

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature Second Regular Session - 2012

IN THE SENATE

SENATE BILL NO. 1282

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-104, IDAHO CODE, TO PROVIDE FOR RULEMAKING, TO PROVIDE FOR SPECIAL INCENTIVE TAGS TO HUNT ANTELOPE, ELK OR DEER IN DESIGNATED UNITS TO CERTAIN PRIVATE LANDOWNERS AND TO PROVIDE FOR THE USE OR SALE OF SUCH TAGS; AND AMENDING SECTION 36-405, IDAHO CODE, TO PROHIBIT SPECIFIED CONDUCT UNLESS OTHERWISE PROVIDED BY LAW.

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

SECTION 1. That Section 36-104, Idaho Code, be, and the same is hereby amended to read as follows:

36-104. GENERAL POWERS AND DUTIES OF COMMISSION. (a) Organization -- Meetings. The members of the commission shall annually meet at their offices and organize by electing from their membership a chairman, who shall hold office for a period of one (1) year, or until his successor has been duly elected. In addition to the regular annual meeting, to be held in January, said commission shall hold other regular quarterly meetings each year at such places within the state as the commission shall select for the transaction of business. Special meetings may be called at any time and place by the chairman or a majority of the members of the commission. Notice of the time, place and purpose of any and all special meetings shall be given by the secretary to each member of the commission prior to said meeting.

(b) Authorization for Commission Powers and Duties. For the purpose of administering the policy as declared in section 36-103, Idaho Code, the commission is hereby authorized and empowered to:

1. Investigate and find facts regarding the status of the state's wildlife populations in order to give effect to the policy of the state hereinbefore announced.

2. Hold hearings for the purpose of hearing testimony, considering evidence and determining the facts as to when the supply of any of the wildlife in this state will be injuriously affected by the taking thereof, or for the purpose of determining when an open season may be declared for the taking of wildlife. Whenever said commission determines that the supply of any particular species of wildlife is being, or will be, during any particular period of time, injuriously affected by depletion by permitting the same to be taken, or if it should find a longer or different season, or different bag limit should be adopted for the better protection thereof, or if it finds that an open season may be declared without endangering the supply thereof, then it shall make a rule or proclamation embodying its findings in respect to when, under what circumstances, in which localities, by what means, what sex, and in what amounts and numbers the wildlife of this state may be taken.

3. Whenever it finds it necessary for the preservation, protection, or management of any wildlife of this state, by reason of any act of God or any other sudden or unexpected emergency, declare by temporary rule or proclamation the existence of such necessity, and the cause thereof, and prescribe and designate all affected areas or streams, and close the same to hunting, angling or trapping, or impose such restrictions and conditions upon hunting, angling or trapping as said commission shall find to be necessary. Every such temporary rule shall be made in accordance with the provisions of chapter 52, title 67, Idaho Code.

4. At any time it shall deem necessary for the proper management of wildlife on any game preserve in the state of Idaho, declare an open season in any game preserve as it deems appropriate.

5. (A) Upon notice to the public, hold a public drawing giving to license holders, under the wildlife laws of this state, the privilege of drawing by lot for a controlled hunt permit authorizing the person to whom issued to hunt, kill, or attempt to kill any species of wild animals or birds designated by the commission under such rules as it shall prescribe.

(B) Establish, pursuant to rule, a program to provide special incentive tags to hunt antelope, elk or deer, in designated units, to private landowners that allow hunters reasonable access, as negotiated with the department of fish and game, to their property or through their property to public lands for hunting purposes. Provided they hold a valid hunting license issued by the state of Idaho, any landowner issued such a special incentive tag may use the special incentive tag himself or herself or may sell the special incentive tag to another person who holds a valid hunting license issued by the state of Idaho at any price upon which the parties mutually agree.

(C) The commission may, under rules or proclamations as it may prescribe, authorize the director to issue additional controlled hunt permits and collect fees therefor authorizing landowners of property valuable for habitat or propagation purposes of deer, elk or antelope, or the landowner's designated agent(s) to hunt deer, elk or antelope in controlled hunts containing the eligible property owned by those landowners in units where any permits for deer, elk or antelope are limited.

(D) A nonrefundable fee as specified in section 36-416, Idaho Code, shall be charged each applicant for a controlled hunt permit. Successful applicants for controlled hunt permits shall be charged the fee as specified in section 36-416, Idaho Code. Additionally, a fee may be charged for telephone and credit card orders in accordance with subsection (e)11. of section 36-106, Idaho Code. The department shall include a checkoff form to allow applicants to designate one dollar (\$1.00) of such nonrefundable application fee for transmittal to the reward fund of citizens against poaching, inc., an Idaho nonprofit corporation. The net proceeds from the nonrefundable fee shall be deposited in the fish and game account and none of the net proceeds shall be used to purchase lands.

(DE) The commission may by rule establish procedures relating to the application for the purchase of controlled hunt bonus or preference points by sportsmen and the fee for such application shall be as specified in section 36-416, Idaho Code.

6. Adopt rules pertaining to the importation, exportation, release, sale, possession or transportation into, within or from the state of Idaho of any species of live, native or exotic wildlife or any eggs thereof.

7. Acquire for and on behalf of the state of Idaho, by purchase, condemnation, lease, agreement, gift, or other device, lands or waters suitable for the purposes hereinafter enumerated in this paragraph. Whenever the commission proposes to purchase a tract of land in excess of fifteen (15) acres, the commission shall notify the board of county commissioners of the county where this land is located of the intended action. The board of county commissioners shall have ten (10) days after official notification to notify the commission whether or not they desire the commission to hold a public hearing on the intended purchase in the county. The commission shall give serious consideration to all public input received at the public hearing before making a final decision on the proposed acquisition. Following any land purchase, the fish and game commission shall provide, upon request by the board of county commissioners, within one hundred twenty (120) days, a management plan for the area purchased that would address noxious weed control, fencing, water management and other important issues raised during the public hearing. When considering purchasing lands pursuant to this paragraph, the commission shall first make a good faith attempt to obtain a conservation easement, as provided in chapter 21, title 55, Idaho Code, before it may begin proceedings to purchase, condemn or otherwise acquire such lands. If the attempt to acquire a conservation easement is unsuccessful and the commission then purchases, condemns or otherwise acquires the lands, the commission shall record in writing the reasons why the attempt at acquiring the conservation easement was unsuccessful and then file the same in its records and in a report to the joint finance-appropriations committee. The commission shall develop, operate, and maintain the lands, waters or conservation easements for said purposes, which are hereby declared a public use:

(A) For fish hatcheries, nursery ponds, or game animal or game bird farms;

(B) For game, bird, fish or fur-bearing animal restoration, propagation or protection;

(C) For public hunting, fishing or trapping areas to provide places where the public may fish, hunt, or trap in accordance with the provisions of law, or the regulation of the commission;

(D) To extend and consolidate by exchange, lands or waters suitable for the above purposes.

8. Enter into cooperative agreements with educational institutions, and state, federal, or other agencies to promote wildlife research and to train students for wildlife management.

9. Enter into cooperative agreements with state and federal agencies, municipalities, corporations, organized groups of landowners, associ-

1 ations, and individuals for the development of wildlife rearing, propa-
 2 gating, management, protection and demonstration projects.

3 10. In the event owners or lawful possessors of land have restricted the
 4 operation of motor-propelled vehicles upon their land, the commission,
 5 upon consultation with all other potentially affected landowners, and
 6 having held a public hearing, if requested by not less than ten (10) res-
 7 idents of any county in which the land is located, may enter into coop-
 8 erative agreements with those owners or possessors to enforce those re-
 9 strictions when the restrictions protect wildlife or wildlife habitat.
 10 Provided, however, the commission shall not enter into such agreements
 11 for lands which either lie outside or are not adjacent to any adjoining
 12 the proclaimed boundaries of the national forests in Idaho.

13 (A) The landowners, with the assistance of the department, shall
 14 cause notice of the restrictions, including the effective date
 15 thereof, to be posted on the main traveled roads entering the areas
 16 to which the restrictions apply. Provided, however, that nothing
 17 in this subsection shall allow the unlawful posting of signs or
 18 other information on or adjacent to public highways as defined in
 19 subsection (5) of section 40-109, Idaho Code.

20 (B) Nothing in this section authorizes the establishment of any
 21 restrictions that impede normal forest or range management opera-
 22 tions.

23 (C) No person shall violate such restrictions on the use of motor-
 24 propelled vehicles or tear down or lay down any fencing or gates
 25 enclosing such a restricted area or remove, mutilate, damage or
 26 destroy any notices, signs or markers giving notice of such re-
 27 strictions. The commission may promulgate rules to administer the
 28 restrictions and cooperative agreements addressed in this subsec-
 29 tion.

30 11. Capture, propagate, transport, buy, sell or exchange any species
 31 of wildlife needed for propagation or stocking purposes, or to exercise
 32 control of undesirable species.

33 12. Adopt rules pertaining to the application for, issuance of and ad-
 34 ministration of a lifetime license certificate system.

35 13. Adopt rules governing the application and issuance of permits for
 36 and administration of fishing contests on waters under the jurisdiction
 37 of the state. The fee for each permit shall be as provided for in section
 38 36-416, Idaho Code.

39 14. Adopt rules governing the application for and issuance of licenses
 40 by telephone and other electronic methods.

41 15. Enter into agreements with cities, counties, recreation districts
 42 or other political subdivisions for the lease of lands or waters, in
 43 accordance with all other applicable laws, including applicable pro-
 44 visions of titles 42 and 43, Idaho Code, to cost-effectively provide
 45 recreational opportunities for taxpayers or residents of those local
 46 governments or political subdivisions.

47 16. Adopt rules governing a mentored hunting program.

48 (c) Limitation on Powers. Nothing in this title shall be construed to
 49 authorize the commission to change any penalty prescribed by law for a viola-

tion of its provisions, or to change the amount of license fees or the authority conferred by licenses prescribed by law.

(d) Organization of Work. The commission shall organize the department, in accordance with the provisions of title 67, Idaho Code, into administrative units as may be necessary to efficiently administer said department. All employees of the department except the director shall be selected and appointed by the director in conformance with the provisions of chapter 53, title 67, Idaho Code.

SECTION 2. That Section 36-405, Idaho Code, be, and the same is hereby amended to read as follows:

36-405. APPLICATION FOR LICENSE -- DUPLICATE LICENSE -- UNLAWFUL PURCHASE, POSSESSION, AND USE OF LICENSE. (a) Application Required.

1. Any person making application for a senior resident license, or resident license shall provide his Idaho driver's license number as proof of residence, or in the case of nondrivers, other suitable proof of residency, and state the class of license applied for, the name of the applicant, the age of the applicant, his date of birth, his length of residence, his current address, and such other information as may be required by the director.

2. Any person making application for a duplicate license shall state the type and class of license originally purchased and such other information as may be required by the director.

3. No person shall willfully make a false statement as to:

(A) Name, age, his date of birth, length of residence or current address when such statement is made for the purpose of obtaining any license.

(B) Type and class of original license purchased when applying for a duplicate license.

(b) Loss of License -- New One Required. In case of loss of a license, a new one shall be required to entitle the person who lost the same to hunt, fish or trap. Such person may upon application:

1. Purchase a new license at the regular fee; or

2. Replace a lost license with a duplicate license for which a fee as specified in section 36-416, Idaho Code, shall be charged.

3. When a duplicate license has been issued the original license shall become null and void.

(c) Unlawful Purchase, Possession and Use of License.

1. Every person buying a license must buy a license of the proper type or class according to his residence and age. No person shall purchase or possess a license of the wrong class and such license shall be void and of no effect from the date of issuance.

2. No person shall:

(A) Acquire more than one (1) regular controlled hunt permit per species or more tags per species than the commission has set a bag limit for that species except as provided in subsection (b) of this section or to have said permits or tags in his possession.

(B) Unless otherwise provided by law, ~~t~~Transfer any fishing, hunting, or trapping license to any other person or for any person to make use of such license issued to any other person.