

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 90, As Amended

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO RETAIL SALE OF LIQUOR BY THE DRINK; AMENDING SECTION 23-903,
IDAHO CODE, TO CLARIFY THE TRANSFERABILITY AND NONTRANSFERABILITY OF
CERTAIN LIQUOR LICENSES AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 23-903, Idaho Code, be, and the same is hereby
amended to read as follows:

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 herein provided, 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 therein named shall be autho-
rized 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 sub-
sequent special census conducted by the United States bureau of the census
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 li-
cense is issued. Any license issued and which 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,
however, 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 herein contained 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

1 operated as a winery, or ski resort, or to the lessee of any premises situate
2 thereon, whether located within or without the limits of any city. For the
3 purpose of this section, a golf course shall comprise an actual, bona fide
4 golf course, which is regularly used for the playing of the game of golf, and
5 having not less than nine (9) tees, fairways and greens laid out and used in
6 the usual and regular manner of a golf course. Nine (9) hole courses must
7 have a total yardage of at least one thousand (1,000) yards, and eighteen
8 (18) hole courses must have a total yardage of at least two thousand (2,000)
9 yards as measured by totaling the tee-to-green distance of all holes. The
10 course must be planted in grass except that it may provide artificial tee
11 mats. Where any such golf course is owned or leased by an association of
12 members and is used or enjoyed by such members, or their guests, none of the
13 disqualifications contained in section 23-910, Idaho Code, shall apply to
14 such association as a licensee where such disqualifications, or any of them,
15 would apply only to a member of such association where such member has no in-
16 terest therein except as a member thereof.

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

41 (4) Nothing herein contained shall prohibit the issuance of a license
42 to the owner, operator or lessee of an actual, bona fide equestrian facil-
43 ity located on not less than forty (40) contiguous acres, with permanently
44 erected seating of not less than six thousand (6,000) seats, no part of which
45 equestrian facility or the premises thereon is situate within the incorpor-
46 ated limits of any city, and which facility shall have at least three (3)
47 days per year of a professionally sanctioned rodeo. Not more than one (1) li-
48 censed premises shall be permitted at any equestrian facility or within an
49 area comprising such a facility. ~~The license shall be solely for the eques-~~
50 ~~trian facility and shall not be transferred to any other location.~~ The fees

1 for licenses granted to equestrian facilities shall be the same as those pre-
2 scribed for golf courses as set forth in section 23-904, Idaho Code.

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

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

35 (7) Nothing in this chapter to the contrary shall prohibit the issuance
36 of a license to the owner, operator, or lessee of an actual bona fide conven-
37 tion center which is within the incorporated limits of a city having a pop-
38 ulation of three thousand (3,000) or greater, and which city does not have
39 located therein a convention center with a valid convention center license
40 to sell liquor by the drink. For the purpose of this section, a convention
41 center means a facility having at least thirty-five thousand (35,000) square
42 feet of floor space or a facility having at least one hundred twenty (120)
43 sleeping rooms and an adjoining meeting room which will accommodate not less
44 than three hundred fifty (350) persons, whether or not such room may be par-
45 titioned into smaller rooms, and provided that such meeting room shall con-
46 tain at least three thousand (3,000) square feet of floor space. Such li-
47 cense must be placed in actual use in said convention center within one (1)
48 year from the date of its issuance. The fee for any license issued to a qual-
49 ifying convention center shall be as prescribed in subsection (3) of section
50 23-904, Idaho Code. ~~No license issued to a convention center hereunder shall~~

1 ~~be transferable to another location or facility, nor shall t~~The holder of
2 a convention center license shall not be eligible for the issuance of a li-
3 cense in the same city pursuant to any other provision of this chapter. For
4 purposes of this section, the term "holder" shall include an owner, operator
5 or lessee and shall include a stockholder, director, or officer of a corpo-
6 ration, or a partner in a partnership, which corporation or partnership has
7 been issued a convention center license pursuant to this chapter. Not more
8 than one (1) licensed premises shall be permitted on any convention center or
9 within the area comprising the same, including convention centers that also
10 comprise golf courses or ski resorts as herein defined.

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

27 (9) Nothing in this chapter shall prohibit the issuance of a license
28 to the owner, operator or lessee of the lodging, dining and entertainment
29 facilities owned by a gondola resort complex and operated in conjunction
30 with the other public services provided by a gondola resort complex located
31 within the ownership/leasehold boundaries of a gondola resort complex.

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

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

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

47 (12) The provisions of section 23-910, Idaho Code, shall apply to li-
48 censes issued under the provisions of this section. The fees shall be the
49 same as those prescribed for golf courses as set forth in section 23-904,
50 Idaho Code. Except for licenses issued pursuant to subsection (1) of this

1 section, licenses issued under the provisions of this section are not
2 transferable to any other location, facility or premise.