

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

IN THE SENATE

SENATE BILL NO. 1283

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-104, IDAHO CODE, TO PROVIDE THAT ANY LANDOWNER ISSUED A LANDOWNER APPRECIATION PROGRAM CONTROLLED HUNT TAG MAY SELL THE TAG TO ANOTHER PERSON; 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

1 or any other sudden or unexpected emergency, declare by temporary rule
 2 or proclamation the existence of such necessity, and the cause thereof,
 3 and prescribe and designate all affected areas or streams, and close the
 4 same to hunting, angling or trapping, or impose such restrictions and
 5 conditions upon hunting, angling or trapping as said commission shall
 6 find to be necessary. Every such temporary rule shall be made in accor-
 7 dance with the provisions of chapter 52, title 67, Idaho Code.

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

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

17 (B) The commission may, under rules or proclamations as it may
 18 prescribe, authorize the director to issue additional controlled
 19 hunt permits and collect fees therefor authorizing landowners of
 20 property valuable for habitat or propagation purposes of deer, elk
 21 or antelope, or the landowner's designated agent(s) to hunt deer,
 22 elk or antelope in controlled hunts containing the eligible prop-
 23 erty owned by those landowners in units where any permits for deer,
 24 elk or antelope are limited. Any landowner issued a landowner ap-
 25 preciation program controlled hunt tag may sell the tag to another
 26 person at any price upon which the parties mutually agree.

27 (C) A nonrefundable fee as specified in section 36-416, Idaho
 28 Code, shall be charged each applicant for a controlled hunt per-
 29 mit. Successful applicants for controlled hunt permits shall be
 30 charged the fee as specified in section 36-416, Idaho Code. Ad-
 31 ditionally, a fee may be charged for telephone and credit card
 32 orders in accordance with subsection (e)11. of section 36-106,
 33 Idaho Code. The department shall include a checkoff form to allow
 34 applicants to designate one dollar (\$1.00) of such nonrefundable
 35 application fee for transmittal to the reward fund of citizens
 36 against poaching, inc., an Idaho nonprofit corporation. The net
 37 proceeds from the nonrefundable fee shall be deposited in the fish
 38 and game account and none of the net proceeds shall be used to pur-
 39 chase lands.

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

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

48 7. Acquire for and on behalf of the state of Idaho, by purchase, condem-
 49 nation, lease, agreement, gift, or other device, lands or waters suit-
 50 able for the purposes hereinafter enumerated in this paragraph. When-

1 ever the commission proposes to purchase a tract of land in excess of
2 fifteen (15) acres, the commission shall notify the board of county com-
3 missioners of the county where this land is located of the intended ac-
4 tion. The board of county commissioners shall have ten (10) days after
5 official notification to notify the commission whether or not they de-
6 sire the commission to hold a public hearing on the intended purchase
7 in the county. The commission shall give serious consideration to all
8 public input received at the public hearing before making a final deci-
9 sion on the proposed acquisition. Following any land purchase, the fish
10 and game commission shall provide, upon request by the board of county
11 commissioners, within one hundred twenty (120) days, a management plan
12 for the area purchased that would address noxious weed control, fenc-
13 ing, water management and other important issues raised during the pub-
14 lic hearing. When considering purchasing lands pursuant to this para-
15 graph, the commission shall first make a good faith attempt to obtain a
16 conservation easement, as provided in chapter 21, title 55, Idaho Code,
17 before it may begin proceedings to purchase, condemn or otherwise ac-
18 quire such lands. If the attempt to acquire a conservation easement is
19 unsuccessful and the commission then purchases, condemns or otherwise
20 acquires the lands, the commission shall record in writing the reasons
21 why the attempt at acquiring the conservation easement was unsucces-
22 ful and then file the same in its records and in a report to the joint
23 finance-appropriations committee. The commission shall develop, oper-
24 ate, and maintain the lands, waters or conservation easements for said
25 purposes, which are hereby declared a public use:

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

28 (B) For game, bird, fish or fur-bearing animal restoration, prop-
29 agation or protection;

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

33 (D) To extend and consolidate by exchange, lands or waters suit-
34 able for the above purposes.

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

38 9. Enter into cooperative agreements with state and federal agencies,
39 municipalities, corporations, organized groups of landowners, associ-
40 ations, and individuals for the development of wildlife rearing, propa-
41 gating, management, protection and demonstration projects.

42 10. In the event owners or lawful possessors of land have restricted the
43 operation of motor-propelled vehicles upon their land, the commission,
44 upon consultation with all other potentially affected landowners, and
45 having held a public hearing, if requested by not less than ten (10) res-
46 idents of any county in which the land is located, may enter into coop-
47 erative agreements with those owners or possessors to enforce those res-
48 trictions when the restrictions protect wildlife or wildlife habitat.
49 Provided, however, the commission shall not enter into such agreements

1 for lands which either lie outside or are not adjacent to any adjoining
2 the proclaimed boundaries of the national forests in Idaho.

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

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

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

20 11. Capture, propagate, transport, buy, sell or exchange any species
21 of wildlife needed for propagation or stocking purposes, or to exercise
22 control of undesirable species.

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

25 13. Adopt rules governing the application and issuance of permits for
26 and administration of fishing contests on waters under the jurisdiction
27 of the state. The fee for each permit shall be as provided for in section
28 36-416, Idaho Code.

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

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

37 16. Adopt rules governing a mentored hunting program.

38 (c) Limitation on Powers. Nothing in this title shall be construed to
39 authorize the commission to change any penalty prescribed by law for a viola-
40 tion of its provisions, or to change the amount of license fees or the author-
41 ity conferred by licenses prescribed by law.

42 (d) Organization of Work. The commission shall organize the depart-
43 ment, in accordance with the provisions of title 67, Idaho Code, into admin-
44 istrative units as may be necessary to efficiently administer said depart-
45 ment. All employees of the department except the director shall be selected
46 and appointed by the director in conformance with the provisions of chapter
47 53, title 67, Idaho Code.

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

1 36-405. APPLICATION FOR LICENSE -- DUPLICATE LICENSE -- UNLAWFUL PUR-
 2 CHASE, POSSESSION, AND USE OF LICENSE. (a) Application Required.

3 1. Any person making application for a senior resident license, or res-
 4 ident license shall provide his Idaho driver's license number as proof
 5 of residence, or in the case of nondrivers, other suitable proof of res-
 6 idency, and state the class of license applied for, the name of the ap-
 7 plicant, the age of the applicant, his date of birth, his length of res-
 8 idence, his current address, and such other information as may be re-
 9 quired by the director.

10 2. Any person making application for a duplicate license shall state
 11 the type and class of license originally purchased and such other infor-
 12 mation as may be required by the director.

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

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

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

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

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

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

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

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

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

32 2. No person shall:

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

37 (B) Unless otherwise provided by law, tTransfer any fishing,
 38 hunting, or trapping license to any other person or for any person
 39 to make use of such license issued to any other person.