



Idaho Statutes

Idaho Statutes are updated to the web July 1 following the legislative session.

TITLE 23
ALCOHOLIC BEVERAGES
CHAPTER 9

RETAIL SALE OF LIQUOR BY THE DRINK

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

(2) Nothing in this chapter shall prohibit the issuance of a license to the owner, operator, or lessee of an actual bona fide golf course whether located within or without the limits of any city, or located on premises also operated as a winery or ski resort, or to the lessee of any premises situate thereon, whether located within or without the limits of any city. For the purpose of this section, a golf course shall comprise an actual bona fide golf course, which is regularly used for the playing of the game of golf, having not less than nine (9) tees, fairways, and greens laid out and used in the usual and regular manner of a golf course. Nine (9) hole courses must have a total yardage of at least one thousand (1,000)

yards, and eighteen (18) hole courses must have a total yardage of at least two thousand (2,000) yards as measured by totaling the tee-to-green distance of all holes. The course must be planted in grass except that it may provide artificial tee mats. Where any such golf course is owned or leased by an association of members and is used or enjoyed by such members or their guests, none of the disqualifications contained in section 23-910, Idaho Code, shall apply to such association as a licensee where such disqualifications, or any of them, would apply only to a member of such association where such member has no interest therein except as a member thereof. Provided, a building that is located on a lake of not less than one hundred sixty (160) acres with not less than two hundred (200) feet of lake frontage, owned or leased and operated exclusively by an actual bona fide golf course licensed for the sale of liquor by the drink, as otherwise defined in this subsection, located not more than five tenths (.5) of a mile from the golf course exterior boundaries, and accessible by that golf course by private or public roadway or right-of-way shall be deemed part of and contiguous to the licensed golf course premises for purposes of the sale of liquor by the drink upon such premises.

(3) For purposes of this section, a ski resort shall comprise real property of not less than ten (10) acres in size, exclusive of the terrain used for skiing and upon which the owner, operator, or lessee of the ski resort has made available himself or through others, including but not limited to the owners of condominiums, permanent bona fide overnight accommodations available to the general public for one hundred (100) persons or more, and which real property is contiguous to or located within the area in which skiing occurs and is regularly operated as a ski resort in the wintertime where the owner, operator, or lessee of the ski resort is also the owner, operator, or lessee of the area served by a bona fide chair ski lift facility or facilities. Alternatively, for the purpose of this section, a ski resort may also be defined as a downhill ski area, open to the public, comprising real property of not less than two hundred fifty (250) skiable acres, operating two (2) or more chairlifts with a vertical lift of one thousand (1,000) feet or more, and capable of transporting a minimum of one thousand eight hundred (1,800) skiers per hour. A ski resort qualifying under this definition shall also have on the premises a lodge facility providing shelter and food service to the public, the operator of which shall also be the valid owner or lessee of the grounds and facilities upon which the ski resort offers downhill skiing services to the public. The fees for licenses granted to ski resorts shall be the same as those prescribed for golf courses as set forth in section 23-904, Idaho Code. Not more than one (1) licensed premises shall be permitted on any golf course or any ski resort or within the area comprising the same.

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

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

(6) Nothing in this chapter shall prohibit the issuance of one (1) club license to a club as defined in section 23-902, Idaho Code. The holder of a club license is authorized to sell and serve alcoholic beverages for consumption only within the licensed establishment owned, leased, or occupied by the club and only to bona fide members of the club and to bona fide members' guests. A club license issued pursuant to the provisions of this section is not transferable and may not be sold. Any club license issued pursuant to the provisions of this section will revert to the director when, in his judgment, the licensee ceases to operate as a bona fide club as defined in section 23-902, Idaho Code. No club may hold a liquor license and a club license simultaneously. A club that on July 1, 1983, holds a liquor license may continue to possess that license. Any club that possesses a liquor license on January 1, 1983, or thereafter, and then sells that liquor license, may not obtain a club license, and the director shall not issue a club license to that club for a period of five (5) years following such sale. The fee for any license issued to a qualifying club within an incorporated municipality shall be as prescribed in subsections (1), (2) and (3) of section 23-904, Idaho Code. The fee for any license issued to a qualifying club not situate within an incorporated municipality shall be as specified for golf courses under section 23-904(6), Idaho Code. The provisions of section 23-916, Idaho Code, regarding county and city licenses shall pertain to club licenses. The burden of producing sufficient documentation of qualifications for club licensure shall be with the club applicant.

(7) Nothing in this chapter to the contrary shall prohibit the issuance of a license to the owner, operator, or lessee of an actual bona fide convention center that is within the incorporated limits of a city having a population of three thousand (3,000) or greater, and which city does not have located therein a convention center with a valid convention center license to sell liquor by the drink. For the purpose of this section, a convention center means a facility having at least thirty-five thousand (35,000) square feet of floor space or a facility having at least one hundred twenty (120) sleeping rooms and an adjoining meeting room that will accommodate not less than three hundred fifty (350) persons, whether or not such room may be partitioned into smaller rooms, and provided that such meeting room shall contain at least three thousand (3,000) square feet of floor space. Such license must be placed in actual use in said convention center within one (1) year from the date of its issuance. The fee for any license issued to a qualifying convention center shall be as prescribed in subsection (3) of section 23-904, Idaho Code. The holder of a convention center license shall not be eligible for the issuance of a license in the same city pursuant to any other provision of this chapter. For purposes of this section, the term "holder" shall include an owner, operator, or lessee and shall include a stockholder, director, or officer of a corporation or a partner in a partnership, which corporation or

partnership has been issued a convention center license pursuant to this chapter. Not more than one (1) licensed premises shall be permitted on any convention center or within the area comprising the same, including convention centers that also comprise golf courses or ski resorts as defined in this section.

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

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

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

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

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

(13) Nothing in this chapter shall prohibit the issuance of a license to the owner, operator, or lessee of a conference and event center that is within the city limits of a resort city as defined in section 50-1044,

Idaho Code, that has enacted local option nonproperty taxes in accordance with section 50-1046, Idaho Code, including, at the time of issuance, a resort city tax on sales of liquor by the drink, wine, and beer sold at retail for consumption on the licensed premises. There shall be only one (1) conference and event center license to sell liquor by the drink issued per resort city pursuant to this subsection. For the purposes of this section, a conference and event center means facilities situated on premises consisting of a building or buildings and the contiguous property owned or leased and under common ownership or control by the licensee. Such facilities must provide no less than four thousand (4,000) square feet of enclosed space for conference and event purposes, exclusive of space dedicated by the licensee to the commercial kitchen. The commercial kitchen must include a type 1 commercial hood and cooking equipment, exclusive of microwave ovens and grills. The fee for any license issued to a qualifying licensee shall be as prescribed in section 23-904(1), (2), or (3), Idaho Code, depending on the population of the resort city in which the conference and event center is located and as prescribed in section 23-916, Idaho Code. A license issued pursuant to this subsection may be renewed without regard to the population or status of the city for which the license was issued and without regard for the continuation of local option nonproperty taxes by the city, provided the applicant for renewal is not otherwise disqualified from licensure pursuant to section 23-910, Idaho Code. Not more than one (1) license shall be issued to a conference and event center. A conference and event center license shall not be transferable and may not be sold. For the purpose of issuance and maintenance of a license under this subsection, such facilities may serve liquor only while such facilities are hosting a conference or event. Nothing in this subsection shall excuse a conference and event center from complying with actual use standards in title 23, Idaho Code, or administrative rules promulgated pursuant to statutory authority granted under this title.

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

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

(a) May not be sold or leased;

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

(c) Shall not qualify for the discount established in section 23-217(2), Idaho Code.

(16) A license issued pursuant to subsection (1) of this section prior to July 1, 2023, may be sold or transferred to another location, facility, or premises only once on or after July 1, 2023, and shall thereafter be nontransferable. Prior to such sale or transfer, the licensee shall be entitled to the discount established in section 23-217(2), Idaho Code. Subsequent to such sale or transfer, the licensee shall not be entitled to such discount. For purposes of this subsection only, the following circumstances shall not qualify as a sale or transfer:

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

(b) The license is given to a person by the person's parent, grandparent, child, sibling, aunt, uncle, or first cousin without consideration or remuneration;

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

(d) The licensee owns, operates, or leases more than one (1) business or entity and transfers the license from one business or entity to another owned, operated, or leased by such licensee.

(17) If a license that was issued pursuant to subsection (1) of this section is under lease before July 1, 2023, then such license shall revert to the owner's possession upon the conclusion of the lease period. Once such reversion occurs, the license owner may sell or transfer the license subject to the provisions of subsection (16) of this section. The license owner may sell such license subject to the provisions of subsection (16) of this section under an installment contract wherein such contract shall not exceed a term of five (5) years.

History:

[23-903, added 1947, ch. 274, sec. 3, p. 870; am. 1957, ch. 151, sec. 1, p. 250; am. 1959, ch. 118, sec. 1, p. 254; am. 1963, ch. 215, sec. 1, p. 622; am. 1965, ch. 35, sec. 1, p. 52; am. 1972, ch. 34, sec. 1, p. 52; am. 1974, ch. 27, sec. 18, p. 811, am. 1978, ch. 126, sec. 2, p. 285; am. 1983, ch. 167, sec. 1, p. 473; am. 1983, ch. 203, sec. 2, p. 553; am. 1984, ch. 244, sec. 1, p. 591; am. 1989, ch. 164, sec. 1, p. 411; am. 1989, ch. 207, sec. 1, p. 507; am. 1989, ch. 301, sec. 1, p. 749; am. 1990, ch. 252, sec. 1, p. 722; am. 1990, ch. 255, sec. 1, p. 729; am. 1990, ch. 392, sec. 1, p. 1098; am. 1992, ch. 233, sec. 1, p. 697; am. 1993, ch. 240, sec. 1, p. 846; am. 1995, ch. 358, sec. 1, p. 1215; am. 1996, ch. 349, sec. 1, p. 1168; am. 1997, ch. 263, sec. 1, p. 749; am. 2000, ch. 469, sec. 63, p. 1512; am. 2004, ch. 44, sec. 1, p. 165; am. 2006, ch. 449, sec. 3, p. 1335; am. 2008, ch. 335, sec. 1, p. 920; am. 2008, ch. 405, sec. 1, p. 1110; am. 2013, ch. 167, sec. 1, p. 382; am. 2013, ch. 278, sec. 1, p. 718; am. 2015, ch. 333, sec. 1, p. 1260; am. 2023, ch. 100, sec. 1, p. 296; am. 2023, ch. 201, sec. 1, p. 559.]

How current is this law?

Search the Idaho Statutes and Constitution