

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 14

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING SECTION 23-908, IDAHO CODE, TO PROVIDE CERTAIN REQUIREMENTS FOR WHEN CERTAIN LIQUOR LICENSES ARE IN ACTUAL USE, TO PROVIDE CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 23-908, Idaho Code, be, and the same is hereby amended to read as follows:

23-908. FORM OF LICENSE -- AUTHORITY -- EXPIRATION -- LIMITATIONS. (1) Every license issued under the provisions of this chapter shall set forth the name of the person to whom issued, the location by street and number, or other definite designation, of the premises, and such other information as the director shall deem necessary. If issued to a partnership, the names of the persons constituting such partnership shall be set forth in the application. If issued to a corporation or association, the names of the principal officers and the governing board shall be set forth in the application. Such license shall be signed by the licensee and prominently displayed in the place of business at all times. Every license issued under the provisions of this chapter is separate and distinct and no person except the licensee therein named, except as herein otherwise provided, shall exercise any of the privileges granted thereunder. All licenses shall expire at 1:00 o'clock a.m. on the first day of the renewal month, which shall be determined by the director by administrative rule, and shall be subject to annual renewal upon proper application. The director will determine the renewal month by county based on the number of current licenses within each county, distributing renewals throughout the licensing year. The director may adjust the renewal month to accommodate population increases. Each licensee will be issued a temporary license to operate until ~~their~~ the renewal month has been determined. Thereafter, renewals will occur annually on ~~their~~ the renewal month. Renewal applications for liquor by the drink licenses accompanied by the required fee must be filed with the director on or before the first day of the designated renewal month. Any licensee holding a valid license who fails to file an application for renewal of his current license on or before the first day of the designated renewal month shall have a grace period of an additional thirty-one (31) days in which to file an application for renewal of the license. The licensee shall not be permitted to sell and dispense liquor by the drink at retail during the thirty-one (31) day extended time period unless and until the license is renewed. In any city of less than sixteen thousand (16,000) population, as established in the last preceding census or any subsequent special census conducted by the United States bureau of the census, no person shall be granted more than one (1) license in any city for any one (1) year; and no partnership, association or corporation in such city of less

1 than sixteen thousand (16,000) population holding a license under the provi-  
 2 sions of this chapter shall have as a member, officer or stockholder any per-  
 3 son who has any financial interest of any kind in, or is a member of, another  
 4 partnership or association or an officer of another corporation holding a  
 5 license in the same city for the same year; provided that this section shall  
 6 not prevent any person, firm or corporation, owning two (2) or more buildings  
 7 on connected property in a city from making application for and receiving li-  
 8 censes permitting the sale of liquor by the drink in such building.

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

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

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

30 (5) An incorporated city liquor by the drink license issued pursuant to  
 31 section 23-903(1), Idaho Code, is in actual use when all of the following re-  
 32 quirements are satisfied:

33 (a) The license must be prominently displayed in a location that is  
 34 suitable for carrying on the business of selling liquor by the drink;

35 (b) Except for the actual use requirements as provided in subsection  
 36 (4) of this section, all other incorporated city licensees in this sec-  
 37 tion must be open to the public with liquor by the drink available for  
 38 sale and consumption therein for at least twenty (20) hours per week,  
 39 and the hours of sale must occur during the times specified in section  
 40 23-927, Idaho Code; and

41 (c) The licensee must make at least twenty (20) sales of liquor by the  
 42 drink per week.

43 (6) The fee for transferring a liquor license shall be ten percent (10%)  
 44 of the purchase price of the liquor license or the cost of ~~good will~~ goodwill,  
 45 whichever is greater; except no fee shall be collected in the following  
 46 events:

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

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

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

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

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

8 (~~6~~7) The fee for transferring a liquor license for other than a sale  
9 shall be fifty percent (50%) of the per annum license fee set forth in sec-  
10 tion 23-904, Idaho Code; except no fee shall be collected for transfers as  
11 outlined in subsection (~~5~~6) (a), (b), (c), (d) or (e) of this section.