

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 667

BY STATE AFFAIRS COMMITTEE

AN ACT

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

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 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.

(2) 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 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 license is issued.

(3) Licenses originally issued in accordance with subsection (2) of 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

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.

(11) 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 which 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 which 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. No license issued to a convention center hereunder shall be transferable to another location or facility, nor shall the holder of a convention center license 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 herein defined.

(12) 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

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 serving 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 censes 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.~~