

TITLE 36
FISH AND GAME

CHAPTER 13
ENFORCEMENT AND APPLICATION OF FISH AND GAME LAW

36-1301. POWER AND DUTY OF OFFICERS -- OFFICIAL BADGE -- WHO MAY WEAR -- ISSUANCE UPON RETIREMENT. (1) Authorized Officers. The director, all conservation officers and other classified department employees, and all sheriffs, deputy sheriffs, forest supervisors, marshals, police officers, state forest department officers, and national forest rangers shall have statewide jurisdiction and it is hereby made their duty to enforce the provisions of the Idaho fish and game code.

(2) Authority and Limitations as Peace Officers. All conservation officers who receive certification from the Idaho peace officer standards and training advisory council shall have all the authority given by statute to peace officers of the state of Idaho. All other classified employees appointed by the director shall have the power of peace officers limited to:

(a) The enforcement of the provisions of [title 36](#), Idaho Code, and commission rules and proclamations promulgated pursuant thereto.

(b) The arrest of persons having domestic animals unlawfully in their possession.

(c) The enforcement of the provisions of [chapter 70, title 67](#), Idaho Code, provided that such authority is exercised in cooperation with sheriffs of the respective counties.

(d) Responding to express requests from other law enforcement agencies for aid and assistance in enforcing other laws. For purposes of this section, such a request from a law enforcement agency shall mean only a request for assistance as to a particular and singular violation or suspicion of violation of law, and shall not constitute a continuous request for assistance outside the purview of enforcement of [title 36](#), Idaho Code.

(3) Additional Authority and Duties. Said officers and employees shall have additional peace officer power, but not constituting an obligation beyond their regular course of duty, relative to:

(a) The enforcement of the provisions of [title 38](#), Idaho Code (Idaho forestry act), as authorized by section [38-133](#), Idaho Code.

(b) The enforcement of provisions of [chapter 71, title 67](#), Idaho Code.

(c) The enforcement of the provisions of sections [18-3906](#) and [18-7031](#), Idaho Code, relating to littering.

(d) The enforcement of the provisions of section [42-3811](#), Idaho Code, relating to the enforcement of certain provisions of [chapter 38, title 42](#), Idaho Code.

(4) Official Badge -- Who May Wear. No person who is not at the time a classified employee or conservation officer, duly authorized and commissioned by the director, shall wear or exhibit in public an official badge of the department of fish and game of the state of Idaho.

(5) Issuance Upon Retirement. The director may award to a conservation officer, upon retirement, that officer's badge, duty weapon and handcuffs, providing that a committee of three (3) of the conservation officer's peers certifies to the director that the retiring officer has served meritoriously for a minimum of fifteen (15) years and should therefore be so honored.

[36-1301, added 1976, ch. 95, sec. 2, p. 359; am. 1979, ch. 134, sec. 1, p. 429; am. 1980, ch. 331, sec. 1, p. 854; am. 1988, ch. 265, sec. 567, p. 866; am. 1992, ch. 81, sec. 32, p. 245; am. 1998, ch. 170, sec. 10, p. 584; am. 2005, ch. 33, sec. 1, p. 147.]

36-1302. ARRESTS -- JURISDICTION -- BAIL -- TRIAL. (a) Arrests -- Citations. All arrests pursuant to the provisions of [title 36](#), Idaho Code, may be effected by:

1. Taking the offender into custody for immediate appearance before any magistrate of the state having jurisdiction over the alleged offense; or

2. Issuing a citation to the offender to appear before such magistrate.

(A) Said citation shall bear the name and address of the offender, the date, time and place for his appearance before a magistrate, the offense charged, the approximate location where and the approximate time when the offense was committed and other such essential descriptive information related to the offense as prescribed by the director.

(B) A citation shall be issued only by mutual agreement of the officer and the accused as evidenced by both their signatures on said citation. The citation shall specify appearance before a magistrate court having jurisdiction over the alleged offense in any county mutually agreed to be convenient. The accused shall be given a copy thereof and thereupon may be released from custody.

(C) No accused shall fail to appear at the time and place specified in the citation. Any such failure to appear shall be cause for issuance of a warrant for his arrest.

(b) Actions -- How Brought. All actions brought for violation of the provisions of this title shall be in the name of the state of Idaho and shall be prosecuted by an attorney representing the county having jurisdiction.

(c) Bond -- Waiver of Trial -- Guilty Plea. For the purpose of posting bail bonds or cash bail, waivers of trial or entering pleas of guilty, the officer shall take the defendant before any magistrate or other designated person within the state who has sufficient jurisdiction to accept the bond, waiver, or plea.

(d) Trial. Upon a plea of not guilty by the defendant before a court in a county other than where the offense was committed, the action shall be returned for trial to a court in the county where the offense is alleged to have occurred.

[36-1302, added 1976, ch. 95, sec. 2, p. 360; am. 1992, ch. 81, sec. 33, p. 246.]

36-1304. SEIZURE OF EQUIPMENT AND WILDLIFE. (a) Seizure of Evidence -- Confiscation of Unlawfully Used Equipment. The director and all other officers empowered to enforce fish and game laws are hereby authorized at any time to seize and hold as evidence any powder, explosives, lime, toxicants, drugs, spears, traps, snares, guns, tackle, nets, seines or any other hunting, trapping or fishing equipment or devices used in the commission of a violation of any provisions of this title or rules or proclamations promulgated pursuant thereto, provided that all lawful traps, guns, spears, tackle, nets and seines taken from the possession of any person arrested for a violation of this title and held as evidence in any prosecution resulting from such arrest shall not be subject to confiscation but the same shall be returned to the person from whom taken when no longer needed as evidence. Provided, however, if it appears from the evidence before the magistrate

hearing the case that the powder, explosive, lime, toxicants, drugs, or other unlawful means and devices were used or were about to be used for the unlawful taking or killing of wildlife, said magistrate shall order the same confiscated and sold by the director at public sale, the proceeds therefrom turned into the fish and game account. Any guns, fishing tackle, nets, traps or other equipment used in the taking of wildlife unlawfully and for which no lawful owner can be determined or any such equipment seized as evidence in a case and for which an owner is known, if not claimed within six (6) months following the final disposition of the case in question, shall be deemed to be the property of the fish and game department; provided, that this shall not occur unless written notice is given to the lawful owner, when known, by registered mail to his last known address within thirty (30) days after the final disposition of the case. Equipment so obtained may be sold by the department unless it would be unlawful for the general public to own or possess such equipment. Any proceeds from the sale of such equipment that would be lawful for the general public to own or possess, shall be deposited in the fish and game account.

(b) Unlawfully Taken Wildlife -- Seizure, Confiscation, Disposition.

(i) The director or any other officer empowered to enforce the fish and game laws may at any time seize and take into his custody any wildlife or any portion thereof which may have been taken unlawfully, or which may be unlawfully in the possession of any person. If it appears from the evidence before the magistrate hearing the case that said wildlife was unlawfully taken, the magistrate shall:

1. Order the same confiscated or sold by the director and the proceeds deposited in the fish and game account; or
2. In his discretion, order such confiscated wildlife given to a designated tax-supported, nonprofit or charitable institution or indigent person.

(ii) Any person having unlawfully taken wildlife that is the subject of a sale by the director shall be prohibited from purchasing the unlawfully taken wildlife or any portion thereof. Provided further, no person shall knowingly purchase unlawfully taken wildlife or any portion thereof on behalf of any person who has unlawfully taken the wildlife that is the subject of the sale. Any violation of this subsection (b)(ii) shall be considered an illegal purchase or offer to purchase wildlife, or parts thereof, which has been unlawfully killed or taken.

(c) Unclaimed Wildlife -- Seizure, Disposition. All carcasses, hides, pelts or portions of any wildlife protected by the provisions of this title which are deemed to be unclaimed or abandoned may be seized by the director or any other officer empowered to enforce game laws and, upon being so seized, the director shall:

1. Sell same at public or private sale and deposit the proceeds therefrom in the fish and game account.
2. In his discretion, order such wildlife to be given to a designated tax-supported nonprofit or charitable institution or indigent person.

(d) Receipt Required. A written receipt must be executed for all equipment or wildlife disposed of in accordance with the provisions of this section.

[36-1304, added 1976, ch. 95, sec. 2, p. 362; am. 1982, ch. 305, sec. 1, p. 767; am. 1998, ch. 170, sec. 11, p. 585; am. 2009, ch. 187, sec. 1, p. 608.]

36-1305. PRESUMPTION FROM POSSESSION. Except as in this title otherwise provided, the possession of any wildlife during the closed season for such wildlife shall be prima facie evidence that the same was taken unlawfully.

[36-1305, added 1976, ch. 95, sec. 2, p. 363.]