

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 85

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-104, IDAHO CODE, TO AUTHORIZE THE FISH AND GAME COMMISSION TO ADOPT RULES GOVERNING A MENTORED HUNTING PROGRAM; AMENDING SECTION 36-401, IDAHO CODE, TO PROVIDE AN EXCEPTION TO LICENSURE FOR CERTAIN MENTORED HUNTERS AND TO CLARIFY THE APPLICABILITY OF LICENSURE REQUIREMENTS; AND AMENDING SECTION 36-409, IDAHO CODE, TO PROVIDE THAT RESIDENTS WHO HAVE OBTAINED CERTAIN AUTHORIZATIONS SHALL BE ELIGIBLE TO RECEIVE SPECIFIED GAME TAGS AND TO PROVIDE A CODE REFERENCE.

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

1 what circumstances, in which localities, by what means, what sex, and in
2 what amounts and numbers the wildlife of this state may be taken.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 restrictions when the restrictions protect wildlife or wildlife habitat.
 2 Provided, however, the commission shall not enter into such agreements
 3 for lands which either lie outside or are not adjacent to any adjoining
 4 the proclaimed boundaries of the national forests in Idaho.

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

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

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

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

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

27 13. Adopt rules governing the application and issuance of permits for
 28 and administration of fishing contests on waters under the jurisdiction
 29 of the state. The fee for each permit shall be as provided for in section
 30 36-416, Idaho Code.

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

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

39 16. Adopt rules governing a mentored hunting program.

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

44 (d) Organization of Work. The commission shall organize the depart-
 45 ment, in accordance with the provisions of title 67, Idaho Code, into admin-
 46 istrative units as may be necessary to efficiently administer said depart-
 47 ment. All employees of the department except the director shall be selected
 48 and appointed by the director in conformance with the provisions of chapter
 49 53, title 67, Idaho Code.

1 SECTION 2. That Section 36-401, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 36-401. HUNTING, TRAPPING, FISHING -- LICENSE REQUIREMENT -- EXCEP-
4 TIONS. No person shall hunt, trap, or fish for or take any wild animal, bird
5 or fish of this state, without first having procured a license as hereinafter
6 provided. Provided that no license shall be required:

7 (a) 1. For children under the age of fourteen (14) years who are resi-
8 dents of this state to fish during the open season therefor.

9 2. For nonresident children under the age of fourteen (14) years to fish
10 during the open season therefor provided they are accompanied by the
11 holder of a valid fishing license, and provided further that any fish
12 caught by such nonresident children shall be included in the bag and
13 possession limit of such license holder.

14 3. For resident children under the age of twelve (12) years to hunt,
15 take or kill predatory, unprotected birds and animals by means other
16 than with firearms.

17 4. For resident children under the age of fourteen (14) years to trap
18 muskrats from irrigation ditches or property on which they live during
19 the open season.

20 5. For children under the age of eighteen (18) years who are residents
21 of a licensed foster home or a children's residential care facility to
22 fish during the open season therefor, provided they are accompanied and
23 supervised by the director, officer, or other employee of the facility
24 where the child resides.

25 6. For children with life-threatening medical conditions participat-
26 ing in a hunt in association with a qualified organization as provided
27 in section 36-408(6), Idaho Code.

28 7. For military veterans with disabilities participating in a hunt
29 in association with a qualified organization as provided in section
30 36-408(7), Idaho Code.

31 8. For mentored hunters participating in a mentored hunting program as
32 prescribed by the commission such that a person may apply to the depart-
33 ment for a special authorization to take wildlife while accompanied by a
34 mentor who possesses a valid Idaho hunting license and who is eighteen
35 (18) years of age or older. At such time as a mentored hunter's special
36 authorization is no longer valid, nothing in this paragraph shall be
37 construed as altering the requirements of section 36-411, Idaho Code,
38 to obtain a valid hunting license.

39 (b) For any person to fish on a "free fishing day" as may be designated
40 by the commission.

41 (c) State Long-term Care Facility Residents. For any resident of a
42 state long-term care facility to fish during open seasons, provided said
43 state long-term care facility has a permit therefor from the director. The
44 director is authorized to issue such permits upon the request of the head
45 of the respective state long-term care facility having custody of said res-
46 ident upon a showing that the state long-term care facility recommends the
47 issuance of such permit and will assume full responsibility for and control
48 over any resident while using said permit. For purposes of this subsection
49 only, "state long-term care facility" shall mean the state hospital north,

1 state hospital south, Idaho state school and hospital, and state veterans
2 homes, and "resident" shall mean any individual residing and receiving
3 treatment services at a state long-term care facility.

4 (d) State Juvenile Corrections Center Students. For students of the
5 state juvenile corrections center, under the supervision of an officer of
6 the center, to fish during the open season.

7 (e) Boy Scouts. For boy scouts who are official participants in at-
8 tendance at national or international encampments at Farragut State Park to
9 take fish during the encampment period from Lake Pend Oreille in such areas
10 and such numbers as may be designated by the commission.

11 (f) Participants in Fish and Game Sponsored Functions. For persons who
12 are official participants in attendance at official department sponsored
13 functions including clinics, courses or other educational events, while
14 under the supervision of a department approved instructor for the function,
15 to fish during any open season, provided that the instructor has been issued
16 an educational fishing permit by the director.

17 (g) Nothing contained herein shall be construed to prohibit citizens of
18 the United States who are residents of the state of Idaho from carrying arms
19 for the protection of life and property.

20 SECTION 3. That Section 36-409, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 36-409. GAME TAGS -- PERMITS -- FEES -- PENALTY. (a) Resident Game
23 Tags. A resident who has obtained a ~~permit~~ authorization to hunt, as pro-
24 vided in section 36-401, Idaho Code, or has purchased or obtained a license
25 to hunt, as provided in section 36-406, Idaho Code, upon payment of the fees
26 provided herein shall be eligible to receive a resident game tag to hunt and
27 kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain
28 lion, bear, wolf, sandhill crane or turkey in accordance with the laws of
29 this state and rules promulgated by the commission; provided further, that
30 any person who holds a senior resident combination license or any person
31 who holds a junior combination or hunting license or any disabled American
32 veteran who holds a disabled combination license, may be issued a bear, deer,
33 elk, or turkey tag for a fee as specified in section 36-416, Idaho Code;
34 provided further, that resident game tags may be issued only to those per-
35 sons who meet residency requirements of subsection (s) of section 36-202,
36 Idaho Code. In the event an emergency is declared to open a season to protect
37 private property as provided in section 36-106(e)6.(B), Idaho Code, the
38 affected landowner or his designee shall be eligible to receive a resident
39 deer, elk or antelope tag without charge; provided further, that resident
40 game tags may be issued only to persons who qualify as residents pursuant to
41 section 36-202, Idaho Code.

42 (b) Nonresident Game Tags. A nonresident who has purchased a license
43 to hunt, as provided in section 36-407(a) or (k), Idaho Code, or has obtained
44 a license to hunt, as provided in section 36-406(e), Idaho Code, or a res-
45 ident who has purchased or obtained a license or authorization to hunt, as
46 provided in section 36-401 or 36-406, Idaho Code, upon payment of the fees
47 provided herein, shall be eligible to receive a nonresident tag to hunt and
48 kill a moose, bighorn sheep, mountain goat, elk, deer, antelope, mountain
49 lion, bear, wolf, sandhill crane or turkey in accordance with the laws of

1 this state and rules promulgated by the commission; provided further that
2 a nonresident who has purchased a license to hunt, as provided in section
3 36-407(k), Idaho Code, shall be eligible to receive a junior mentored deer,
4 elk, bear, or turkey tag for a fee as specified in section 36-416, Idaho Code.

5 (c) Game Tags Required. The appropriate tag must be had for the hunting
6 or taking of each and every one of the aforementioned wildlife. Provided,
7 however, that the requirements for a wolf tag, a mountain lion tag or a bear
8 tag, as to different periods of time and areas of the state, shall be deter-
9 mined and specified by the commission. Provided further, that the commis-
10 sion may promulgate rules to allow a nonresident deer or elk tag to be used to
11 hunt and kill either a bear, wolf or a mountain lion during the open season
12 for deer or elk in that area, unit or zone as may be specified by the commis-
13 sion. All of said tags are to bear and have serial numbers.

14 (d) Game Tag to Be Validated and Attached to Carcass. As soon as any
15 person kills any wildlife for which a tag is required, said tag, belonging to
16 him, must be validated and attached to said wildlife in a manner provided by
17 commission rule.

18 (e) Archery Permits. In addition to meeting the license and tag re-
19 quirements provided in this chapter, any person participating in any con-
20 trolled or general game season which has been specifically designated as an
21 archery hunt must have in his possession an archery hunt permit which may be
22 purchased for a fee as specified in section 36-416, Idaho Code.

23 (f) Muzzleloader Permit. In addition to meeting the license and tag
24 requirements provided in this chapter, any person participating in any con-
25 trolled or general game season which has been specifically designated as a
26 muzzleloader hunt must have in his possession a muzzleloader permit which
27 may be purchased for a fee as specified in section 36-416, Idaho Code.

28 (g) Hound Hunter Permit -- Resident -- Nonresident. Any person using a
29 dog for the purpose of hunting or for taking, as defined in section 36-202,
30 Idaho Code, big game or furbearing animals must have in his possession a
31 valid hound hunter permit which may be purchased by resident and nonresident
32 license holders for a fee as specified in section 36-416, Idaho Code.

33 (h) Nonresident Bird of Prey Capture Permit. The commission may, under
34 rules as it may prescribe, issue a nonresident bird of prey capture permit.
35 This capture permit may be purchased by any licensed, nonresident falconer
36 for capturing birds of prey in Idaho. The fee for the permit shall be as spec-
37 ified in section 36-416, Idaho Code, and the permit shall be issued under the
38 condition that the nonresident's home state allows reciprocal raptor cap-
39 turing privileges for Idaho falconers.

40 (i) Wildlife Management Area (WMA) Upland Game Bird Permit. The com-
41 mission may, under rules as it may prescribe, issue a wildlife management
42 area upland game bird permit that must be purchased by all persons over six-
43 teen (16) years of age prior to hunting stocked upland game birds on state
44 wildlife management areas designated by the commission. The fee for the per-
45 mit shall be as specified in section 36-416, Idaho Code.

46 (j) Bear Baiting Permit. The commission may, under rules as it may pre-
47 scribe, issue a bear baiting permit. Any person placing or using bait as may
48 be allowed by rule for the purpose of attracting bear must have in his posses-
49 sion a valid bear baiting permit which may be purchased by a license holder
50 for a fee as specified in section 36-416, Idaho Code.

1 (k) Migratory Bird Harvest Information Program Permit. The commission
2 may, as provided by federal laws or regulations and under rules as it may pre-
3 scribe, issue a migratory bird harvest information program permit that must
4 be purchased by all persons prior to hunting migratory game birds as required
5 by federal law or regulations. The fee for the permit shall be as specified
6 in section 36-416, Idaho Code.

7 (l) Dog Field Trial Permit. The commission may, under rules as it may
8 prescribe, issue a dog field trial permit to any person using birds for dog
9 field trials or training as may be allowed by rule. The permit may be pur-
10 chased for a fee as specified in section 36-416, Idaho Code.

11 (m) Idaho Nursing Home Facility Resident Fishing Permit. The commis-
12 sion may, under rules as it may prescribe, issue an Idaho nursing home facil-
13 ity resident fishing permit that must be purchased by an Idaho nursing home
14 facility to allow residents of its facility to fish during the open season.
15 Facilities eligible to purchase this permit are: intermediate care facili-
16 ties providing twenty-four (24) hour skilled nursing care, assisted living
17 facilities providing twenty-four (24) hour extensive assistance and skilled
18 nursing facilities providing twenty-four (24) hour skilled nursing. By pur-
19 chasing this permit the facility assumes full responsibility for and con-
20 trol over the facility residents while using the permit. All laws, rules and
21 proclamations apply to the use of this permit and it is the responsibility
22 of the facility to assure compliance with all laws, rules and proclamations.
23 In case of a violation the facility shall be held accountable and any cita-
24 tions shall be issued to the facility. The permit may be purchased for a fee
25 as specified in section 36-416, Idaho Code.