

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 467

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO FISH AND GAME; AMENDING SECTION 36-104, IDAHO CODE, TO PRO-
2 VIDE THAT CERTAIN CONTROLLED HUNT PERMITS MAY ALSO BE ISSUED FOR BEAR
3 AND TURKEY; AND AMENDING SECTION 36-106, IDAHO CODE, TO PROVIDE THAT
4 WILDLIFE SUBJECT TO SPECIAL DEPREDATION HUNTS SHALL INCLUDE BEAR AND
5 TURKEY.
6

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

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

10 36-104. GENERAL POWERS AND DUTIES OF COMMISSION. (a) Organization --
11 Meetings. The members of the commission shall annually meet at their of-
12 fices and organize by electing from their membership a chairman, who shall
13 hold office for a period of one (1) year, or until his successor has been
14 duly elected. In addition to the regular annual meeting, to be held in Jan-
15 uary, said commission shall hold other regular quarterly meetings each year
16 at such places within the state as the commission shall select for the trans-
17 action of business. Special meetings may be called at any time and place by
18 the chairman or a majority of the members of the commission. Notice of the
19 time, place and purpose of any and all special meetings shall be given by the
20 secretary to each member of the commission prior to said meeting.

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

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

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

41 3. Whenever it finds it necessary for the preservation, protection, or
42 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,
21 elk, ~~or~~ antelope, bear or turkey, or the landowner's designated
22 agent(s) to hunt deer, elk, ~~or~~ antelope, bear or turkey in con-
23 trolled hunts containing the eligible property owned by those
24 landowners in units where any permits for deer, elk, ~~or~~ antelope,
25 bear or turkey are limited.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 16. Adopt rules governing a mentored hunting program.

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

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

46 SECTION 2. That Section 36-106, Idaho Code, be, and the same is hereby
 47 amended to read as follows:

48 36-106. DIRECTOR OF DEPARTMENT OF FISH AND GAME. (a) Office of Direc-
 49 tor Created. The commission shall appoint a director of the department of

1 fish and game, hereinafter referred to as the director, who shall be a person
2 with knowledge of, and experience in, the requirements for the protection,
3 conservation, restoration, and management of the wildlife resources of the
4 state. The director shall not hold any other public office, nor any office
5 in any political party organization, and shall devote his entire time to the
6 service of the state in the discharge of his official duties, under the di-
7 rection of the commission.

8 (b) Secretary to Commission. The director or his designee shall serve
9 as secretary to the commission.

10 (c) Compensation and Expenses. The director shall receive such compen-
11 sation as the commission, with the concurrence and approval of the governor,
12 may determine and shall be reimbursed at the rate provided by law for state
13 employees for all actual and necessary traveling and other expenses incurred
14 by him in the discharge of his official duties.

15 (d) Oath and Bond. Before entering upon the duties of his office, the
16 director shall take and subscribe to the official oath of office, as provided
17 by section 59-401, Idaho Code, and shall, in addition thereto, swear and af-
18 firm that he holds no other public office, nor any position under any polit-
19 ical committee or party. Such oath, or affirmation, shall be signed in the
20 office of the secretary of state.

21 The director shall be bonded to the state of Idaho in the time, form and
22 manner prescribed by chapter 8, title 59, Idaho Code.

23 (e) Duties and Powers of Director.

24 1. The director shall have general supervision and control of all
25 activities, functions, and employees of the department of fish and
26 game, under the supervision and direction of the commission, and shall
27 enforce all the provisions of the laws of the state, and rules and
28 proclamations of the commission relating to wild animals, birds, and
29 fish and, further, shall perform all the duties prescribed by section
30 67-2405, Idaho Code, and other laws of the state not inconsistent with
31 this act, and shall exercise all necessary powers incident thereto not
32 specifically conferred on the commission.

33 2. The director is hereby authorized to appoint as many classified em-
34 ployees as the commission may deem necessary to perform administrative
35 duties, to enforce the laws and to properly implement management, prop-
36 agation, and protection programs established for carrying out the pur-
37 poses of the Idaho fish and game code.

38 3. The appointment of such employees shall be made by the director in
39 accordance with chapter 53, title 67, Idaho Code, and rules promulgated
40 pursuant thereto, and they shall be compensated as provided therein.
41 Said employees shall be bonded to the state of Idaho in the time, form,
42 and manner prescribed by chapter 8, title 59, Idaho Code.

43 4. The director is hereby authorized to establish and maintain fish
44 hatcheries for the purpose of hatching, propagating, and distributing
45 all kinds of fish.

46 5. (A) The director, or any person appointed by him in writing to do
47 so, may take wildlife of any kind, dead or alive, or import the
48 same, subject to such conditions, restrictions and rules as he may
49 provide, for the purpose of inspection, cultivation, propagation,

1 distribution, scientific or other purposes deemed by him to be of
2 interest to the fish and game resources of the state.

3 (B) The director shall have supervision over all of the matters
4 pertaining to the inspection, cultivation, propagation and dis-
5 tribution of the wildlife propagated under the provisions of ti-
6 tle 36, Idaho Code. He shall also have the power and authority to
7 obtain, by purchase or otherwise, wildlife of any kind or variety
8 which he may deem most suitable for distribution in the state and
9 may have the same properly cared for and distributed throughout
10 the state of Idaho as he may deem necessary.

11 (C) The director is hereby authorized to issue a license/tag/per-
12 mit to a nonresident landowner who resides in a contiguous state
13 for the purpose of taking one (1) animal during an emergency depre-
14 dation hunt which includes the landowner's Idaho property subject
15 to such conditions, restrictions or rules as the director may pro-
16 vide. The fee for this license/tag/permit shall be equal to the
17 costs of a resident hunting license, a resident tag fee and a resi-
18 dent depredation permit.

19 (D) Unless relocation is required pursuant to subparagraph (E)
20 herein, notwithstanding the provisions of section 36-408, Idaho
21 Code, to the contrary, the director shall not expend any funds, or
22 take any action, or authorize any employee or agent of the depart-
23 ment or other person to take any action, to undertake actual trans-
24 plants of bighorn sheep into areas they do not now inhabit for the
25 purpose of augmenting existing populations until:

26 (i) The boards of county commissioners of the counties in
27 which the release is proposed to take place have been given
28 reasonable notice of the proposed release.

29 (ii) The affected federal and state land grazing permittees
30 and owners or leaseholders of private land in or contiguous
31 to the proposed release site have been given reasonable no-
32 tice of the proposed release.

33 (iii) The president pro tempore of the senate and the speaker
34 of the house of representatives have received from the di-
35 rector a plan for the forthcoming year that details, to the
36 best of the department's ability, the proposed transplants
37 which shall include the estimated numbers of bighorn sheep
38 to be transplanted and a description of the areas the pro-
39 posed transplant or transplants are planned for.

40 Upon request, the department shall grant one (1) hearing per
41 transplant or relocation if any affected individual or entity
42 expresses written concern within ten (10) days of notification re-
43 garding any transplants or relocations of bighorn sheep and shall
44 take into consideration these concerns in approving, modifying or
45 canceling any proposed bighorn sheep transplant or relocation.
46 Any such hearing shall be held within thirty (30) days of the re-
47 quest. It is the policy of the state of Idaho that existing sheep
48 or livestock operations in the area of any bighorn sheep trans-
49 plant or relocation are recognized and that the potential risk,
50 if any, of disease transmission and loss of bighorn sheep when the

1 same invade domestic livestock or sheep operations is accepted.
2 Prior to any transplant or relocation of bighorn sheep into ar-
3 eas they do not now inhabit or a transplant or relocation for the
4 purpose of augmenting existing populations, the department shall
5 provide for any affected federal or state land grazing permittees
6 or owners or leaseholders of private land a written agreement
7 signed by all federal, state and private entities responsible for
8 the transplant or relocation stating that the existing sheep or
9 livestock operations in the area of any such bighorn sheep trans-
10 plant or relocation are recognized and that the potential risk,
11 if any, of disease transmission and loss of bighorn sheep when the
12 same invade domestic livestock or sheep operations is accepted.

13 (E) The Idaho department of fish and game: (1) shall develop a
14 state management plan to maintain a viable, self-sustaining pop-
15 ulation of bighorn sheep in Idaho which shall consider as part
16 of the plan the current federal or state domestic sheep grazing
17 allotment(s) that currently have any bighorn sheep upon or in
18 proximity to the allotment(s); (2) within ninety (90) days of the
19 effective date of this act will cooperatively develop best manage-
20 ment practices with the permittee(s) on the allotment(s). Upon
21 commencement of the implementation of best management practices,
22 the director shall certify that the risk of disease transmission,
23 if any, between bighorn and domestic sheep is acceptable for the
24 viability of the bighorn sheep. The director's certification
25 shall continue for as long as the best management practices are
26 implemented. The director may also certify that the risk of dis-
27 ease transmission, if any, between bighorn and domestic sheep
28 is acceptable for the viability of the bighorn sheep based upon
29 a finding that other factors exist, including but not limited
30 to previous exposure to pathogens that make separation between
31 bighorn and domestic sheep unnecessary.

32 6. (A) The director shall have the power, at any time when it is de-
33 sired to introduce any new species, or if at any time any species
34 of wildlife of the state of Idaho shall be threatened with exces-
35 sive shooting, trapping, or angling or otherwise, to close any
36 open season or to reduce the bag limit or possession limit for such
37 species for such time as he may designate; in the event an emer-
38 gency is declared to exist such closure shall become effective
39 forthwith upon written order of the director; in all other cases
40 upon publication and posting as provided in section 36-105, Idaho
41 Code.

42 (B) In order to protect property from damage by wildlife,
43 including bear and turkey, the fish and game commission may del-
44 egate to the director or his designee the authority to declare an
45 open season upon that particular species of wildlife to reduce
46 its population. The director or his designee shall make an order
47 embodying his findings in respect to when, under what circum-
48 stances, in which localities, by what means, and in what amounts,
49 numbers and sex the wildlife subject to the hunt may be taken. In
50 the event an emergency is declared to exist such open season shall

1 become effective forthwith upon written order of the director or
2 his designee; in all other cases upon publication and posting as
3 provided in section 36-105, Idaho Code.

4 (C) Any season closure order issued under authority hereof shall
5 be published in at least one (1) newspaper of general circulation
6 in the area affected by the order for at least once a week for two
7 (2) consecutive weeks, and such order shall be posted in public
8 places in each county as the director may direct.

9 (D) During the closure of any open season or the opening of any
10 special depredation season by the director all provisions of laws
11 relating to the closed season or the special depredation season
12 on such wildlife shall be in force and whoever violates any of the
13 provisions shall be subject to the penalties prescribed therefor.

14 (E) Prior to the opening of any special depredation hunt, the di-
15 rector or his designee shall be authorized to provide up to a max-
16 imum of fifty percent (50%) of the available permits for such big
17 game to the landholder(s) of privately owned land within the hunt
18 area or his designees. If the landholder(s) chooses to designate
19 hunters, he must provide a written list of the names of designated
20 individuals to the department. If the landholder(s) fails to des-
21 ignate licensed hunters, then the department will issue the total
22 available permits in the manner set by rule. All hunters must have
23 a current hunting license and shall have equal access to both pub-
24 lic and private lands within the hunt boundaries. It shall be un-
25 lawful for any landholder(s) to receive any form of compensation
26 from a person who obtains or uses a depredation controlled hunt
27 permit.

28 7. The director shall make an annual report to the governor, the legis-
29 lature, and the secretary of state, of the doings and conditions of his
30 office, which report shall be made in accordance with section 67-2509,
31 Idaho Code.

32 8. The director may sell or cause to be sold publications and materials
33 in accordance with section 59-1012, Idaho Code.

34 9. Any deer, elk, antelope, moose, bighorn sheep or bison imported or
35 transported by the department of fish and game shall be tested for the
36 presence of certain communicable diseases that can be transmitted to
37 domestic livestock. Those communicable diseases to be tested for shall
38 be arrived at by mutual agreement between the department of fish and
39 game and the department of agriculture. Any moneys expended by the de-
40 partment of fish and game on wildlife disease research shall be mutually
41 agreed upon by the department of fish and game and the department of
42 agriculture.

43 In addition, a comprehensive animal health program for all deer, elk,
44 antelope, moose, bighorn sheep, or bison imported into, transported, or
45 resident within the state of Idaho shall be implemented after said pro-
46 gram is mutually agreed upon by the department of fish and game and the
47 department of agriculture.

48 10. In order to monitor and evaluate the disease status of wildlife and
49 to protect Idaho's livestock resources, any suspicion by fish and game
50 personnel of a potential communicable disease process in wildlife shall

1 be reported within twenty-four (24) hours to the department of agricul-
2 ture. All samples collected for disease monitoring or disease evalu-
3 ation of wildlife shall be submitted to the division of animal indus-
4 tries, department of agriculture.

5 11. (A) The director is authorized to enter into an agreement with an
6 independent contractor for the purpose of providing a telephone
7 order and credit card payment service for controlled hunt permits,
8 licenses, tags, and permits.

9 (B) The contractor may collect a fee for its service in an amount
10 to be set by contract.

11 (C) All moneys collected for the telephone orders of such li-
12 censes, tags, and permits shall be and remain the property of the
13 state, and such moneys shall be directly deposited by the con-
14 tractor into the state treasurer's account in accordance with the
15 provisions of section 59-1014, Idaho Code. The contractor shall
16 furnish a good and sufficient surety bond to the state of Idaho in
17 an amount sufficient to cover the amount of the telephone orders
18 and potential refunds.

19 (D) The refund of moneys for unsuccessful controlled hunt permit
20 applications and licenses, tags, and permits approved by the de-
21 partment may be made by the contractor crediting the applicant's
22 or licensee's credit card account.

23 12. The director may define activities or facilities that primarily
24 provide a benefit: to the department; to a person; for personal use; to
25 a commercial enterprise; or for a commercial purpose.