

IN THE SENATE

SENATE BILL NO. 1305

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO FISH AND GAME; AMENDING SECTION 36-104, IDAHO CODE, TO REVISE  
2 PROVISIONS REGARDING CONTROLLED HUNTS; AND AMENDING CHAPTER 1, TITLE  
3 36, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-104A, IDAHO CODE,  
4 TO PROVIDE FOR CONTRACTS WITH PRIVATE ENTITIES TO CONDUCT DRAWINGS FOR  
5 CONTROLLED HUNT PERMITS, TO PROVIDE A PROCEDURE AND TO PROVIDE FOR RULE-  
6 MAKING.  
7

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

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

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

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

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

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

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

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

13 5. (A) Upon notice to the public, ~~held cause to be held pursuant~~  
14 to the provisions of section 36-104A, Idaho Code, a public drawing  
15 giving to license holders, under the wildlife laws of this state,  
16 the privilege of drawing by lot for a controlled hunt permit autho-  
17 rizing the person to whom issued to hunt, kill, or attempt to kill  
18 any species of wild animals or birds designated by the commission  
19 under such rules as it shall prescribe.

20 (B) The commission may, under rules or proclamations as it may  
21 prescribe, authorize the director to issue additional controlled  
22 hunt permits and collect fees therefor authorizing landowners of  
23 property valuable for habitat or propagation purposes of deer,  
24 elk, antelope, bear or turkey, or the landowner's designated  
25 agent(s) to hunt deer, elk, antelope, bear or turkey in controlled  
26 hunts containing the eligible property owned by those landowners  
27 in units where any permits for deer, elk, antelope, bear or turkey  
28 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 unsuccess-  
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) re-  
49 sidents 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 Chapter 1, Title 36, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 36-104A, Idaho Code, and to read as follows:

4           36-104A. DRAWINGS TO AWARD CONTROLLED HUNT PERMITS -- CONTRACT WITH  
5 PRIVATE ENTITY -- PROCEDURE -- RULES. (1) The department shall contract with  
6 a private entity to conduct drawings for controlled hunt permits as estab-  
7 lished by the commission. The drawings must be conducted using a computer  
8 program that awards permits based on a random order of selection. The con-  
9 tract must provide for the acquisition by the department of the ownership of  
10 the computer program at the end of the term of the contract. The department  
11 shall solicit bids for the contract pursuant to Idaho law.

12           (2) The department shall:

13           (a) Provide to the private entity to whom a contract is awarded pursuant  
14 to the provisions of subsection (1) of this section, any applications  
15 for permits, documents or other information required by the private en-  
16 tity to conduct the drawings; and

17           (b) Otherwise cooperate with the private entity in conducting the draw-  
18 ings;

19           (c) Continue to be solely responsible for enforcement and administra-  
20 tion of all laws relating to licenses and tags.

21           (3) As soon as practicable after a drawing is completed, the private en-  
22 tity shall submit the results of the drawing to the department.

23           (4) The commission shall adopt rules necessary to carry out the provi-  
24 sions of this section.