

CHAPTER 1

ALCOHOLIC BEVERAGES

ARTICLE C. WINE REGULATIONS

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3-1C-1: **DEFINITIONS:**

DESSERT WINE: Only those wines that contain more than sixteen percent (16%) alcohol by volume, but do not exceed twenty-four percent (24%) alcohol by volume, are grape-based, and are fortified through the addition of wine-based spirits or brandy made from grapes. Dessert wine as defined herein shall not be deemed to be a spirit-based beverage for the purposes of paragraph (g) of this subsection. Dessert wine as defined in this section shall not include aromatized wines such as vermouth, quinquina, and americano.

PERSON: Any individual, firm, co-partnership, association, corporation or any other group or combination acting as a unit, and includes the plural as well as the singular

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unless the intent to give more limited meaning is disclosed by the context in which it is used.

PREMISES: A building in which the sale of wine is authorized.

RETAIL WINE LICENSE: A license authorizing a person to sell table wine and/or dessert wine at retail for consumption off the licensed premises.

RETAILER: Any person engaged in the sale or distribution of wine to the consumer, and to whom a retail wine license has been issued.

TABLE WINE: Any alcoholic beverage containing not more than sixteen percent (16%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.

WINE: Includes table wine and dessert wine, unless the context requires otherwise.

WINE BY THE DRINK LICENSE: A license to sell table wine or dessert wine by the individual glass or open bottle at retail, for consumption on the premises only.

All other words and phrases used in this article, the definitions of which are not herein given, shall be given their ordinary, commonly understood and accepted meanings.

3-1 C-2: **EXCEPTIONS TO REGULATIONS:** Nothing contained in this article shall prohibit the state liquor dispensary from acting pursuant to its statutory authority.

3-1C-3: **LICENSES REQUIRED; FEES:** Retailers holding valid licenses for the retail sale of liquor by the drink pursuant to Idaho Code, title 23, chapter 9, and title 3, chapter 1, article B of this code, may sell wine for consumption on or off the licensed premises. Persons holding a valid wine by the drink license may sell wine for consumption on the premises only.

Retailers who do not possess a valid license for the retail sale of liquor by the drink, or retailers who do not have a valid wine by the drink license, shall not permit consumption of wine on the licensed premises and may sell the wine only in its original unbroken container.

It shall be unlawful for any person to sell, barter or dispose of wine at retail for consumption on or off the premises within the boundary of Cassia County until a valid license is granted by the board of county commissioners as provided by this article. License fees shall be as follows:

For a retail wine license only, where wine is sold only in closed containers, with no consumption on the premises - per annum.....**\$100.00**

For a wine by the drink license only, where wine is sold by the individual glass or open bottle at retail, for consumption on the premises only - per annum.....**\$100.00**

If a license is issued within six (6) calendar months of the first day of the designated renewal month for Cassia County, the applicant shall pay the full annual license fee. If a license is issued after six (6) calendar months from the first day of the designated renewal month for Cassia County, the applicant shall pay one-half (1/2) the annual license fee.

3-1C-4: APPLICATION FOR LICENSE:

- A. Prior to the issuance of a license, the applicant shall execute and file with the county commissioners an application, in writing, verified by the oath of the applicant, or one of its officers, upon a form to be provided by the county and containing information and statements relative to the applicant and the premises (in existence or to be constructed in accordance with plans and specifications approved by the county) where the wine is to be sold. The application shall be verified by the affidavit of the applicant before a person authorized to administer oaths. In addition to setting forth the qualifications required by other provisions of this article, the applicant must show:
 - 1. A detailed description of the premises for which a license is sought, its location and street address.

2. The names and addresses of all persons who will have any financial interest in any business to be carried on, in or upon the licensed premises, whether such interest results from open loans, mortgages, conditional sales contracts, trusts or any other basis other than open trade accounts incurred in the ordinary course of business, and the amounts of such interest.
 3. If the premises to be licensed are not owned by the applicant, then a certified copy of the lease by which he will occupy the premises showing that the owner consents to the sale of wine on such premises.
 4. The name and address of the applicant which shall include all members of a partnership or association, or the officers and members of the governing board and the principal stockholders of a corporation. If a corporation, it shall also show proof it is qualified to do business in the state of Idaho.
- B. If, during the period of any license issued hereunder, any change shall take place in any of the requirements of this section, the licensee shall forthwith make a verified report of such change to the county clerk.
 - C. Applications shall include a copy of the license issued by the director of the Idaho state police for the premises and for the time for which the application is made.
 - D. If any false statement is made in any part of an application, or any subsequent report, the applicant, or applicants, shall be deemed guilty of a misdemeanor.
 - E. Each application shall be accompanied by the required license fee which shall be returned to the applicant if the board of county commissioners refuses to issue the license.

3-1C-5: **ISSUANCE OF LICENSES:** The board of county commissioners shall duly consider and evaluate all new applications and renewal applications for a license to sell or dispense wine and after so evaluating shall determine to grant or deny each application in accordance with the provisions of this article. Prior to said determination, new applications shall be submitted to the sheriff of Cassia County for review, and his assessment of each application shall be considered by the board of county commissioners prior to its decision. If the board of county commissioners so orders, the county clerk shall issue

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a license to the applicant, which license or licenses shall at all times be prominently displayed in the place of business of the licensee and shall be issued only for the particular premises therein described. Separate retail wine and wine by the drink licenses shall be required for each premise.

3-1 C-6:

REASONS FOR DENIAL OF LICENSE: No license shall be issued to an applicant who at the time of making

application:

1. If an individual or partnership, either the individual or at least one (1) of the partners of a partnership is not nineteen (19) years of age or older.
2. If a corporation, has not qualified as required by law to do business in the state of Idaho.
3. Has had a wine distributor's license, retail wine license, wine by the drink license, or wine importer's license revoked by the director within three (3) years from the date of making such application.
4. Has been convicted of a violation of the laws of the state of Idaho or of the United States governing the sale of alcoholic beverages, wine, or beer, within three (3) years from the date of making such application.
5. Has been convicted of a felony or granted a withheld judgment following an adjudication of guilt of a felony within five (5) years from the date of making such application.

3-1C-7:

CONTINUANCE OF QUALIFICATIONS: A retail licensee must continue throughout the license period to have all of the qualifications and none of the disqualifications provided for in this article.

3-1 C-8:

LOCATION RESTRICTIONS: No wine by the drink license shall be issued for any place, where wine is sold or dispensed to be consumed on the premises, whether conducted for pleasure or profit, that is within three hundred feet (300') of any public school, church, or any other place of worship measured in a straight line to the nearest entrance to the licensed premises. This limitation shall not apply to any duly licensed premises that at the time of licensing did not come within the restricted area, but subsequent to licensing, came therein.

3-1 C-9: **EXPIRATION; RENEWAL OF LICENSES:** All shall licenses issued pursuant to the provisions of this article expire at one o'clock (1:00) A.M. on the first day of a designated renewal month for Cassia County, to be determined by the director of the Idaho state police pursuant to administrative rule. Renewal of the license shall be on forms prescribed and furnished by the county clerk. Renewal forms shall be submitted together with the required license fee and an affidavit verifying that the information contained in the original application is unchanged, or if there are material changes, indicating such changes. Renewal applications must be received by the board of county commissioners on or before the first day of the designated renewal month; provided, however, 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 his license and during which time he shall not be permitted to sell or dispense wine.

3-1C-10: **TRANSFER OF LICENSE:**

- A. No license may be transferred to another person, including an executor, administrator, or trustee in bankruptcy of the estate of the licensee, unless the transferee shall first have obtained the written consent and approval of the board of county commissioners to such transfer upon application containing substantially the same information required of an applicant for a license. If the transferee possesses all of the qualifications and none of the disqualifications for such a license, the board shall approve the transfer, which approval shall be attached and made a part of the license. Prior to a decision on a denial or approval of said transfer by the board of county commissioners, the sheriff of Cassia County shall review the transfer application and his assessment shall be considered by the board of county commissioners before they make their determination. The fee for each transfer of a license shall be twenty dollars (\$20.00) which fee shall accompany the application for a transfer.
- B. Application to transfer a license from one location to another shall be made to the board of county commissioners on forms prescribed and furnished by the county clerk. Such a transfer shall not be approved unless the application procedure for a new license has been complied with.

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- C. Any licensed person desiring to change its place of business from one location to another shall file with the county clerk an application therefor.

The county clerk shall make investigation of the new proposed place of business and within seven (7) days make report thereon to the board of county commissioners, accompanied by the application.

- D. Nothing in this article shall be construed to create any vested right in any person or entity to assignment, renewal or reissuance or continuance of any license or the right to assign any license, or the right to issue a power of attorney over a license.

3-1C-11:

OPERATING HOURS:

- A. No wine shall be sold, dispensed or given away on the licensed premises between the hours of one o'clock (1:00) A.M. and six o'clock (6:00) A.M. seven (7) days a week.
- B. Any patron present on the licensed premises after the sale of wine has stopped as provided in subsection A of this section, shall have a reasonable time, not to exceed thirty (30) minutes, to consume any beverage already served.
- C. Any person who consumes or intentionally permits the consumption of any alcoholic beverage upon the licensed premises after the time provided for in subsections A and B of this section shall be guilty of a misdemeanor.

3-1 C-12:

INSPECTIONS; ACCESS TO PREMISES: The sheriff and all deputy sheriffs of the county of Cassia shall have the right at any time to enter in and upon such licensed premises, and it shall be unlawful to refuse any deputy sheriff admittance to or access to such premises for the purpose of police patrol, regulation and inspection of such premises.

3-1 C-13:

PROHIBITED ACTS; CONDITIONS:

- A. Prohibited Sales: It shall be unlawful and punishable as a misdemeanor for any person to sell, deliver or give away, or cause or permit to be sold, delivered or given away, any wine to:

1. Any person under the age of twenty-one (21) years, proof of which shall be a valid driver's license, identification or military identification card bearing a photograph and date of birth, a valid passport or an identification issued by the Idaho state police.
2. Any person apparently or obviously intoxicated.
3. Any person to whom sale is prohibited, as defined by the laws of the state.

B. Minors:

1. Any person who shall procure wine for any person under twenty-one (21) years of age, or any person under twenty-one (21) years of age who shall purchase, attempt to purchase, or otherwise procure, consume or possess wine shall be guilty of a misdemeanor.
2. Any person under the age of twenty-one (21) years, who shall by any means represent to any person licensed to sell wine or to any agent or employee of such retail licensee, that he or she is twenty-one (21) years or more of age, for the purpose of inducing such retail licensee, his agent or employee to sell, serve or dispense to him or her shall be guilty of a misdemeanor.
3. Any person who shall by any means represent to any person licensed to sell wine or to his agent or employee, that any other person is twenty-one (21) years or more of age, when in fact such other person is under the age of twenty-one (21) years, for the purpose of inducing such retail licensee, his agent or employee, to sell, serve or dispense wine to such other person shall be guilty of a misdemeanor.

- C. Consumption in Motor Vehicle: No person shall, while operating or riding in or upon a motor vehicle upon a public highway of this state, consume wine or have in his possession any wine in an open or unsealed container of any kind.

3-1C-14:

REVOKE, SUSPEND, OR DENY RENEWAL:

- A. Cause For Revocation, Suspension, Or Denial Of Renewal: Any license issued hereunder may be revoked by the board of county commissioners or suspended for a period not to exceed six (6) months

or the board of county commissioners may refuse to grant a renewal of said license after the date of expiration thereof, for any fraud or misrepresentation on the part of the licensee or his employee or agent or for any violation of any ordinance of the county or of any law of the state relating to the manufacture, sale or possession of intoxicating liquor or beer.

B. Procedure:

1. Written Complaint, setting forth the allegations supporting suspension or revocation shall be filed with the Board of Commissioners.
2. A copy of the written complaint shall be forwarded to the Cassia County Sheriff's Office. The Sheriff's Office shall conduct a thorough investigation of the complaint and prepare a report of findings to the Board of County Commissioners.
3. Upon receiving the Sheriff's Office report, and if any allegations supporting suspension or revocation are deemed to have foundation for action, then the Board shall provide notice to the licensee of the complaint and the report of findings. The Board shall schedule an Order to Show Cause Hearing and provide notice of that hearing to the licensee. The Order to Show Cause will require the licensee to appear in response to the complaint.
4. The Order to Show Cause proceedings before the Commission shall be held in accordance with the applicable provisions of chapter 52, title 67, Idaho Code, as from time to time may be amended and/or retitled.
5. At such hearing, the Board shall hear the licensee and any evidence that may be offered by licensee. If the Board finds that cause exists for suspension or revocation of such license, the Board of County Commissioners may revoke such license for a period not to exceed six (6) months and may direct that the license issued theretofore issued shall be taken by the Sheriff and forthwith cancelled or revoked or suspended as the case may be.
6. Upon a final determination by the Board of County Commissioners to suspend or revoke any retailer's license, the Board of County Commissioners shall provide written notice of said suspension or revocation to any other licensing authority which has licensed the involved licensee.

3-1 C-15: **PENALTY:** Any person, firm, co-partnership, corporation, or individual, whether as principal, agent, employee or otherwise who shall violate the terms of this article shall be guilty of a misdemeanor and upon conviction thereof, shall be punished as set forth in section 1-4-1 of this code.