

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.