

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 96

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-408, IDAHO CODE, TO
2 REVISE PROVISIONS REGARDING OUTFITTED HUNTER TAGS SET-ASIDE AND DEER
3 AND ELK TAGS AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING SECTION
4 36-2107, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE POWERS AND
5 DUTIES OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD AND TO MAKE
6 TECHNICAL CORRECTIONS.
7

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

9 SECTION 1. That Section 36-408, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 36-408. COMMISSION'S AUTHORITY -- TAGS -- PERMITS -- NONRESIDENTS
12 LIMITED -- OUTFITTERS SET-ASIDE. (1) Tags and Permits -- Method of Use. The
13 commission is hereby authorized to prescribe the number and kind of wildlife
14 that may be taken under authority of the several types of tags and permits
15 provided for in this title and the manner in which said tags and permits shall
16 be used and validated.

17 (2) Limit -- Licenses, Tags or Permits -- Controlled Hunts. The commis-
18 sion is hereby authorized to establish a limit annually as to the number of
19 each kind and class of licenses, tags, or permits to be sold or issued and is
20 further authorized to limit the number or prohibit entirely the participa-
21 tion by nonresidents in controlled hunts.

22 (3) ~~Outfitters~~ Outfitted Hunter Tags Set-Aside. When the commission
23 establishes a limit as to the number of nonresident deer tags and nonresi-
24 dent elk tags, it shall set aside annually, when setting big game seasons, in
25 a statewide pool, a maximum of twenty-five percent (25%) of the nonresident
26 deer tag and nonresident elk tag limit. The minimum number of nonresident
27 outfitted hunter tags in the set-aside pool shall be established based on
28 the highest year of all elk and deer tags used statewide by outfitted hunters
29 over the past two (2) years, plus ten percent (10%) of those numbers. These
30 tags shall be allocated to the outfitted hunters in capped and controlled
31 hunts and set aside for outfitted hunter use in general hunts.

32 Such outfitted allocated set-aside tags shall be separate from the tag
33 numbers set for residents and nonresidents in each capped or controlled
34 zone, unit, or game management area. The set-aside tags shall be sold pur-
35 suant to commission rule, only to persons that have entered into an a signed
36 agreement for that year to utilize the services of an outfitter licensed
37 pursuant to chapter 21, title 36, Idaho Code.

38 In order for a person to purchase any set-aside nonresident deer tag or
39 nonresident elk tag, that person's outfitter must submit an application with
40 the proper fees as required by the director. If any nonresident deer tags
41 or nonresident elk tags set aside for use in general hunts pursuant to this
42 subsection are unsold by July 15 of the year in which they were set aside,

1 they may be sold by the department to the general public ~~who are nonresidents~~
 2 pursuant to commission rule. If any nonresident deer tags or nonresident elk
 3 tags set aside as allocated tags pursuant to this subsection are unsold by
 4 July 31 of the year in which they were set aside, they may be sold by the de-
 5 partment to the general public pursuant to commission rule.

6 The commission ~~may~~ shall promulgate all necessary rules to implement
 7 the provisions of this subsection.

8 (4) Deer and Elk Tag Allocation. When setting big game seasons, if the
 9 commission limits the number of deer or elk tags available for use in any game
 10 management area, unit, or zone, the commission may shall allocate by rule,
 11 where there is historic outfitted hunter use, a number of deer ~~or~~ and elk tags
 12 from the outfitted hunter set-aside pool of tags for use by hunters that have
 13 entered into ~~an~~ a signed agreement for that year to utilize the services of an
 14 outfitter licensed pursuant to chapter 21, title 36, Idaho Code.

15 In addition to rules promulgated by the commission regarding allo-
 16 cation, or pursuant to this section, in capped zones the commission may
 17 allocate the number of outfitted hunter elk and deer tags based on a number
 18 compiled from the highest year within the last five (5) years of all outfit-
 19 ted hunter elk and deer tag use for each capped zone.

20 In controlled hunts, the commission may allocate the number of outfit-
 21 ted hunter elk and deer tags based on a number compiled from each outfitter's
 22 highest year within the last five (5) years of all outfitted hunter elk and
 23 deer tag use for each controlled hunt. This number shall be provided through
 24 records from the sale of outfitted hunter tags compiled by the Idaho depart-
 25 ment of fish and game and verified use other than allocated tags recorded
 26 with the department by December 20 by outfitters. The department shall dis-
 27 tribute the allocated outfitted tags through its point of sale machines and
 28 shall record outfitted tag use with the point of sale system.

29 The allocated set-aside tags shall be designated by the Idaho outfit-
 30 ters and guides licensing board to those authorized outfitting operations
 31 licensed for elk and deer hunting for the use by the outfitted hunter, pur-
 32 suant to section 36-2107(j), Idaho Code.

33 Residents who purchase an outfitted allocated tag shall not be counted
 34 as part of the nonresident set-aside pool but shall be counted as part of the
 35 allocated tags set by the commission in capped or controlled hunts.

36 Beginning January 1, 2021, all outfitted deer and elk tag use shall be
 37 verified in order to qualify for allocated tag use history. Verification
 38 consists of the purchase of allocated tags from the Idaho department of
 39 fish and game, the use of the provided outfitter agreement, or a combination
 40 thereof.

41 Those tags not qualified for allocated tag use history include emer-
 42 gency depredation, landowner appreciation program hunts, or meat packing
 43 without an outfitted allocated deer or elk tag.

44 The commission shall promulgate all necessary rules to implement the
 45 provisions of this subsection.

46 (5) Special Game Tags. The commission is hereby authorized to issue two
 47 (2) special bighorn sheep tags per year.

48 (a) Auction bighorn sheep tag. One (1) special bighorn sheep tag shall
 49 be auctioned off by an incorporated nonprofit organization dedicated
 50 to wildlife conservation, selected by the commission. The tag shall

1 be issued by the department of fish and game to the highest eligible
2 bidder. No more than five percent (5%) of all proceeds for the tag may
3 be retained by the organization. The tag to be issued pursuant to this
4 subsection shall be taken from the nonresident bighorn sheep tag quota.
5 The net proceeds shall be forwarded to the director for deposit in the
6 fish and game expendable trust account and shall be used for bighorn
7 sheep research and management purposes. Moneys raised pursuant to this
8 subsection may not be used to transplant additional bighorn sheep into
9 that portion of southwest Idaho south of the Snake river and west of U.S.
10 highway no. 93, nor for litigation or environmental impact statements
11 involving bighorn sheep. No transplants of bighorn sheep accomplished
12 with moneys raised pursuant to this subsection shall occur in any area
13 until hearings are conducted in the area. Provided however, that none
14 of the proceeds generated from the auction of bighorn sheep tags pur-
15 suant to this paragraph be used to purchase or acquire private property
16 or federally managed grazing permits, nor shall any proceeds generated
17 be used for matching funds for the purchase of private property or the
18 retirement or the acquisition of federally managed grazing permits.

19 (b) Lottery bighorn sheep tag. The commission is also authorized to is-
20 sue one (1) special bighorn sheep tag, which will be disposed of by lot-
21 tery. The lottery permit can be marketed by the department of fish and
22 game or a nonprofit organization dedicated to wildlife conservation se-
23 lected by the commission. The tag will be issued by the department of
24 fish and game to an eligible person drawn from the lottery provided in
25 this subsection. No more than twenty-five percent (25%) of gross rev-
26 enue can be retained for administrative costs by the organization. All
27 net proceeds for the tag disposed of by lottery pursuant to this sub-
28 section shall be remitted to the department and deposited in the fish
29 and game expendable trust account. Moneys in the account from the lot-
30 tery bighorn sheep tag shall be utilized by the department in solving
31 problems between bighorn sheep and domestic sheep, solving problems be-
32 tween wildlife and domestic animals or improving relationships between
33 sportsmen and private landowners.

34 (6) Issuance of Free Permit or Tag to Minor Children with Life-Threat-
35 ening Medical Conditions. Notwithstanding any other provision of law, the
36 commission may issue free big game permits or tags to minor children who have
37 life-threatening medical conditions that have been certified eligible by
38 a qualified organization. The commission may prescribe by rule the manner
39 and conditions of issuing and using the permits or tags authorized under this
40 subsection. For purposes of this subsection, a "qualified organization"
41 means a nonprofit organization that is qualified under section 501(c)(3) of
42 the Internal Revenue Code and that affords opportunities and experiences to
43 minor children with life-threatening medical conditions.

44 (7) Issuance of Free Permit or Tag to Military Veterans with Disabili-
45 ties. Notwithstanding any other provision of law, the commission may issue
46 free big game permits or tags to disabled military veterans who have been
47 certified eligible by a qualified organization. The commission may pre-
48 scribe by rule the manner and conditions of issuing and using the permits or
49 tags authorized under this subsection. For purposes of this subsection, a
50 "qualified organization" means a governmental agency that assists veter-

1 ans or a nonprofit organization that is qualified under section 501(c)(3),
2 501(c)(4) or section 501(c)(19), of the Internal Revenue Code and that af-
3 fords opportunities, experiences and assistance to disabled veterans.

4 (8) Special Wolf Tags. The commission is hereby authorized to issue up
5 to ten (10) special auction or lottery tags for hunting wolves. Special wolf
6 tags will be auctioned off or made available through lottery by incorporated
7 nonprofit organizations dedicated to wildlife conservation and selected by
8 the director. No more than five percent (5%) of all proceeds for each tag
9 may be retained by the nonprofit organization for administrative costs in-
10 volved. Each wolf tag shall be issued by the department of fish and game and
11 awarded to the highest eligible bidder or winner of a lottery. Each tag will
12 be good for the harvest of one (1) wolf pursuant to commission rule. The pro-
13 ceeds from each tag will be sent to the director to be placed in the depart-
14 ment general license fund.

15 (9) Special Big Game Auction Tags -- Governor's Wildlife Partnership
16 Tags. The commission is hereby authorized to issue special big game auc-
17 tion tags hereafter named and referred to as "Governor's wildlife partner-
18 ship tags" for hunting designated species on dates and in areas designated by
19 the commission. To enhance and sustain the value of Idaho's wildlife, up to
20 three (3) tags per species per year may be issued for deer, elk and pronghorn
21 antelope, one (1) tag per year may be issued for moose, and one (1) tag per
22 species per year may be issued for mountain goat and bighorn sheep. Each tag
23 will be signed by the governor of Idaho prior to auction to the public and be
24 available to either residents or nonresidents of Idaho. Governor's wildlife
25 partnership tags issued for deer, elk, pronghorn antelope and moose pursuant
26 to this subsection shall be taken from the nonresident controlled hunt pro-
27 grams for these species adopted by the fish and game commission. Governor's
28 wildlife partnership tags issued for mountain goat and bighorn sheep shall
29 be taken from the nonresident mountain goat and bighorn sheep quota. Gover-
30 nor's wildlife partnership tags shall be auctioned off by incorporated non-
31 profit organizations dedicated to wildlife conservation and selected by the
32 director. No more than five percent (5%) of all proceeds from each tag sale
33 may be retained by the nonprofit organization for administrative costs in-
34 volved, including in the event a tag is redonated and reaucted. Each tag
35 shall be issued by the department of fish and game and awarded to the high-
36 est eligible bidder. Each tag shall be good for the harvest of one (1) big
37 game animal pursuant to commission rule consistent with the provisions of
38 this subsection. The proceeds from each tag shall be sent to the director to
39 be allocated up to thirty percent (30%) for sportsmen access programs, such
40 as access yes, and the balance for wildlife habitat projects, wildlife man-
41 agement projects to increase the quantity and quality of big game herds, and
42 other research and management activities approved by the commission. Pro-
43 vided however, that none of the proceeds generated from the auctions pur-
44 suant to the provisions of this subsection shall be used to purchase or ac-
45 quire private property or federally managed grazing permits, nor shall any
46 proceeds generated be used for matching funds for the purchase of private
47 property or the retirement or the acquisition of federally managed grazing
48 permits. Moneys raised pursuant to this subsection may not be used to trans-
49 plant additional bighorn sheep into that portion of southwest Idaho south of

1 the Snake river and west of U.S. highway no. 93, nor for litigation or envi-
2 ronmental impact statements involving bighorn sheep.

3 SECTION 2. That Section 36-2107, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 36-2107. POWERS AND DUTIES OF BOARD. The board, which may by written
6 agreement authorize the bureau of occupational licenses as agent to act in
7 its interest, shall have the following duties and powers:

8 (a) To conduct examinations to ascertain the qualifications of appli-
9 cants for outfitter's or guide's licenses, and to issue such licenses to
10 qualified applicants, with such restrictions and limitations thereon as the
11 board may find reasonable.

12 (b) To prescribe and establish rules of procedure to carry into effect
13 the provisions of this chapter including, but not limited to, rules pre-
14 scribing all requisite qualifications of training, experience, knowledge of
15 rules of governmental bodies, condition and type of gear and equipment, ex-
16 aminations to be given applicants, whether oral, written or demonstrative,
17 or a combination thereof.

18 (c) To conduct hearings and proceedings to suspend, revoke or restrict
19 the licenses of outfitters or guides, and to suspend, revoke or restrict said
20 licenses for due cause in the manner hereinafter provided.

21 (d) The board is expressly vested with the power and the authority to
22 enforce the provisions of this chapter, including obtaining injunctive re-
23 lief, and to make and enforce any and all reasonable rules which shall by it
24 be deemed necessary and which are not in conflict with the provisions of this
25 chapter, for the express purpose of safeguarding the health, safety, welfare
26 and freedom from injury or danger of those persons utilizing the services of
27 outfitters and guides, and for the conservation of wildlife and range re-
28 sources.

29 (e) The board shall have the power to cooperate with the federal and
30 state government through its appropriate agency or instrumentality in mat-
31 ters of mutual concern regarding the business of outfitting and guiding in
32 Idaho.

33 (f) The board shall have the power throughout the state of Idaho to re-
34 quest the attendance of witnesses and the production of such books, records
35 and papers as may be required at any hearing before it. The board or its hear-
36 ing officer may issue and serve subpoenas or subpoenas duces tecum in a man-
37 ner consistent with chapter 52, title 67, Idaho Code, the rules of the of-
38 fice of the attorney general, and rules 45(e) (2) and 45(g) of the Idaho rules
39 of civil procedure. Payment of fees or mileage for service of subpoenas or
40 attendance of witnesses shall be paid by the board consistent with the pro-
41 visions of chapter 52, title 67, Idaho Code, the rules of the office of the
42 attorney general, and rule 45(e) (1) of the Idaho rules of civil procedure.
43 Disobedience of a subpoena or subpoena duces tecum may be enforced by making
44 application to the district court. Disobedience by a licensee of a subpoena
45 or subpoena duces tecum issued by the board shall be deemed a violation of a
46 board order.

47 (g) The board shall have the power to appoint an executive director to
48 serve at the pleasure of the board. The executive director shall carry out
49 such administrative duties as delegated to the director by the board. The

1 board may, in its discretion, refuse, sustain or reverse, by majority vote,
2 any action or decision of the executive director. The executive director
3 shall be exempt from the provisions of chapter 53, title 67, Idaho Code, and
4 shall receive a salary that is fixed by the board.

5 (h) The board shall have the power to hire enforcement agents in or-
6 der to conduct investigations and enforce the provisions of this chapter.
7 All enforcement agents appointed by the board who are certified by the Idaho
8 peace officer standards and training advisory council, shall have the power
9 of peace officers limited to:

10 1. Enforcement of the provisions of this chapter.

11 2. Responding to express requests from other law enforcement agencies
12 for aid and assistance in enforcing other laws. For purposes of this
13 section, such a request from a law enforcement agency shall mean only a
14 request as to a particular and singular violation or suspicion of vio-
15 lation of law, and shall not constitute a continuous request for assis-
16 tance outside the purview of enforcement of the provisions of this chap-
17 ter.

18 (i) By August 1 of each year, the board shall provide to the director of
19 the department of fish and game, in a manner and form prescribed by the direc-
20 tor, the number of each species of big game taken in each management unit by
21 clients of licensed outfitters between July 1 of the immediately preceding
22 calendar year and June 30 of the current calendar year.

23 (j) The board shall ~~by rule~~ designate the number of deer or elk tags
24 allocated pursuant to section 36-408(4), Idaho Code, among the authorized
25 ~~operating areas within the~~ outfitting operations within each capped or con-
26 trolled zone, unit, or game management area, unit or zone in a fair and eq-
27 uitable manner. The number of tags designated to each outfitter operation
28 shall be reported back to the Idaho department of fish and game for distribu-
29 tion.

30 Individual outfitter computation in capped zones shall be made as fol-
31 lows: The average of the highest two (2) years in the last five (5) years of
32 all elk and deer tag use in capped zones shall become the individual outfit-
33 ter's base allocation number for elk and deer tags until the next big game
34 season setting, when the tag numbers shall be recomputed.

35 Individual outfitter computation in controlled hunts shall be made as
36 follows: The highest year within the last five (5) years of outfitted hunter
37 elk and deer tag use in controlled zone, unit, or game management area shall
38 become the individual outfitter's base allocation number for elk and deer
39 tags until the next big game season setting, when the tag numbers shall be re-
40 computed.

41 The board shall promulgate all necessary rules to implement the provi-
42 sions of this subsection.