

**IDAPA 15 – OFFICE OF THE GOVERNOR  
IDAHO STATE LIQUOR DIVISION**

**DOCKET NO. 15-1000-2000F (FEE RULE)**

**NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 23-206(b), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Opportunity for presentation of oral comments concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the purpose of the proposed rulemaking:

This proposed rulemaking re-publishes the following existing temporary rule chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 15, rules of the Idaho State Liquor Division:

**IDAPA 15.10**

- 15.10.01, *Rules of the Idaho State Liquor Division.*

**FEE SUMMARY:** This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules. The following is a specific description of the fees or charges allowed by IDAPA 15.10.01 Section 022, authorized in Section 23-206(b), Idaho Code:

1. **Cost Reimbursement.** The Division may seek cost reimbursement, as determined by the Division, from Supplier Representatives for mailing, shipping, or other expenses incurred by the Division to distribute information or displays to liquor stores at the request of a Supplier Representative.
2. **Maximum Fee for Samples.** There will be a maximum fee of twenty-five dollars (\$25) per case charged to Supplier Representatives for Samples.
3. **Maximum Fee for Annual Supplier Representative Permit.** There will be a maximum fee of fifty dollars (\$50) charged to Supplier Representatives each year for an annual permit.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2021 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tony Faraca, Chief Deputy Director, at (208) 947-9414.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of August, 2020.

Jeffrey Anderson  
Director  
Idaho State Liquor Division  
1349 E. Beechcraft Court  
Boise, ID 83716  
Ph. (208) 947-9400 | Fax (208) 947-9401

**IDAPA 15 – OFFICE OF THE GOVERNOR  
IDAHO STATE LIQUOR DIVISION**

**15.10.01 – RULES OF THE IDAHO STATE LIQUOR DIVISION**

**000. LEGAL AUTHORITY.**

These rules are adopted by the Director of the Idaho State Liquor Division pursuant to Section 23-206(b), Idaho Code. ( )

**001. TITLE AND SCOPE.**

This chapter is titled IDAPA 15.10.01, “Rules of the Idaho State Liquor Division,” Office of the Governor. These rules provide guidance regarding operational aspects of the Division and support and enforce applicable terms in the Idaho Liquor Act, Title 23, Idaho Code. ( )

**002. DEFINITIONS.**

The following terms, whenever used in these rules, have the meanings ascribed thereto, unless the context in which they are used clearly requires otherwise. ( )

**01. Bailment.** A system of storing Supplier-owned inventory in state-operated Warehouses. The Division holds the Liquor in trust until stock is needed at retail. ( )

**02. Central Office.** The main business office and Warehouse of the Idaho State Liquor Division. ( )

**03. Close Relative.** A person related by blood or marriage within the second degree of kinship. ( )

**04. Delisting.** The process of discontinuing any product offered for sale resulting in the product’s removal from the Division’s Product Line. The decision to retain or delist a product rests solely with the Director. ( )

**05. Director.** The chief executive officer of the Division. ( )

**06. Division.** The Idaho State Liquor Division. ( )

**07. Distressed Liquor.** Liquor which is not in its original state of packaging. ( )

**08. Distributing Station.** A privately owned business that sells Liquor. It operates under an Agreement with the Division pursuant to Title 23, Chapter 3, Idaho Code. Distributing Stations may also be termed Contract Stores. ( )

**09. Distillery Distributing Station.** A privately owned business that holds a permit issued by the Alcohol and Tobacco Tax and Trade Bureau (TTB), a manufacturer’s license pursuant to Section 23-507, Idaho Code, and sells Liquor to retail customers pursuant to a Special Distributor Agreement with the Division in accordance with Title 23, Chapter 3, Idaho Code. Distillery Distributing Stations are “manufacturers of distilled spirits” under Section 23-509A, Idaho Code. Distillery Distributing Stations may also be termed Contract Stores for purposes of retail sales of Liquor within the state of Idaho. ( )

**10. Liquor.** Liquor controlled by the Division has the definition ascribed to it by Section 23-105, Idaho Code, excluding certain beers as defined in Section 23-1002, Idaho Code, and certain Wines as defined in Section 23-1303, Idaho Code. ( )

**11. Licensee.** Person authorized to sell beer or Wine by the drink or by the bottle, Liquor by the drink, or any combination thereof. ( )

**12. Listing (Listed).** Liquor that is carried or approved to be carried in the Division’s Product Line. ( )

**13. Political Office.** A public office for which partisan politics is a basis for nomination, election, or appointment. ( )

14. **Price Quotation.** Written verification of detailed product information submitted to the Division by Suppliers. ( )
15. **Product Line.** Items offered for sale by the Division. ( )
16. **Promotional Samples.** Liquor furnished by the liquor industry to local representatives for the purpose of promoting the product that are attached to another Liquor product in the liquor store as a value added promotion. ( )
17. **Retail Store.** Any State Store or Distributing Station. ( )
18. **Samples.** Liquor furnished by the liquor industry to Supplier Representatives for the purpose of promoting the product. ( )
19. **Shortage.** Any amount of cash or Liquor less than the true balance as maintained by the Central Office. Liquor Shortages are based on current retail value. ( )
20. **Special Distributor (Distributor).** A private business owner authorized to operate a Distributing Station. A Special Distributor is not a state employee. ( )
21. **Special Distributor Agreement (Agreement).** The contract signed by a Special Distributor acknowledging the conditions and terms for operation of a Distributing Station in accordance with Idaho Code and the rules of the Division. ( )
22. **Special Order.** Any item not regularly offered as part of the Division's Product Line. ( )
23. **State Store.** A Retail Store that sells Liquor. It is operated by state employees under the direct supervision of the Division. ( )
24. **Supplier.** Any manufacturer, rectifier, importer, wholesaler or Supplier of Liquor, Wine, or related products offered for sale by the Division. ( )
25. **Supplier Representative.** An individual, company, or entity authorized to represent a Supplier in the state of Idaho. A Supplier Representative may be an individual, a group of individuals operating as a brokerage firm or may be a direct employee of the Supplier. ( )
26. **Warehouse.** The main Division distribution center and satellite distribution points. ( )
27. **Wine.** Alcoholic beverages defined in Section 23-1303, Idaho Code. ( )
28. **Wine Gallon.** The liquid measure equivalent to the volume of two hundred thirty-one (231) cubic inches or one hundred twenty-eight (128) ounces. ( )

**003. -- 009. (RESERVED)**

**010. RETAIL STORES.**

01. **Site Location.** Based on the criteria set forth in this section and in accordance with Sections 23-301 and 23-302, Idaho Code, the Division will select an appropriate Retail Store site to adequately serve the community. ( )
02. **Site Selection Criteria.** The following criteria will be used in selecting a location for a new Retail Store. ( )
- a. Public acceptability of location in accordance with Sections 23-301 and 23-302, Idaho Code. ( )

- b. Location and suitability of premises. ( )
- c. Lease amount may not be the sole determining factor in site selection; final selection will be determined at the discretion of the Director. ( )
- d. Compliance with local zoning. ( )
- 03. Customer Refunds and Exchanges.** No refunds will be authorized without prior approval of the Director or his authorized agent. ( )
- a. Liquor may be exchanged for other Liquor of the same price upon approval of the store manager and presentation of a valid receipt. ( )
- b. Liquor brought in for exchange or refund must have been purchased in Idaho through the Division. ( )
- c. A re-shelving charge may be assessed on returned items in accordance with Section 23-311, Idaho Code. ( )
- 04. Disabled Customers.** Appropriate special services, in accordance with the Americans with Disabilities Act, will be provided to disabled customers. ( )
- 05. Prices.** All prices will be in accordance with the published price list set by the Director in accordance with Section 23-207(g), Idaho Code. ( )
- 06. Distressed Liquor.** Price adjustments can be made on Distressed Liquor with the approval of the Director or his authorized agent. ( )
- 07. Hours and Days of Operation.** Retail Store hours and days of business operation will be set by the Director in accordance with Section 23-307, Idaho Code. ( )
- 08. Audits.** Designated personnel will perform periodic inspections of all Retail Stores. Such inspections may be on an unannounced basis and may include physical inventory counts with the assistance of the store manager or authorized agent to assess the suitability of inventory levels and product mix and other evaluation procedures. ( )
- 09. Admission to State Store.** Division personnel may refuse entry or take actions as are appropriate to cause the removal of a person from a State Store where such person is disrupting performance of the Division's duties or is inconsistent with the Division's charge to curtail the intemperate use of alcoholic beverages. ( )
- 011. DISTRIBUTING STATIONS.**
- 01. Term of Agreement.** Special Distributor Agreements are valid for a specified period as determined at the discretion of the Director. ( )
- 02. Transfer of Agreement.** A Special Distributor Agreement is a personal privilege and is not considered property nor is it assignable or transferable. ( )
- 03. Agreement Renewal.** If a Distributing Station's operation exceeds Division expectations, agreement renewals may be allowed. ( )
- 04. Agreement Evaluations.** Periodic evaluation of the agreement, in accordance with the guidelines set in Subsection 011.06 of these rules, will be considered to insure reasonable, uniform and non-discriminatory criteria and procedures for selection and renewal of special Distributing Stations pursuant to Section 23-302, Idaho Code. These criteria are applicable to the replacement of an existing Distributing Station and to the establishment of a new Distributing Station. ( )

**05. Acceptance of Applications.** Applications for Distributing Stations are accepted only in response to public notices. Unsolicited applications may not be held on file pending future openings. ( )

**06. Applicant Selection.** The selection of the most qualified applicant for a Distributing Station will be made by the Director in accordance with Section 23-304, Idaho Code. The Director reserves the right to refuse to select any and all applicants. Applicant selection will be based on the following criteria: ( )

**a.** Public acceptability in accordance with Section 23-302, Idaho Code. ( )

**b.** Location and suitability of premises. ( )

**c.** An applicant who has been convicted of, or has plead guilty to, a felony or a crime of moral turpitude (an element of which is dishonesty or fraud) under the laws of any state, U.S. Territory or protectorate, the District of Columbia, or the United States will not be allowed to operate a Distributing Station. ( )

**d.** An applicant may not be a Close Relative of, or have a partnership or other close business relationship with any person employed by the Division who has the responsibility for establishing, approving, or influencing policies of the Division. ( )

**e.** An applicant may be a spouse, child, employee, blood relative, relative through marriage, or business associate of the retiring or deceased Distributor. ( )

**f.** Distributing Stations will not be established in a business that has a license to sell Liquor, Wine or beer by the drink. ( )

**g.** Where a new Distributing Station is created by the conversion of a State Store, an employee of that former state store can be chosen by the Division as the Special Distributor. ( )

**h.** If an existing Distributing Station is sold, the purchaser may, at the sole and absolute discretion of the Division, continue to operate the Distributing Station under comparable terms and conditions applied to the previous Special Distributor. ( )

**07. General Operational Obligations.** Special Distributors will: ( )

**a.** Furnish an adequate building or facility with suitable shelving, display counters and storeroom facilities. It must be kept clean and sanitary at all times. ( )

**b.** Not permit a person under the age of nineteen (19) to perform any acts for the Division. ( )

**c.** Keep the Distributing Station open for business in accordance with Section 23-307, Idaho Code. ( )

**d.** Not hold a partisan state elective political office. He cannot be a Close Relative of, or be in a business partnership with a person in a partisan state elective Political Office. ( )

**e.** Not present his views as being representative of the views of the Division and not attempt to politically influence customers in any manner. ( )

**f.** Make and transmit all reports as required by the Division in the time frame established by the Division. ( )

**g.** Be responsible for and account to the Division for all Liquor furnished by the Division. ( )

**h.** Only sell Liquor received from the Division. ( )

**i.** Only sell the Liquor at prices set by the Division in accordance with Section 23-207(h), Idaho Code. ( )

- j. Not deliver Liquor off premise without explicit authorization of the Director. ( )
- 08. Days and Hours of Operation.** ( )
- a. Standard store hours will be in accordance with Subsection 010.07 of these rules. ( )
- b. The Distributor will not exceed the maximum legal selling hours as set by the Director. ( )
- 09. Fiduciary Responsibility.** Any and all unremitted monies collected in trust for the Division, and upon their receipt, are assigned to the Division in accordance with Section 23-401, Idaho Code. ( )
- 10. Liquor Shortage.** The Distributor must pay the monetary value of any Shortage immediately after receipt of the request for payment from the Division showing its calculation of the Shortage. ( )
- a. If the Distributor disputes Liquor or cash Shortages, he may request a hearing before the Director. ( )
- b. Any payment made by the Distributor for Liquor shortages may be refunded in whole or in part if the Distributor's position is upheld by the Director. ( )
- 11. Compensation.** The compensation paid by the Division to the Special Distributor will be full payment for the furnishing of all facilities, operating costs and expenses incidental to the operation of the Distributing Station, as well as full consideration for all services provided by the Distributor. Such compensation will be uniformly applied statewide in accordance with Section 23-305, Idaho Code. ( )
- 12. Supplies.** The Division will furnish books, forms, and equipment for use by the distributor in transacting the business of the Division as required by law or as deemed necessary by the Director. ( )
- 13. Voluntary Agreement Termination.** ( )
- a. The Distributor Agreement may be voluntarily terminated by the Distributor upon written notice by certified mail or personal delivery to the Division or its specified representative specifying the date of termination. ( )
- b. The Distributor will allow reasonable time for the Division to conduct a final inventory audit and to remove all Liquor. ( )
- c. The sale of the Distributor's business to any other party, the forfeiture of the business to a lien holder, or the foreclosure upon the business will be considered voluntary Agreement termination. ( )
- 14. Automatic Agreement Termination.** Upon the death of the Distributor, the Distributor's estate, assisted by the Division, will be responsible for the operation of the Distributing Station until the termination date, as established by the Director. ( )
- 15. Agreement Termination for Cause.** The Division may terminate the Special Distributor Agreement for cause which includes, but is not limited to, any of the following: ( )
- a. A Distributor who at any time becomes insolvent or experiences a substantial change in financial condition that, in the judgment of the Director, creates a financial risk to the Division. ( )
- b. Significant breach of Distributor's obligations to manage the Distributing Station properly. ( )
- c. Intoxication of the Distributor while in discharge of his duties as a representative of the Division. ( )

- d. Participation of the Distributor in misappropriation of any assets of the Division. ( )
  - e. Distributor having been found guilty of a felony or a misdemeanor involving moral turpitude. ( )
  - f. Conduct detrimental to the good order of the Division as defined in IDAPA 15.04.01, "Rules of the Division of Human Resources and Personnel Commission," regarding classified conduct unbecoming state classified employees. Note - this Subsection in no way confers employee status on such Special Distributors, however outlines a specifically referenced standard of conduct. ( )
- 16. Agreement Termination Procedure. ( )**
- a. The Division will notify the distributor in writing, by certified mail or personal delivery, specifying the reasons for the proposed termination and its effective date. ( )
  - b. The Division may notify the Distributor that he is immediately suspended pending final determination of the proposed termination. At the time of notification, the Division reserves the right to conduct a final audit and remove all Division property pending a final determination. ( )
  - c. If the Distributor wishes a hearing on the proposed termination to present information relative to the reason given for termination, he will notify the Division in writing within twenty (20) days after receiving the notice of the proposed termination. ( )
  - d. Upon termination of this agreement, the Division will: ( )
    - i. Remove all property owned by it; and ( )
    - ii. Cease compensation to the Distributor as of the date of termination. ( )
- 012. DISTILLERY DISTRIBUTING STATIONS.**
- 01. Sample Tasting.** Distillery Distributing Stations may offer sample tastings on the premises of its distillery in accordance with Section 23-509A, Idaho Code. ( )
  - 02. Retail Sales.** Distillery Distributing Stations may sell Liquor manufactured on premises of such distillery to customers outside the state of Idaho in accordance with Section 23-507, Idaho Code. Distillery Distributing Stations may sell Liquor manufactured on the premises that is purchased from the Division to customers on the premises of its distillery in accordance with and pursuant to a Special Distributor Agreement with the Division. The Special Distributor Agreement will include governing terms and conditions for retail sale of Liquor manufactured on the premises within the state of Idaho in accordance with Title 23, Chapter 3, Idaho Code, and applicable rules of the Division governing retail sale operations. ( )
- 013. -- 019. (RESERVED)**
- 020. STORE CONVERSIONS.**  
The Division reserves the right at any time to convert a State Store to a Distributing Station or to convert a Distributing Station to a State Store. However, this right will not be arbitrarily applied and will not be exercised until relevant facts presented to the Director have been reviewed and there has been reasonable time during which appropriate public notice has been given. ( )
- 021. SUPPLIERS.**
- 01. Price Quotations.** All Suppliers must submit a Liquor Price Quotation, on forms prescribed by the Division, for every item they have Listed with the Division. ( )
  - 02. Warranties.** Supplier warranties will conform to the requirements of the Tax and Trade Bureau of the U.S. Department of Treasury. ( )



**03. Liquor Shipments.** Pursuant to Sections 23-203(a), 23-203(b) and 23-207(d), Idaho Code, all Liquor transported into the state of Idaho is under the direction of the Division. ( )

**a.** It is a violation of Sections 23-203(a), 23-203(b) and 23-207(d), Idaho Code, for any Supplier or other party to ship Liquor into the state of Idaho for purposes not authorized by the Director. ( )

**b.** The Division reserves the right to select the mode of transportation for all Liquor within the state of Idaho. ( )

**04. Title to Liquor, Wines and Related Products.** Title to Product Line items delivered to the Division passes from the Supplier to the Division when the Division accepts the product, unless Product Line items are delivered directly to Bailment status. ( )

**a.** The Division reserves the right to conduct quality tests, or to inspect products directly ordered or withdrawn from Bailment. ( )

**b.** The Division reserves the right at any time to reject any Product Line item if, upon tests and inspections, it does not conform to requirements. ( )

**c.** In the event the Division rejects any delivery, ownership of products refused will remain with the Supplier. It will be the Supplier's responsibility to remove or relocate any refused products. ( )

**05. Product Returns.** Liquor, Wine, or related products may be returned to Suppliers by the Division, in full or partial cases, for "ordinary and usual commercial reasons" in accordance with the Tax and Trade Bureau of the U.S. Department of Treasury regulations. ( )

**a.** The Supplier will reimburse the Division the full invoice cost plus an additional amount, fixed by the Division, as reimbursement for the Division's expense in shipping to and from its stores and Warehouse. ( )

**06. New Listings.** New Listings will be added at the discretion of the Director pursuant to Sections 23-203 and 23-207, Idaho Code. ( )

**07. Delisting.** Delistings are at the discretion of the Director pursuant to Sections 23-203 and 23-207, Idaho Code. ( )

**08. Resident Supplier Representatives.** All Suppliers doing business with the Division will have resident representation. A resident Supplier Representative cannot have been convicted of any felony. ( )

**09. Supplier Representative Permits.** Supplier Representatives will obtain a permit from the Division, that is renewed annually. ( )

**a.** Permits will not be issued to any holder of a bartender's permit, retail licensee, a distributor of restaurant or bar supplies, a distributor of beer or Wine, or to a food wholesaler. ( )

**b.** Supplier Representatives may represent more than one (1) Supplier without additional permit fees. ( )

**10. Facility Visitations.** Supplier Representatives, or anyone acting in that capacity, will obtain prior approval from the Director or his authorized agent to conduct business at any State Store or Distributing Station. ( )

**11. Samples.** Samples are limited to ten (10) Wine Gallons per month and the sizes of Samples are that which are permitted by federal regulation or statute. ( )

**12. Promotional Samples.** Promotional Samples are limited to fifty (50) ml size bottles unless

specified otherwise by the Director. ( )

**13. Contact With Licensees.** No Supplier Representative, or anyone acting in that capacity, will deliver any Liquor, Wine, or beer sold by the Division to a Licensee's place of business, other than Samples that are: ( )

**a.** Limited to sizes permitted by federal regulation or statute. ( )

**b.** Only those items not carried in that Licensee's Product Line. ( )

**14. Liquor Displays.** The Division will regulate all Retail Store Liquor displays. ( )

**15. Advertising.** Advertising in all Retail Stores will be in accordance with Section 23-607, Idaho Code. ( )

**16. Violations.** Any Supplier Representative, or anyone acting in that capacity, who violates Title 23, Idaho Code, or any rule of the Division, may subject the manufacturer's, wholesaler's or Distributor's products to removal from the Division's Product Line or; the Director, at his discretion, may suspend (temporarily or permanently) their Supplier Representative permit. ( )

**022. SCHEDULE OF FEES.**  
The following fees may be charged by the Division. ( )

**01. Cost Reimbursement.** The Division may seek cost reimbursement, as determined by the Division, from Supplier Representatives for mailing, shipping, or other expenses incurred by the Division to distribute information or displays to liquor stores at the request of a Supplier Representative. ( )

**02. Maximum Fee for Samples.** There will be a maximum fee of twenty-five dollars (\$25) per case charged to Supplier Representatives for Samples. ( )

**03. Maximum Fee for Annual Supplier Representative Permit.** There will be a maximum fee of fifty dollars (\$50) charged to Supplier Representatives each year for an annual permit. ( )

**023. -- 030. (RESERVED)**

**031. STATE STORES SOLICITATION AND PROMOTIONAL PRESENTATIONS.**  
No school, church, fraternal, civic, political or charitable organization or individual is allowed to solicit for donations or advertise for any purpose within any State Store. ( )

**032. WINES.**  
Wines may be sold in any State Store or Distributing Station at the discretion of the Director pursuant to Section 23-1305, Idaho Code. All rules of the Division applicable to Liquor are also applicable to Wines and beer sold by the Division. ( )

**033. LIQUOR FUND.**  
Determination of the final annual amount of cash available for distribution in the liquor account under Section 23-404, Idaho Code, is the amount of the Division's annual net income determined in accordance with Generally Accepted Accounting Principles, consistently applied. Notwithstanding the above, cash reserves are allowed under Section 23-403, Idaho Code. Further, the Director with the concurrence of the State Controller may hold back from distribution additional cash reserves needed for prudent operation of the Division. Such final annual amount of available cash will be disbursed no later than ninety (90) days following each fiscal year end. ( )

**034. -- 999. (RESERVED)**