

IN THE SENATE

SENATE BILL NO. 1118

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO FISH AND GAME; AMENDING SECTION 36-106, IDAHO CODE, TO PROVIDE
2 THAT INDIVIDUALS OR LANDOWNERS THAT HAVE BEEN ISSUED A KILL PERMIT BY
3 THE DIRECTOR OF THE DEPARTMENT OF FISH AND GAME OR HIS DESIGNEE, IN
4 CONJUNCTION WITH THEIR RESPONSIBILITY FOR FIELD DRESSING THE ANIMALS
5 TAKEN, MAY KEEP ONE ANIMAL FOR THEIR PERSONAL USE AND TO PROVIDE THAT
6 UNDER CERTAIN CONDITIONS A SECOND ANIMAL SUBSEQUENTLY TAKEN MAY BE KEPT
7 BY THE INDIVIDUAL OR LANDOWNER.
8

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

10 SECTION 1. That Section 36-106, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 36-106. DIRECTOR OF DEPARTMENT OF FISH AND GAME. (a) Office of Direc-
13 tor Created. The commission shall appoint a director of the department of
14 fish and game, hereinafter referred to as the director, who shall be a person
15 with knowledge of, and experience in, the requirements for the protection,
16 conservation, restoration, and management of the wildlife resources of the
17 state. The director shall not hold any other public office, nor any office
18 in any political party organization, and shall devote his entire time to the
19 service of the state in the discharge of his official duties, under the di-
20 rection of the commission.

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

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

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

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

36 (e) Duties and Powers of Director.

37 1. The director shall have general supervision and control of all
38 activities, functions, and employees of the department of fish and
39 game, under the supervision and direction of the commission, and shall
40 enforce all the provisions of the laws of the state, and rules and
41 proclamations of the commission relating to wild animals, birds, and
42 fish and, further, shall perform all the duties prescribed by section

1 67-2405, Idaho Code, and other laws of the state not inconsistent with
2 this act, and shall exercise all necessary powers incident thereto not
3 specifically conferred on the commission.

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

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

14 4. The director is hereby authorized to establish and maintain fish
15 hatcheries for the purpose of hatching, propagating, and distributing
16 all kinds of fish.

17 5. (A) The director, or any person appointed by him in writing to do
18 so, may take wildlife of any kind, dead or alive, or import the
19 same, subject to such conditions, restrictions and rules as he may
20 provide, for the purpose of inspection, cultivation, propagation,
21 distribution, scientific or other purposes deemed by him to be of
22 interest to the fish and game resources of the state.

23 (B) The director shall have supervision over all of the matters
24 pertaining to the inspection, cultivation, propagation and dis-
25 tribution of the wildlife propagated under the provisions of ti-
26 tle 36, Idaho Code. He shall also have the power and authority to
27 obtain, by purchase or otherwise, wildlife of any kind or variety
28 which he may deem most suitable for distribution in the state and
29 may have the same properly cared for and distributed throughout
30 the state of Idaho as he may deem necessary.

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

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

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

49 (ii) The affected federal and state land grazing permittees
50 and owners or leaseholders of private land in or contiguous

1 to the proposed release site have been given reasonable no-
2 tice of the proposed release.

3 (iii) The president pro tempore of the senate and the speaker
4 of the house of representatives have received from the di-
5 rector a plan for the forthcoming year that details, to the
6 best of the department's ability, the proposed transplants
7 which shall include the estimated numbers of bighorn sheep
8 to be transplanted and a description of the areas the pro-
9 posed transplant or transplants are planned for.

10 Upon request, the department shall grant one (1) hearing per
11 transplant or relocation if any affected individual or entity
12 expresses written concern within ten (10) days of notification re-
13 garding any transplants or relocations of bighorn sheep and shall
14 take into consideration these concerns in approving, modifying or
15 canceling any proposed bighorn sheep transplant or relocation.
16 Any such hearing shall be held within thirty (30) days of the re-
17 quest. It is the policy of the state of Idaho that existing sheep
18 or livestock operations in the area of any bighorn sheep trans-
19 plant or relocation are recognized and that the potential risk,
20 if any, of disease transmission and loss of bighorn sheep when the
21 same invade domestic livestock or sheep operations is accepted.
22 Prior to any transplant or relocation of bighorn sheep into ar-
23 eas they do not now inhabit or a transplant or relocation for the
24 purpose of augmenting existing populations, the department shall
25 provide for any affected federal or state land grazing permittees
26 or owners or leaseholders of private land a written agreement
27 signed by all federal, state and private entities responsible for
28 the transplant or relocation stating that the existing sheep or
29 livestock operations in the area of any such bighorn sheep trans-
30 plant or relocation are recognized and that the potential risk,
31 if any, of disease transmission and loss of bighorn sheep when the
32 same invade domestic livestock or sheep operations is accepted.

33 (E) The Idaho department of fish and game: (1) shall develop a
34 state management plan to maintain a viable, self-sustaining pop-
35 ulation of bighorn sheep in Idaho which shall consider as part
36 of the plan the current federal or state domestic sheep grazing
37 allotment(s) that currently have any bighorn sheep upon or in
38 proximity to the allotment(s); (2) within ninety (90) days of the
39 effective date of this act will cooperatively develop best manage-
40 ment practices with the permittee(s) on the allotment(s). Upon
41 commencement of the implementation of best management practices,
42 the director shall certify that the risk of disease transmission,
43 if any, between bighorn and domestic sheep is acceptable for the
44 viability of the bighorn sheep. The director's certification
45 shall continue for as long as the best management practices are
46 implemented. The director may also certify that the risk of dis-
47 ease transmission, if any, between bighorn and domestic sheep
48 is acceptable for the viability of the bighorn sheep based upon
49 a finding that other factors exist, including but not limited

1 to previous exposure to pathogens that make separation between
2 bighorn and domestic sheep unnecessary.

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

13 (B) (i) In order to protect property from damage by wildlife, in-
14 cluding bear and turkey, the fish and game commission may delegate
15 to the director or his designee the authority to declare an open
16 season upon that particular species of wildlife to reduce its pop-
17 ulation. The director or his designee shall make an order embody-
18 ing his findings in respect to when, under what circumstances, in
19 which localities, by what means, and in what amounts, numbers and
20 sex the wildlife subject to the hunt may be taken. In the event an
21 emergency is declared to exist such open season shall become ef-
22 fective forthwith upon written order of the director or his de-
23 signee; in all other cases upon publication and posting as pro-
24 vided in section 36-105, Idaho Code.

25 (ii) In the event a kill permit is issued by the director or his de-
26 signee, the individual or landowner with the kill permit, in con-
27 junction with their responsibility for field dressing the animals
28 taken, may keep one (1) animal for their personal use. In the event
29 the director or his designee issues a subsequent kill permit for
30 the same individual or landowner due to continued depredation, the
31 director or his designee may authorize the individual or landowner
32 to keep a second subsequently taken animal for their personal use.

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

38 (D) During the closure of any open season or the opening of any
39 special depredation season by the director all provisions of laws
40 relating to the closed season or the special depredation season
41 on such wildlife shall be in force and whoever violates any of the
42 provisions shall be subject to the penalties prescribed therefor.

43 (E) Prior to the opening of any special depredation hunt, the di-
44 rector or his designee shall be authorized to provide up to a max-
45 imum of fifty percent (50%) of the available permits for such big
46 game to the landholder(s) of privately owned land within the hunt
47 area or his designees. If the landholder(s) chooses to designate
48 hunters, he must provide a written list of the names of designated
49 individuals to the department. If the landholder(s) fails to des-
50 ignate licensed hunters, then the department will issue the total

1 available permits in the manner set by rule. All hunters must have
2 a current hunting license and shall have equal access to both pub-
3 lic and private lands within the hunt boundaries. It shall be un-
4 lawful for any landholder(s) to receive any form of compensation
5 from a person who obtains or uses a depredation controlled hunt
6 permit.

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

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

13 9. Any deer, elk, antelope, moose, bighorn sheep or bison imported or
14 transported by the department of fish and game shall be tested for the
15 presence of certain communicable diseases that can be transmitted to
16 domestic livestock. Those communicable diseases to be tested for shall
17 be arrived at by mutual agreement between the department of fish and
18 game and the department of agriculture. Any moneys expended by the de-
19 partment of fish and game on wildlife disease research shall be mutually
20 agreed upon by the department of fish and game and the department of
21 agriculture.

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

27 10. In order to monitor and evaluate the disease status of wildlife and
28 to protect Idaho's livestock resources, any suspicion by fish and game
29 personnel of a potential communicable disease process in wildlife shall
30 be reported within twenty-four (24) hours to the department of agricul-
31 ture. All samples collected for disease monitoring or disease evalu-
32 ation of wildlife shall be submitted to the division of animal indus-
33 tries, department of agriculture.

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

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

40 (C) All moneys collected for the telephone orders of such li-
41 censes, tags, and permits shall be and remain the property of the
42 state, and such moneys shall be directly deposited by the con-
43 tractor into the state treasurer's account in accordance with the
44 provisions of section 59-1014, Idaho Code. The contractor shall
45 furnish a good and sufficient surety bond to the state of Idaho in
46 an amount sufficient to cover the amount of the telephone orders
47 and potential refunds.

48 (D) The refund of moneys for unsuccessful controlled hunt permit
49 applications and licenses, tags, and permits approved by the de-

1 partment may be made by the contractor crediting the applicant's
2 or licensee's credit card account.
3 12. The director may define activities or facilities that primarily
4 provide a benefit: to the department; to a person; for personal use; to
5 a commercial enterprise; or for a commercial purpose.