenses within each county, distributing re-  
29 newals throughout the licensing year. The director may adjust the renewal  
30 month to accommodate population increases. Each licensee will be issued a  
31 temporary license to operate until their renewal month has been determined.  
32 Thereafter, renewals will occur annually on their renewal month. Renewal  
33 applications for liquor by the drink licenses accompanied by the required  
34 fee must be filed with the director on or before the first day of the desig-  
35 nated renewal month. Any licensee holding a valid license who fails to file  
36 an application for renewal of his current license on or before the first day  
37 of the designated renewal month shall have a grace period of an additional  
38 thirty-one (31) days in which to file an application for renewal of the li-  
39 cense. The licensee shall not be permitted to sell and dispense liquor by the  
40 drink at retail during the thirty-one (31) day extended time period unless  
41 and until the license is renewed. In any city of less than sixteen thousand  
42 (16,000) population, as established in the last preceding census or any sub-  
43 sequent special census conducted by the United States bureau of the census,  
44 no person shall be granted more than one (1) license in any city for any one  
45 (1) year; and no partnership, association or corporation in such city of less  
46 than sixteen thousand (16,000) population holding a license under the provi-  
47 sions of this chapter shall have as a member, officer or stockholder any per-  
48 son who has any financial interest of any kind in, or is a member of, another  
49 partnership or association or an officer of another corporation holding a

1 license in the same city for the same year; provided that this section shall  
2 not prevent any person, firm or corporation, owning two (2) or more buildings  
3 on connected property in a city from making application for and receiving li-  
4 censes permitting the sale of liquor by the drink in such building.

5 (2) An application to transfer any license issued pursuant to chapter  
6 9, title 23, Idaho Code, shall be made to the director. Upon receipt of such  
7 an application, the director shall make the same investigation and deter-  
8 minations with respect to the transferee as are required by section 23-907,  
9 Idaho Code, and if the director shall determine that all of the conditions  
10 required of a licensee under chapter 9, title 23, Idaho Code, have been met by  
11 the proposed transferee, then the license shall be indorsed over to the pro-  
12 posed transferee by said licensee for the remainder of the period for which  
13 such license has been issued, and the director shall issue a license to the  
14 transferee.

15 (3) The director, in his discretion, may deny the transfer of a license  
16 during the ~~pendancy~~ pendency of any proceedings for suspension or revocation  
17 which were instituted pursuant to the terms of this chapter.

18 (4) Each new license issued on or after July 1, 1980, shall be placed  
19 into actual use by the original licensee at the time of issuance and remain  
20 in use for at least six (6) consecutive months or be forfeited to the state  
21 and be eligible for issue to another person by the director after compliance  
22 with the provisions of section 23-907, Idaho Code. Such license shall not  
23 be transferable for a period of two (2) years from the date of original is-  
24 suance, except as provided by subsection (5) (a), (b), (c), (d) or (e) of this  
25 section.

26 (5) The fee for transferring a liquor license shall be ten percent  
27 (10%) of the purchase price of the liquor license or the cost of good will,  
28 whichever is greater; except no fee shall be collected in the following  
29 events:

30 (a) The transfer of a license between husband and wife in the event of a  
31 property division; or

32 (b) The transfer of a license to a receiver, trustee in bankruptcy or  
33 similar person or officer; or

34 (c) The transfer of a license to the heirs or personal representative of  
35 the estate in the event of the death of the licensee; or

36 (d) The transfer of a license arising out of the dissolution of a part-  
37 nership where the license is transferred to one (1) or more of the part-  
38 ners; or

39 (e) The transfer of a license within a family whether an individual,  
40 partnership or corporation.

41 (6) The fee for transferring a liquor license for other than a sale  
42 shall be fifty percent (50%) of the per annum license fee set forth in section  
43 23-904, Idaho Code; except no fee shall be collected for transfers as out-  
44 lined in subsection (5) (a), (b), (c), (d) or (e) of this section.

45 (7) In addition to any other disqualification for licensure provided  
46 for in this chapter, no license shall be issued to an eating establishment  
47 if the applicant has transferred, assigned, leased, or sold any license is-  
48 sued pursuant to this chapter in the city in which the applicant is applying  
49 within two (2) years prior to the application.

1 SECTION 8. That Section 23-930, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 23-930. OFFICERS MAY EXAMINE PREMISES. (1) The director or his duly  
4 authorized representative, the sheriff of any county, a constable, or other  
5 police officer, shall have the right at any time to make an examination of  
6 the premises of any licensee as to whether the laws of the state of Idaho, the  
7 rules and regulations of the director, and the ordinances of any city are be-  
8 ing complied with and shall also have the right to inspect the cars of any  
9 railroad system licensed under this act.

10 (2) Minors may assist with random, unannounced inspections with the  
11 written consent of a parent or legal guardian. When assisting with these  
12 inspections, minors shall not provide false identification or make any false  
13 statements regarding their age.

14 SECTION 9. That Section 23-942, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 23-942. DEFINITIONS. The following definitions shall apply in the in-  
17 terpretation of the enforcement of this act:

18 (a) "Eating establishment" means a restaurant, cafe, dining room,  
19 coffee shop, cafeteria, or other establishment that must utilize at least  
20 seventy-five percent (75%) of the gross floor area for the preparation,  
21 cooking, and serving of complete meals, have and actively operate a commer-  
22 cial kitchen that includes a type 1 commercial hood and commercial cooking  
23 equipment, excluding microwave ovens and grills, capable of cooking com-  
24 plete meals, and be a public place kept, maintained, and advertised as a  
25 place where complete meals are served and where complete meals are actually  
26 and regularly served during the time the establishment is open to the public.  
27 Limited food service, such as is provided by luncheonettes, drive-ins, sand-  
28 wich shops, and other similar uses, does not meet the requirements of this  
29 definition.

30 (b) "Licensee" shall mean any person licensed to sell liquor by the  
31 drink at retail pursuant to the provisions of chapter 9, title 23, Idaho  
32 Code, and any person licensed to sell beer for consumption on the premises  
33 where sold pursuant to the provisions of chapter 10, title 23, Idaho Code, or  
34 county or municipal ordinance.

35 (bc) "Place," as used in this act, means any room of any premises li-  
36 censed for the sale of liquor by the drink at retail wherein there is a bar and  
37 liquor, bar supplies and equipment are kept and where beverages containing  
38 alcoholic liquor are prepared or mixed and served for consumption therein,  
39 and any room of any premises licensed for the sale of beer for consumption on  
40 the premises wherein there is a bar and beer, bar supplies and equipment are  
41 kept and where beer is drawn or poured and served for consumption therein.

42 (ed) "Restaurant," as used in this act, means any restaurant, cafe, ho-  
43 tel dining room, coffee shop, cafeteria, railroad dining car or other eating  
44 establishment having kitchen and cooking facilities for the preparation of  
45 food and where hot meals are regularly served to the public.

46 SECTION 10. That Section 23-943, Idaho Code, be, and the same is hereby  
47 amended to read as follows:

1           23-943. PERSONS UNDER SPECIFIED AGES FORBIDDEN TO ENTER, REMAIN IN OR  
 2 LOITER AT CERTAIN LICENSED PLACES. No person under the age of twenty-one (21)  
 3 years shall enter, remain in or loiter in or about any place, as herein de-  
 4 fined, licensed for the sale of liquor by the drink at retail, or sale of  
 5 beer for consumption on the premises; nor shall any licensee of either such  
 6 place, or any person in charge thereof, or on duty while employed by the li-  
 7 censee therein, permit or allow any person under the age specified with re-  
 8 spect thereto to remain in or loiter in or about such place.

9           Provided, however, it is lawful for persons who are musicians and  
 10 singers eighteen (18) years of age or older, to enter and to remain in any  
 11 place or eating establishment as defined in section 23-942, Idaho Code, but  
 12 only during and in the course of their employment as musicians and singers.  
 13 Provided further, that it is lawful for persons who are nineteen (19) years  
 14 of age or older to sell, serve, possess or dispense liquor, beer or wine  
 15 in the course of their employment in any place or eating establishment as  
 16 defined in section 23-942, Idaho Code, or in any other place or eating estab-  
 17 lishment where liquor, beer or wine ~~are~~ is lawfully present, ~~so~~ as long as  
 18 such place or eating establishment is the place of employment for such person  
 19 under twenty-one (21) years of age. However the foregoing shall not permit  
 20 the sale or distribution of any alcoholic beverages to any person under the  
 21 ages specified for sale of alcoholic beverages.

22           SECTION 11. That Section 23-944, Idaho Code, be, and the same is hereby  
 23 amended to read as follows:

24           23-944. EXCEPTIONS FROM RESTRICTION ON ENTERING OR REMAINING. It  
 25 shall not be unlawful for, nor shall section 23-943, Idaho Code, be construed  
 26 to restrict, any person under the age of twenty-one (21) years from entering  
 27 or being:

28           (1) Upon the premises of any restaurant, as herein defined, any eating  
 29 establishment, as herein defined, or in any railroad observation or club car  
 30 or any airplane of a commercial airline, notwithstanding that such premises  
 31 may also be licensed for the sale of liquor by the drink or for the sale of  
 32 beer for consumption on the premises or that ~~alcohol~~ alcoholic beverages,  
 33 or beer, or both, are prepared, mixed or dispensed and served and consumed  
 34 therein;

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

41           (3) In any baseball park, sports arena, convention center, multipur-  
 42 pose arena, theater that is presenting live performances or fairgrounds,  
 43 notwithstanding that such premises or any portion thereof may be licensed  
 44 for the sale of liquor by the drink, wine or beer for consumption on the  
 45 premises or that such products are dispensed and served and consumed  
 46 therein; provided, that the person under the age of twenty-one (21) years is  
 47 attending a lawful activity, show, exhibition, performance or event on the  
 48 premises or is required to be present as a condition of his employment. It is  
 49 lawful for persons under the age of twenty-one (21) years to enter and remain

1 in a baseball park, sports arena, convention center, multipurpose arena,  
2 theater that is presenting live performances or fairgrounds ~~se~~ as long as the  
3 activity, show, exhibition, performance or event is lawful and the person  
4 does not violate section 23-949, Idaho Code;

5 (4) Upon the premises of any licensed brewery or winery notwithstanding  
6 that such premises or any portion thereof may also be licensed for the sale of  
7 beer or wine for consumption on the premises or that beer or wine is dispensed  
8 and served and consumed therein;

9 (5) Upon the licensed premises of a wine retailer, wholly owned and op-  
10 erated by a licensed winery ~~which~~ that retails exclusively the products of  
11 that winery;

12 (6) At a location, other than a liquor, beer, or wine licensed premises,  
13 authorized to serve ~~alcohol~~ alcoholic beverages under a valid alcohol bever-  
14 age catering permit; or

15 (7) In any movie theater that is allowed to sell beer or wine for con-  
16 sumption on the premises pursuant to a valid license and which movie theater  
17 had a license that was valid and not suspended or revoked on January 1, 2006.  
18 No films, still pictures, electronic reproductions or other visual repro-  
19 ductions ~~which~~ that are in violation of chapter 41, title 18, Idaho Code (in-  
20 decency and obscenity), or are in violation of federal law regarding pornog-  
21 raphy, indecency or obscenity shall be shown or displayed on the premises.  
22 As used in this subsection, "movie theater" means a motion picture theater  
23 that is being utilized solely for exhibition of a motion picture.

24 SECTION 12. That Section 23-946, Idaho Code, be, and the same is hereby  
25 amended to read as follows:

26 23-946. STATEMENT MADE BY LICENSEES OF PREMISES OPERATED AS RESTAU-  
27 RANTS AND EATING ESTABLISHMENTS -- INDORSEMENT UPON LICENSE. (a) Every  
28 applicant for a state license for the sale of liquor by the drink or for the  
29 sale of beer for consumption on the premises claiming that the premises for  
30 which such license is sought constitute and are operated as a restaurant  
31 or eating establishment, as herein defined, shall, on each application for  
32 state license and on each application for renewal of license, state that  
33 such premises constitute and are operated as such restaurant or eating es-  
34 tablishment. Upon issuance of state license for the sale of liquor by the  
35 drink or for the sale of beer for consumption on the premises, for premises  
36 constituting and operated as a restaurant or eating establishment, the  
37 licensee of which has made the proper statement on the application, the  
38 director shall indorse on the face of the license the fact that it has been  
39 issued to a restaurant or eating establishment as herein defined. Unless  
40 such statement shall have been filed with the director and his said indorse-  
41 ment shall appear on the face of the license, the restrictions contained in  
42 section 23-943, Idaho Code, shall apply, notwithstanding that such premises  
43 may in fact constitute and be operated as a restaurant or eating establish-  
44 ment, and the posting of signs as provided for in section 23-945, Idaho Code,  
45 shall be required. The filing of any false statement on the application as  
46 herein required shall be grounds for suspension or revocation of license. If  
47 premises, licensed as a restaurant or eating establishment under this act,  
48 subsequently ceases to meet the qualifications of a restaurant or eating  
49 establishment, as defined in section 23-942, Idaho Code, the restrictions

1 contained in section 23-943, Idaho Code, shall apply and the posting of signs  
 2 as provided for in section 23-945, Idaho Code, shall be required. In such  
 3 event the licensee shall advise the director, by mail, that his premises no  
 4 longer constitute a restaurant or eating establishment, so that the license  
 5 may be modified accordingly.

6 (b) The powers of the director to make, promulgate and publish rules and  
 7 regulations as set forth in section 23-932, Idaho Code, shall apply to sec-  
 8 tions 23-941 ~~to~~ through 23-946, Idaho Code.

9 SECTION 13. That Section 23-950, Idaho Code, be, and the same is hereby  
 10 amended to read as follows:

11 23-950. RESTRICTION AGAINST TRANSFER OF LICENSE. (1) No license is-  
 12 sued under the provisions of this chapter shall be renewed, transferred, as-  
 13 signed, leased or sold if:

14 (a) The state tax commission has notified the director and the licensee  
 15 in writing that any tax imposed by chapters 30 and 36, title 63, Idaho  
 16 Code, interest, penalty, and additional amount, which has accrued as a  
 17 result of the operation of the licensed premises has been assessed as  
 18 that term is defined in section 63-3045A, Idaho Code, against the li-  
 19 censee or any person operating the licensed premises with the permis-  
 20 sion of the licensee; or

21 (b) The department of labor has notified the director and the licensee  
 22 in writing that a lien has been filed against the licensee or any person  
 23 operating the licensed premises with the permission of the licensee, as  
 24 a result of the operation of the licensed premises securing amounts due  
 25 pursuant to chapter 13, title 72, Idaho Code.

26 (2) At such time as the state tax commission or the department of labor  
 27 has notified the director and licensee as herein provided, the license is-  
 28 sued for the premises the operation of which has resulted in the accrual of  
 29 the tax for which the warrant or lien is outstanding shall be subject to levy  
 30 and distraint pursuant to chapter 30, title 63, Idaho Code, or seizure pur-  
 31 suant to section 72-1360A, Idaho Code.

32 (3) No license issued to an eating establishment or lodging facility  
 33 under the provisions of this chapter shall be transferred, assigned, leased,  
 34 or sold. A quota license issued pursuant to section 22-903(1), Idaho Code,  
 35 may be transferred, assigned, leased, or sold only within the limits of the  
 36 city where the premises of the licensee are currently located.

37 SECTION 14. That Title 23, Idaho Code, be, and the same is hereby  
 38 amended by the addition thereto of a NEW CHAPTER, to be known and designated  
 39 as Chapter 12, Title 23, Idaho Code, and to read as follows:

40 CHAPTER 12  
 41 CLERK AND SERVER TRAINING

42 23-1201. DEFINITIONS. The following words and phrases used in this  
 43 chapter shall be given the following interpretation:

44 (1) "Alcoholic beverage" or "alcohol beverage" means any beverage con-  
 45 taining alcohol which is a product of distillation of any fermented liquor or



1 synthetic ethyl alcohol, including, but not limited to, beer, wine, spirits  
2 or any liquid containing beer, wine or spirits.

3 (2) "Approved alcohol training program" means a program that is de-  
4 signed to educate clerks or servers of alcohol on laws and rules regarding  
5 the sale and service of alcoholic beverages, the effects of alcohol on the  
6 human body, methods of identifying intoxicated persons and refusing to sell  
7 or serve alcohol to those persons, and methods for checking and identifying  
8 legal identification, and is either approved by the director or listed in  
9 section 23-1202, Idaho Code.

10 (3) "Clerk" means an individual who, as an employee of a grocery store,  
11 convenience store, or general retail outlet, can legally sell alcoholic bev-  
12 erages for consumption off-premises.

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

14 (5) "Licensee" means the person to whom a beer, wine or municipal or  
15 state liquor by the drink license is issued under the provisions of law.

16 (6) "Off-premises retailer" means any place alcoholic beverages are  
17 sold but cannot be consumed on the premises. Off-premises retailers in-  
18 clude, but are not limited to, grocery stores, convenience stores and  
19 general retail outlets.

20 (7) "Premises" means the building and contiguous property owned,  
21 leased or used by a licensee as part of the business establishment for the  
22 sale of alcoholic beverages at retail.

23 (8) "Server" means any person serving or selling any alcoholic bever-  
24 ages, including spirits, wine or beer for consumption on a licensed premises  
25 as a requirement of employment, and any person managing those employees.  
26 Servers include, but are not limited to, waiters, waitresses, bartenders,  
27 and managers of waiters, waitresses and bartenders.

28 23-1202. APPROVED TRAINING. (1) Only the alcohol training programs  
29 listed in this section or equivalent programs as approved by the director  
30 will be recognized as complying with the provisions of this chapter.

31 (2) Approved alcohol training programs must include an examination  
32 covering the following topics: monitoring a patron's behavior, recogniz-  
33 ing intoxicated patrons, checking identification, recognizing false and  
34 altered identification, providing alternatives to alcoholic beverages,  
35 problem-solving in dealing with intoxicated or belligerent patrons and fa-  
36 miliarity with Idaho laws and rules pertaining to alcoholic beverages.

37 (3) "ServSafe alcohol" programs of the national restaurant association  
38 are found to comply with the requirements of this chapter.

39 (4) "Training for intervention procedures" (TIPS) programs of health  
40 communications, inc. are found to comply with the requirements of this chap-  
41 ter.

42 23-1203. MANDATORY TRAINING -- ON-PREMISES SALES. (1) Any person em-  
43 ployed as a server on the effective date of this chapter must complete an ap-  
44 proved alcohol training program within one hundred twenty (120) days of the  
45 effective date of this chapter or be able to provide proof that they have re-  
46 ceived a current valid certificate from an approved training program within  
47 the past three (3) years.

1           (2) Any person who is hired after the effective date of this chapter as a  
2 server shall complete an approved alcohol training program within sixty (60)  
3 days.

4           (3) The licensee shall ensure that each server employed on the premises  
5 is trained or completes an approved alcohol training program in the appro-  
6 priate time frame pursuant to this section and maintains documentation of  
7 such training, and provides such documentation at the request of the direc-  
8 tor.

9           23-1204. VOLUNTARY TRAINING -- OFF-PREMISES RETAILER. (1) Any per-  
10 son employed as a clerk on or after the effective date of this act for  
11 off-premises sales pursuant to the provisions of this title is encouraged to  
12 complete an approved alcohol training program outlined in section 23-1202,  
13 Idaho Code.

14           (2) The clerk shall maintain documentation of such training, and pro-  
15 vide such documentation at the request of the director.

16           23-1205. ENFORCEMENT. (1) Any server who violates section 23-1203  
17 Idaho Code, shall be subject to an administrative fine imposed by the direc-  
18 tor not to exceed five hundred dollars (\$500) plus costs of prosecution and  
19 administrative costs of bringing the action including, but not limited to,  
20 attorney's costs and fees and costs of hearing transcripts.

21           (2) Any licensee who violates section 23-1203(3), Idaho Code, shall  
22 be subject to an administrative fine imposed by the director not to exceed  
23 one thousand dollars (\$1,000) plus costs of prosecution and administrative  
24 costs of bringing the action including, but not limited to, attorney's costs  
25 and fees and costs of hearing transcripts.

26           (3) Nothing in this section shall be construed as barring criminal  
27 prosecutions for violations of this title where such violations are deemed  
28 criminal offenses.

29           (4) All final decisions by the director shall be subject to judicial re-  
30 view pursuant to the procedures of the administrative procedure act.