

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 373

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE STATE LIQUOR DIVISION; AMENDING SECTION 23-105, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 23-201, IDAHO CODE, TO CORRECT A CODE REFERENCE AND TO REVISE PROVISIONS RELATING TO THE DIVISION AND THE DIRECTOR OF THE DIVISION; REPEALING SECTION 23-204, IDAHO CODE, RELATING TO SUCCESSORS TO PROPERTY OF FORMER ADMINISTRATORS; REPEALING SECTION 23-205, IDAHO CODE, RELATING TO THE SECRETARY AND THE APPOINTMENT, TERM AND DUTIES; AMENDING SECTION 23-207, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE POWERS OF THE DIRECTOR; AMENDING SECTION 23-211, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE RELATING TO THE POSITION OF SECRETARY; AMENDING SECTION 23-214, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE RELATING TO THE POSITION OF SECRETARY; AMENDING SECTION 23-301, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE ESTABLISHING AND MAINTAINING OF LIQUOR STORES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-304, IDAHO CODE, TO DELETE LANGUAGE RELATING TO VENDORS; AMENDING SECTION 23-305, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO VENDORS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-306, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO VENDORS; AMENDING SECTION 23-309, IDAHO CODE, TO DELETE LANGUAGE RELATING TO VENDORS; AMENDING SECTION 23-406, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE RELATING TO THE POSITION OF SECRETARY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 23-407, IDAHO CODE, TO REMOVE LANGUAGE RELATING TO VENDORS; AMENDING SECTION 23-607, IDAHO CODE, TO REVISE EXEMPTIONS FROM PROVISIONS RELATING TO CERTAIN ADVERTISING; REPEALING SECTION 23-609, IDAHO CODE, RELATING TO INTERNAL REVENUE RECEIPT AS PRIMA FACIE EVIDENCE; AMENDING SECTION 23-611, IDAHO CODE, TO PROVIDE A REFERENCE TO THE DIRECTOR OF THE IDAHO STATE POLICE; AND AMENDING SECTION 23-914, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE PURCHASE OF LIQUOR BY LICENSEES AND THEN SOLD BY LICENSEES.

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

SECTION 1. That Section 23-105, Idaho Code, be, and the same is hereby amended to read as follows:

23-105. ALCOHOLIC LIQUOR DEFINED. "Alcoholic liquor," as the term is used in this act, includes:

(a) "Alcohol," meaning the product of distillation of any fermented liquor, rectified once or more than once, whatever may be the origin thereof, or synthetic ethyl alcohol.

(b) "Spirits," meaning any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, among other things, brandy, rum, whiskey and gin.

1 (c) Any liquid or solid, patented or not, containing alcohol, or
 2 spirits, and susceptible of being consumed by a human being, for beverage
 3 purposes, and containing more than four percent (4%) of alcohol by ~~weight~~
 4 volume.

5 SECTION 2. That Section 23-201, Idaho Code, be, and the same is hereby
 6 amended to read as follows:

7 23-201. DIRECTOR -- APPOINTMENT AND TERM. There shall be a state
 8 liquor division (in this act referred to as the "division"), in the office of
 9 the governor. The division shall be a division of the office of the governor
 10 for the purposes of chapter 24 8, title 67, Idaho Code, and the administrator
 11 of the division shall be known as the director of the state liquor division.
 12 ~~The division shall be conducted by the director of the division.~~ The direc-
 13 tor shall be appointed by the governor for a term of three (3) years, but may
 14 be removed by the governor at will.

15 SECTION 3. That Section 23-204, Idaho Code, be, and the same is hereby
 16 repealed.

17 SECTION 4. That Section 23-205, Idaho Code, be, and the same is hereby
 18 repealed.

19 SECTION 5. That Section 23-207, Idaho Code, be, and the same is hereby
 20 amended to read as follows:

21 23-207. SPECIFIC RULES AND REGULATIONS. Without attempting or intend-
 22 ing to limit the general powers of the director of the division contained in
 23 section 23-206, Idaho Code, such powers shall extend to and include the fol-
 24 lowing:

25 (a) ~~To prescribe the duties of the secretary, and to supervise his con-~~
 26 ~~duct while in the discharge of his duties.~~

27 ~~(b)~~ Subject to the provisions of chapter 53, title 67, Idaho Code, to
 28 prescribe the qualifications of and to select ~~clerks, accountants, agents,~~
 29 ~~vendors, inspectors, servants, legal counsel, and other~~ personnel to con-
 30 duct its business and perform its functions; to require that those holding
 31 positions of trust be bonded to the state of Idaho in the time, form and man-
 32 ner prescribed by chapter 8, title 59, Idaho Code; to fix the compensation of
 33 all appointees and employees, assign their duties, and to discharge them.

34 (e**b**) To regulate the management, operation, bookkeeping, reporting,
 35 equipment, records, and merchandise of state liquor stores and distribution
 36 stations and warehouses.

37 (e**c**) To regulate the importation, purchase, transportation, and stor-
 38 age of alcoholic liquor and the furnishing of alcoholic liquor to state
 39 liquor stores, distribution stations, and warehouses established under this
 40 act.

41 (e**d**) To determine the classes, varieties, and brands of alcoholic
 42 liquors to be kept in state warehouses and for sale at state liquor stores and
 43 distribution stations.

44 (e**e**) To determine the nature, form, and capacity of packages containing
 45 liquor kept or sold.

(g)f) To prescribe the kinds and character of official seals or labels to be attached to packages of liquor sold to a licensee as defined in chapter 9, title 23, Idaho Code. No official seals or labels shall be required to be attached to packages of liquor sold to the general public, at a liquor store or a distributing station.

(h)g) From time to time to fix the sale prices, which shall be uniform throughout the state, of the different classes, varieties, or brands of alcoholic liquor, and to issue and distribute price lists thereof.

(i)h) To prescribe, prepare, and furnish printed forms and information blanks necessary or convenient for administering this act, and printed copies of the regulations made thereunder. To contract for the printing thereof and of all necessary records and reports.

(j)i) To regulate the issuance, suspension and revocation of permits and licenses to purchase, manufacture and handle or traffic in alcoholic liquor.

(k)j) To prescribe the conditions and qualifications necessary for obtaining permits and licenses, and the conditions of use of privileges under them; and to provide for the inspection of the records and the conduct of use of permittees and licensees.

(l)k) To prescribe the kind, quality, and character of alcoholic liquors which may be purchased or sold under any and all licenses and permits, including the quantity which may be purchased or sold at any one (1) time or within any specified period of time.

SECTION 6. That Section 23-211, Idaho Code, be, and the same is hereby amended to read as follows:

23-211. PERSONNEL NOT TO BE INTERESTED IN PRIVATE LIQUOR TRAFFIC. Neither the director, ~~the secretary~~, nor any other officer or employee of the division shall, directly or indirectly, individually, or as a member of a partnership or as a shareholder in a corporation, have any private interest whatsoever in the business of manufacturing, transporting, distributing, or selling of alcoholic liquor; nor shall he receive any kind of profit whatsoever, or have any interest whatsoever in the purchases or sale by the persons herein authorized to purchase and sell alcoholic liquor, except that such provisions shall not prevent any such person from purchasing and keeping in his possession for the personal use of himself, his family, or his guests, of any liquor which may be lawfully purchased.

SECTION 7. That Section 23-214, Idaho Code, be, and the same is hereby amended to read as follows:

23-214. OFFICERS AND EMPLOYEES NOT PERSONALLY LIABLE. Neither the director, ~~secretary~~, nor any of the officers or employees of the division shall be liable for damages sustained by any person because of any act done in the performance of their respective duties under this act.

SECTION 8. That Section 23-301, Idaho Code, be, and the same is hereby amended to read as follows:

23-301. LIQUOR STORES -- NOTICE OF INTENT TO LOCATE. (a) The division may establish and maintain liquor stores ~~under the management of a vendor~~ in

any city organized under general or special law. Before any store site or distributing station may be established within a city or unincorporated area that does not have a distributing station, the division shall have printed in the city's official newspaper, as defined in section 50-213, Idaho Code, a legal notice of the division's intent to establish a liquor store or distributing station in the city and that a public hearing will be held regarding the proposed liquor store if the requirements specified herein are satisfied. The legal notice shall contain the time, date and place of the hearing and the address where the liquor store or distributing station is proposed to be located, notice of the right to protest the location, the requirements necessary to be satisfied before a public hearing will be held, and shall be a twenty (20) days' notice as described in section 60-109, Idaho Code. If the lesser of twenty-five (25) people or ten percent (10%) of the eligible voters living in precincts, any part of which is located within a one thousand (1,000) foot radius surrounding ~~of~~ the proposed site, sign a petition which protests the proposed site of the liquor store or distributing station and present it to the director or his designated representative, a public hearing shall be held within one (1) week after the last legal notice has been published.

(b) If fifty percent (50%) or more of the eligible voters living in precincts, any part of which is located within a one thousand (1,000) foot radius surrounding the proposed site of the liquor store or distributing station, sign a petition which protests the proposed site of the liquor store or distributing station and present it to the director or his designated representative within five (5) business days after the public hearing, the division shall not place a liquor store or distributing station at the proposed site.

(c) The division may classify liquor stores according to the volume of their sales.

SECTION 9. That Section 23-304, Idaho Code, be, and the same is hereby amended to read as follows:

23-304. ~~QUALIFICATIONS OF VENDORS AND SPECIAL DISTRIBUTORS.~~ A ~~vendor~~ ~~or~~ special distributor shall have been a resident of the state for at least six (6) months prior to his selection and shall be a person having a reputation for probity, temperance and integrity.

SECTION 10. That Section 23-305, Idaho Code, be, and the same is hereby amended to read as follows:

23-305. ~~COMPENSATION OF VENDORS AND SPECIAL DISTRIBUTORS.~~ ~~Vendors and~~ ~~s~~special distributors shall receive uniform compensation, which compensation shall be considered a part of the cost of sales, according to classifications, fixed by the division.

SECTION 11. That Section 23-306, Idaho Code, be, and the same is hereby amended to read as follows:

23-306. GENERAL CONDUCT AND MANAGEMENT. In the conduct and management of liquor stores and distributing stations, ~~vendors and~~ special distribu-

tors shall be subject to the provisions of this act and the rules and regulations of the division.

SECTION 12. That Section 23-309, Idaho Code, be, and the same is hereby amended to read as follows:

23-309. SALES. No ~~vendor of any~~ state liquor store or special distributor shall sell any alcoholic liquor or any other merchandise on behalf of the division except for cash, check, money order, credit card, electronic funds transfer or debit card. In addition, the division shall, under such rules as may be adopted by it, authorize the vendor of a state liquor stores or special distributors to accept a check, credit cards, electronic funds transfer or debit card from persons licensed for the retail sale of liquor by the drink pursuant to chapter 9, title 23, Idaho Code, as payment for purchases from the division. Dishonor of any credit device given by such person shall constitute grounds for suspension or revocation of such person's license pursuant to section 23-933, Idaho Code, in addition to any other remedy provided by law.

SECTION 13. That Section 23-406, Idaho Code, be, and the same is hereby amended to read as follows:

23-406. ADMINISTRATIVE EXPENSE. Claims for salaries, wages, and other compensation, premiums on official bonds, traveling and other expenses of the director, ~~secretary~~ and other officers and employees, and all other expenditures made by the division in the exercise of its powers hereunder, shall be paid from the liquor fund as a part of the cost of the administration of this act.

SECTION 14. That Section 23-407, Idaho Code, be, and the same is hereby amended to read as follows:

23-407. DEPOSIT OF REVENUE. It shall be the duty of all special distributors, ~~vendors~~, officers, agents, and employees to report and pay over to the division, in such manner and pursuant to such rules as may be adopted by it, all revenues derived from the sale of alcoholic beverages, all revenues derived from the sale of all other merchandise sold on behalf of the division, excise taxes, licenses, permits, fees, profits on sales, or other revenues resulting from the operation of this act, and the division shall deposit the same with the state treasurer to the credit of the liquor fund.

SECTION 15. That Section 23-607, Idaho Code, be, and the same is hereby amended to read as follows:

23-607. ADVERTISING. Except as permitted by federal statute and regulations, there shall be no public advertisement or advertising of alcoholic liquors in any manner or form within the state of Idaho.

(1) No person shall publish, exhibit, or display or permit to be displayed any other advertisement or form of advertisement, or announcement, publication, or price list of, or concerning any alcoholic liquors, or where, or from whom the same may be purchased or obtained, unless permitted

1 so to do by the regulations enacted by the division and then only in strict
2 accordance with such regulations.

3 (2) This section of the act shall not apply however:

4 (a) To the division.

5 (b) To the correspondence, ~~or telegrams,~~ or general communications of
6 the ~~commission division,~~ or its agents, ~~servants,~~ and employees.

7 ~~(c) To the receipt or transmission of a telegram or telegraphic copy in~~
8 ~~the ordinary course of the business of such agents, servants, or employ-~~
9 ~~ees of any telegraph company.~~

10 A violation of this section shall constitute a misdemeanor.

11 SECTION 16. That Section 23-609, Idaho Code, be, and the same is hereby
12 repealed.

13 SECTION 17. That Section 23-611, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 23-611. OFFICERS MAY SEIZE ILLEGAL ALCOHOLIC LIQUOR. The ~~commissioner~~
16 director of the Idaho state police or any of his agents, any sheriff, con-
17 stable or other peace officer who shall find any liquor, possessed, manufac-
18 tured, transported, purchased, sold or disposed of by any person in viola-
19 tion of the provisions of this act, or any other laws of the state of Idaho,
20 may forthwith seize and remove the same and keep the same as evidence, and
21 upon conviction of the person, the said liquor and all packages and recepta-
22 cles containing the same shall be forfeited to the state of Idaho and, in ad-
23 dition, persons so violating this act shall be subject to the other penalties
24 herein prescribed.

25 SECTION 18. That Section 23-914, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 23-914. LICENSEE MUST PURCHASE FROM DIVISION -- PRICE. All liquor sold
28 by any licensee shall be purchased from the division through its regular
29 retail stores and ~~distributors~~ distributing stations at the posted price
30 thereof. The division is hereby authorized and directed to make such sales
31 ~~for cash, check or money order to be paid at the time of purchase pursuant to~~
32 section 23-309, Idaho Code, upon a special permit issued to such licensee in
33 such form as shall be prescribed by the director of the division. The posted
34 price as used herein shall mean the retail price of such liquor as fixed and
35 determined by the division.

36 It shall be unlawful for any licensee to sell, or keep for sale, or have
37 on his premises for any purpose whatsoever, any liquor except that purchased
38 as herein authorized and provided, and any licensee found in possession of,
39 selling or keeping for sale any liquor not purchased as herein authorized
40 shall be guilty of a felony and upon conviction thereof shall be fined not
41 less than one thousand dollars (\$1,000) nor more than five thousand dollars
42 (\$5,000), or by imprisonment in the state prison for not more than five (5)
43 years, or by both such fine and imprisonment. Any license issued to such per-
44 son shall be immediately and permanently revoked. The amount of liquor to be
45 sold to licensees hereunder in any city or village shall be determined by the
46 director or other executive officer of the division, but such sales shall be

1 regulated so as to maintain adequate stocks of merchandise for sale to per-
2 sons other than said licensees.

3 The provisions of this section notwithstanding, railroad companies
4 shall have the right to have in their possession liquors other than those
5 purchased from the division.