

Public meeting held Monday, September 18th, 2024, 1000-1200 hours. Members of the public were able to attend in person or via zoom.

Present:

Captain Rocky Gripton, Idaho State Police, Bureau Chief, Alcohol Beverage Control
Marian Swanberg, Deputy Idaho Attorney General

Will Hayes – Spacebar Arcade
Brian Donesley – Attorney
Amy Knight – Attorney (Hawley & Troxell)

Will Hayes & Brian Donesley attended for the entire two hours in-person
Amy Knight attended via zoom

Will Hayes had no input to provide in regard to rules, but did have an opportunity to provide his thoughts/ideas on liquor law.

Brian Donesley provided some input on the history of liquor law.

Amy Knight provided input and provided the following via email:

“Dear Director Gardiner and Capt. Gripton,
Following are written comments submitted by this firm to the ZBR Proposed Rule published under Docket No. 11-0501-2403.

Regarding Rule 11.05.01.**011.04.**: We wonder whether the Bureau’s provision of official notices of renewals, filings, and administrative actions is intended to be by email only. Our concern is that email correspondence is often lost, rejected by spam filters, or automatically sent to junk folders. Additionally, while an entity doing business in the state of Idaho is required to have an official mailing address, Idaho law does not require entities to have an official email address; as a result, entity businesses often rely on individuals working for the business for all email communication. If a key individual left employment of the entity business, their email address may no longer be monitored or available—and Bureau emails to that individual may be missed by the entity. Thus, a licensee or license owner may inadvertently miss all notice of an impending loss of the license. Could the Bureau follow email notices with postal mailings? Could the Bureau provide licensees and license owners with the email address from which email notices will be sent, so that recipients may add that address and domain to their “safe senders” lists? Could the Bureau make the practice of correspondence by email an “opt-in/opt-out” alternative available to licensees/license owners?

Regarding Rules 11.02.01.**012.01 and its subparts**: We recognize the Bureau’s desire to have adequate notice of the occurrence of an event under the provisions of sections 23-908(5) and 23-903(16-18) of Idaho Code, as well as of the expiration of a liquor license lease term. However, it may be impossible or impractical in some circumstances for the licensee, applicant, or license owner to give the Bureau prior notice or notice within a set number of days of those occurrences. For example:

- A person may not be aware that they have been gifted a liquor license under a will until long after the decedent’s death. In that event, it will be impossible for the applicant to notify the Bureau in advance, or even in a set period after, the triggering event (the death) occurs.

- In the case of a liquor license lease, if the lessee of a liquor license has defaulted under its lease contract, the license owner may need to terminate the lease immediately. In that event, rules that require advance notice to the Bureau of a lease termination may tie the license owner's hands. This could be particularly problematic if the event giving rise to the termination is a criminal act or violation of an ordinance which the lessor/license owner does not want to allow to continue with its license.
- There may also be circumstances in which the lessee of a liquor license has the right to prematurely terminate a liquor license lease. In that event, the license owner may not be aware of the termination until after it occurs.

To deal with such circumstances, could the rule be bifurcated as follows: (1) require that the license owner/lessor and licensee/lessee each give prior notice to the Bureau of the imminent scheduled end of the liquor license lease term, as it approaches, and otherwise (2) require the license owner, licensee or applicant (as the case may be) give the Bureau reasonably prompt notice of all other events, as soon as they become aware of its occurrence?

As always, thank you for continuing to work with the public and businesses on these important issues. If you would like to discuss these comments, I am available at your convenience. We look forward to seeing the newly published rules."