

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 667

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO LICENSES TO RETAIL LIQUOR; AMENDING SECTION 23-903, IDAHO CODE,
2 TO PROVIDE THAT CERTAIN LICENSES MAY BE TRANSFERABLE PURSUANT TO A
3 SALE IN ACCORDANCE WITH SPECIFIED PROVISIONS OF LAW, TO PROVIDE THAT
4 CERTAIN LICENSES SHALL NOT BE TRANSFERABLE, TO PROVIDE EXCEPTIONS, TO
5 REVISE VERBIAGE, TO PROVIDE FOR FEES FOR GONDOLA RESORT COMPLEXES, TO
6 PROVIDE THAT OWNERS, OPERATORS AND LESSEES OF RESTAURANTS SITUATED IN
7 CERTAIN RESORT CITIES MAY BE ISSUED LICENSES SUBJECT TO THE APPROVAL OF
8 THE MAYOR AND CITY COUNCIL, TO PROHIBIT THE ISSUANCE OF LICENSES FOR A
9 DESIGNATED PERIOD OF TIME TO SPECIFIED PERSONS, TO PROVIDE THAT CERTAIN
10 LICENSES ARE NOT TRANSFERABLE TO ANOTHER LOCATION, TO DEFINE A TERM, TO
11 PROVIDE FOR CERTAIN FEES, TO REMOVE A PROVISION RELATING TO FEES AND TO
12 REMOVE A PROVISION RELATING TO TRANSFERABILITY OF CERTAIN LICENSES.
13

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

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

17 23-903. LICENSE TO RETAIL LIQUOR. (1) The director of the Idaho state
18 police is hereby empowered, authorized, and directed to issue licenses to
19 qualified applicants, as herein provided, whereby the licensee shall be au-
20 thorized and permitted to sell liquor by the drink at retail and, upon the
21 issuance of such license, the licensee therein named shall be authorized to
22 sell liquor at retail by the drink, but only in accordance with the rules pro-
23 mulgated by the director and the provisions of this chapter.

24 (2) No license shall be issued for the sale of liquor on any premises
25 outside the incorporated limits of any city except as provided in this chap-
26 ter and the number of licenses so issued for any city shall not exceed one
27 (1) license for each one thousand five hundred (1,500) of population of said
28 city or fraction thereof, as established in the last preceding census, or any
29 subsequent special census conducted by the United States bureau of the cen-
30 sus or by an estimate that is statistically valid including adding the num-
31 ber of new residential utility connections or including adding the popula-
32 tion of areas annexed into the city after the last census or special census
33 was conducted, except that upon proper application thereof not more than two
34 (2) licenses may be issued for each incorporated city with a population of
35 one thousand five hundred (1,500) or less, unless the retail licensing of
36 liquor by the drink has been previously disapproved under the provisions of
37 sections 23-917, 23-918, 23-919, 23-920 and 23-921, Idaho Code; provided,
38 however, that any license heretofore issued may be renewed from year to year
39 without regard to the population or status of the city for which such license
40 is issued.

41 (3) Licenses originally issued in accordance with subsection (2) of
42 this section prior to July 1, 2012, may be transferable pursuant to a sale of

1 the license in accordance with the provisions of section 23-908(2), (3), (4)
 2 and (5), Idaho Code.

3 (4) Licenses originally issued to an applicant in accordance with sub-
 4 section (2) of this section, on or after July 1, 2012, shall not be transfer-
 5 able to another person or entity pursuant to a sale other than:

6 (a) A transfer between a husband and wife in the event of a property di-
 7 vision;

8 (b) A transfer to a receiver, trustee in bankruptcy or similar person or
 9 officer;

10 (c) A transfer to the heirs or personal representative of the estate in
 11 the event of the death of the licensee;

12 (d) A transfer arising out of the dissolution of a partnership where the
 13 license is transferred to one (1) or more of the partners; or

14 (e) A transfer of a license within a family whether an individual, part-
 15 nership or corporation.

16 (5) Any license issued and which has remained in effect at its loca-
 17 tion for a consecutive period of ten (10) years or more shall be deemed to
 18 have been validly issued and may be renewed from year to year provided, how-
 19 ever, that the applicant for the renewal of such license is not otherwise
 20 disqualified for licensure pursuant to section 23-910, Idaho Code, and, if
 21 the premises required special characteristics for original licensure, other
 22 than being either within or without the incorporated limits of a city, that
 23 said premises continue to have such special characteristics at the time of
 24 the application for renewal.

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

44 (7) ~~Also f~~For the purpose of this section a ski resort shall comprise
 45 real property of not less than ten (10) acres in size, exclusive of the ter-
 46 rain used for skiing and upon which the owner, operator, or lessee of the
 47 ski resort has made available himself, or through others, including, but not
 48 limited to, the owners of condominiums, permanent bona fide overnight ac-
 49 commodations available to the general public for one hundred (100) persons
 50 or more, and which real property is contiguous to or located within the area

1 in which skiing occurs, and which real property is regularly operated as a
2 ski resort in the winter time, and where the owner, operator, or lessee of
3 the ski resort is also the owner, operator, or lessee of the area served by
4 a bona fide chair ski lift facility or facilities. Alternatively, for the
5 purpose of this section a ski resort may also be defined as a downhill ski
6 area, open to the public, comprising real property of not less than two hun-
7 dred fifty (250) skiable acres, operating two (2) or more chair lifts with
8 a vertical lift of one thousand (1,000) feet or more, and capable of trans-
9 porting a minimum of one thousand eight hundred (1,800) skiers per hour. A
10 ski resort qualifying under this definition shall also have on the premises a
11 lodge facility providing shelter and food service to the public, the opera-
12 tor of which shall also be the valid owner or lessee of the grounds and facil-
13 ities upon which the ski resort offers downhill skiing services to the pub-
14 lic. The fees for licenses granted to ski resorts shall be the same as those
15 prescribed for golf courses as set forth in section 23-904, Idaho Code. Not
16 more than one (1) licensed premises shall be permitted on any golf course or
17 any ski resort or within the area comprising the same.

18 (8) Nothing herein contained shall prohibit the issuance of a license
19 to the owner, operator or lessee of an actual, bona fide equestrian facil-
20 ity located on not less than forty (40) contiguous acres, with permanently
21 erected seating of not less than six thousand (6,000) seats, no part of which
22 equestrian facility or the premises thereon is situate within the incorpo-
23 rated limits of any city, and which facility shall have at least three (3)
24 days per year of a professionally sanctioned rodeo. Not more than one (1) li-
25 censed premises shall be permitted at any equestrian facility or within an
26 area comprising such a facility. The license shall be solely for the eques-
27 trian facility and shall not be transferred to any other location. The fees
28 for licenses granted to equestrian facilities shall be the same as those pre-
29 scribed for golf courses as set forth in section 23-904, Idaho Code.

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

38 (10) Nothing herein contained shall prohibit the issuance of one (1)
39 club license to a club as defined in section 23-902, Idaho Code. The holder
40 of a club license is authorized to sell and serve alcoholic beverages for
41 consumption only within the licensed establishment owned, leased or occu-
42 pied by the club, and only to bona fide members of the club, and to serve and
43 to sell alcoholic beverages for consumption to bona fide members' guests.
44 A club license issued pursuant to the provisions of this section is not
45 transferable and may not be sold. Any club license issued pursuant to the
46 provisions of this section will revert to the director when, in his judgment,
47 the licensee ceases to operate as a bona fide club as defined in section
48 23-902, Idaho Code. No club may hold a liquor license and a club license
49 simultaneously. A club which on July 1, 1983, holds a liquor license, may
50 continue to possess that license. Any club which possesses a liquor license

1 on January 1, 1983, or thereafter, and then sells that liquor license, may
2 not obtain a club license, and the director shall not issue a club license
3 to that club for a period of five (5) years following such sale. The fee for
4 any license issued to a qualifying club within an incorporated municipality
5 shall be as prescribed in subsections (1), (2) and (3) of section 23-904,
6 Idaho Code. The fee for any license issued to a qualifying club not situate
7 within an incorporated municipality shall be as specified for golf courses
8 under section 23-904(6), Idaho Code. The provisions of section 23-916,
9 Idaho Code, regarding county and city licenses, shall pertain to club li-
10 censes. The burden of producing sufficient documentation of qualifications
11 for club licensure shall be with the club applicant.

12 (11) Nothing in this chapter to the contrary shall prohibit the issuance
13 of a license to the owner, operator, or lessee of an actual, bona fide conven-
14 tion center which is within the incorporated limits of a city having a pop-
15 ulation of three thousand (3,000) or greater, and which city does not have
16 located therein a convention center with a valid convention center license
17 to sell liquor by the drink. For the purpose of this section, a convention
18 center means a facility having at least thirty-five thousand (35,000) square
19 feet of floor space or a facility having at least one hundred twenty (120)
20 sleeping rooms and an adjoining meeting room which will accommodate not less
21 than three hundred fifty (350) persons, whether or not such room may be par-
22 titioned into smaller rooms, and provided that such meeting room shall con-
23 tain at least three thousand (3,000) square feet of floor space. Such li-
24 cense must be placed in actual use in said convention center within one (1)
25 year from the date of its issuance. The fee for any license issued to a qual-
26 ifying convention center shall be as prescribed in subsection (3) of sec-
27 tion 23-904, Idaho Code. No license issued to a convention center hereunder
28 shall be transferable to another location or facility, nor shall the holder
29 of a convention center license be eligible for the issuance of a license in
30 the same city pursuant to any other provision of this chapter. For purposes
31 of this section, the term holder shall include an owner, operator or lessee
32 and shall include a stockholder, director, or officer of a corporation, or a
33 partner in a partnership, which corporation or partnership has been issued
34 a convention center license pursuant to this chapter. Not more than one (1)
35 licensed premises shall be permitted on any convention center or within the
36 area comprising the same, including convention centers that also comprise
37 golf courses or ski resorts as herein defined.

38 (12) Nothing in this chapter shall prohibit the issuance of a license
39 to the owner, operator or lessee of a food, beverage and/or lodging facil-
40 ity that has been in continuous operation in the same location for at least
41 seventy-five (75) years, except for temporary closings for refurbishing or
42 reconstruction, or a food, beverage and lodging facility serving the pub-
43 lic by reservation only, having a minimum of five (5) rooms operating in a
44 structure that has been in existence for at least seventy-five (75) years and
45 has been on the historic register for a minimum of ten (10) years, is situ-
46 ated within five hundred (500) yards of a natural lake containing a minimum
47 of thirty-six thousand (36,000) acre feet of water when full with a minimum
48 of thirty-two (32) miles of shoreline, and is located in a county with a min-
49 imum population of sixty-five thousand (65,000). The provisions of section
50 23-910, Idaho Code, shall apply to licenses issued to continuous operation

1 facilities. The fees shall be the same as those prescribed for golf courses
2 as set forth in section 23-904, Idaho Code. Licenses issued to continuous
3 operation facilities are not transferable.

4 (13) Nothing in this chapter shall prohibit the issuance of a license
5 to the owner, operator or lessee of the lodging, dining and entertainment
6 facilities owned by a gondola resort complex and operated in conjunction
7 with the other public services provided by a gondola resort complex located
8 within the ownership/leasehold boundaries of a gondola resort complex. A
9 gondola resort complex means an actual, bona fide gondola capable of trans-
10 porting people for recreational and/or entertainment purposes at least
11 three (3) miles in length with a vertical rise of three thousand (3,000)
12 feet, portions of which may be located within or over the limits of one (1) or
13 more cities. The fee for a gondola resort complex shall be the same as fees
14 set forth in section 23-904(6), Idaho Code.

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

18 (15) Subject to approval of the mayor and city council, nothing in this
19 chapter shall prohibit the issuance of a license to the owner, operator or
20 lessee of a food, conference and lodging facility constructed after May 1,
21 2000, containing a minimum of thirty-five thousand (35,000) square feet and
22 fifty-five (55) guest rooms with a minimum taxable value of three million
23 dollars (\$3,000,000) in a city with a population of less than five thousand
24 (5,000) according to the most recent census.

25 (16) (a) Subject to the approval of the mayor and city council:

26 (i) Nothing in this chapter shall prohibit the issuance of a li-
27 cence to the owner, operator or lessee of a restaurant situated
28 in a resort city authorized to adopt, implement and collect one
29 (1) or more local-option nonproperty taxes as provided in sections
30 50-1044 through 50-1049, Idaho Code. Provided however, any person
31 that possesses a transferable liquor by the drink license on the
32 effective date of this act, and then sells or transfers that liquor
33 license, may not obtain a license pursuant to this subparagraph
34 for a period of five (5) years following such sale or transfer.

35 (ii) A license issued pursuant to this subsection is not transfer-
36 able to another location.

37 (b) "Restaurant," as used in this subsection, means an establish-
38 ment situated on premises whereon: (i) the preparation, cooking and
39 servicing of complete meals occurs by establishment employees; and (ii)
40 which establishment serves individually priced meals, primarily for
41 on-premises consumption; and (iii) actively operates a commercial
42 kitchen that includes a type one (1) commercial hood and cooking equip-
43 ment, excluding microwave ovens and grills, capable of cooking complete
44 meals; and (iv) where complete meals are actually and regularly avail-
45 able to be served during the time the restaurant is open to the public.

46 (c) The fee for a restaurant license, as set forth in this subsection,
47 shall be as set forth in section 23-904(1), (2) or (3), Idaho Code.

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

1 ~~Idaho Code. Licenses issued under the provisions of this section are not~~
2 ~~transferable.~~