

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 356

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO FISH AND GAME; AMENDING SECTION 36-406, IDAHO CODE, TO REVISE A
2 LICENSE CLASS PROVISION REGARDING CERTAIN DISABLED PERSONS LICENSES;
3 AND AMENDING SECTION 36-1604, IDAHO CODE, TO PROVIDE THAT SPECIFIED
4 LIMITATION OF LIABILITY PROVISIONS SHALL APPLY TO GOVERNMENTAL EN-
5 TITIES, NONGOVERNMENTAL ORGANIZATIONS AND PERSONS THAT TAKE CERTAIN
6 ACTIONS REGARDING LAND MADE AVAILABLE TO THE PUBLIC WITHOUT CHARGE FOR
7 RECREATIONAL PURPOSES AND TO MAKE A TECHNICAL CORRECTION.
8

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

10 SECTION 1. That Section 36-406, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 36-406. RESIDENT FISHING, HUNTING AND TRAPPING LICENSES -- FEES. (a)
13 Adult Licenses -- Combination -- Fishing -- Hunting -- Trapping. A license
14 of the first class may be had by a person possessing the qualifications
15 therein described on payment of a fee as specified in section 36-416, Idaho
16 Code, for a combined fishing and hunting license entitling the purchaser
17 to hunt and fish for game animals, game birds, unprotected and predatory
18 wildlife and fish of the state, a fee as specified in section 36-416, Idaho
19 Code, for a fishing license entitling the purchaser to fish in the public
20 waters of the state, a fee as specified in section 36-416, Idaho Code, for
21 a hunting license entitling the purchaser to hunt game animals, game birds,
22 unprotected and predatory wildlife of the state, and a fee as specified in
23 section 36-416, Idaho Code, for a trapping license entitling the purchaser
24 to trap wolves, furbearing animals and unprotected and predatory wildlife of
25 the state.

26 (b) Junior Licenses -- Hunting -- Trapping. A license of the second
27 class may be had by a person possessing the qualifications therein described
28 on payment of a fee as specified in section 36-416, Idaho Code, for a hunting
29 license, and a fee as specified in section 36-416, Idaho Code, for a trapping
30 license entitling the purchaser to the same privileges as the corresponding
31 license of the first class provides.

32 (c) Junior Combination -- Fishing Licenses. A license of the third
33 class may be purchased by a person possessing the qualifications therein
34 described on payment of a fee as specified in section 36-416, Idaho Code, for
35 a combined fishing and hunting license, and a fee as specified in section
36 36-416, Idaho Code, for a fishing license entitling the purchaser to the same
37 privileges as the corresponding license of the first class provides.

38 (d) Senior Resident Combination. A license of the fourth class may be
39 had by a person possessing the qualifications therein described on payment
40 of a fee as specified in section 36-416, Idaho Code, for a combined fishing
41 and hunting license entitling the purchaser to the same privileges as the
42 corresponding license of the first class provides.

1 (e) Lifetime Licenses -- Combination -- Hunting -- Fishing. A license
2 of the fifth class may be obtained at no additional charge by a person pos-
3 sessing the qualifications therein described for a combined hunting and
4 fishing license, for a hunting license, or for a fishing license, entitling
5 the person to the same privileges as the corresponding license of the first
6 class provides. Lifetime licensees must be certified under the provisions
7 of section 36-413, Idaho Code, before being issued a license to hunt.

8 (f) A license of the eighth class may be had by a person possessing the
9 qualifications therein described on payment of a fee as specified in section
10 36-416, Idaho Code, entitling the purchaser to hunt and fish for game ani-
11 mals, game birds, fish, and unprotected and predatory wildlife of the state.
12 With payment of the required fee, a person shall receive with this license a
13 deer tag, an elk tag, a black bear tag, a turkey tag, a mountain lion tag, a
14 wolf tag, an archery hunt permit, a muzzleloader permit, a steelhead trout
15 permit and an anadromous salmon permit. The director shall promptly trans-
16 mit to the state treasurer all moneys received pursuant to this subsection
17 for deposit as follows:

18 (i) Five dollars and fifty cents (\$5.50) in the fish and game set-aside
19 account for the purposes of section 36-111(1) (a), Idaho Code;

20 (ii) Two dollars (\$2.00) in the fish and game set-aside account for the
21 purposes of section 36-111(1) (b), Idaho Code;

22 (iii) Three dollars and fifty cents (\$3.50) in the fish and game set-
23 aside account for the purposes of section 36-111(1) (c), Idaho Code; and

24 (iv) The balance in the fish and game account.

25 All persons purchasing a license pursuant to this subsection shall ob-
26 serve and shall be subject to all rules of the commission regarding the fish
27 and wildlife of the state.

28 If the purchaser of this license does not meet the archery education re-
29 quirements of section 36-411(b), Idaho Code, then, notwithstanding the pro-
30 visions of section 36-304, Idaho Code, the archery hunt permit portion of
31 this license is invalid. The fee for this license will not change and the li-
32 cense must be issued without the archery permit validation.

33 (g) Disabled Persons Licenses -- Combination -- Fishing. A license of
34 the first class may be had by any resident disabled person on payment of a
35 fee as specified in section 36-416, Idaho Code, for a combined fishing and
36 hunting license, and a fee as specified in section 36-416, Idaho Code, for a
37 fishing license, entitling the purchaser to the same privileges as the cor-
38 responding license of the first class provides. A disabled person means a
39 person who is deemed disabled by one (1) or more, but not necessarily all,
40 of the following: the railroad retirement board pursuant to title 45 of the
41 United States Code, or certified as eligible for federal supplemental secu-
42 rity income (SSI); or social security disability income (SSDI); or a nonser-
43 vice-connected veterans pension; or a service-connected veterans disabili-
44 ty benefit with forty percent (40%) or more disability; or certified as per-
45 manently disabled by a physician. Once determination of permanent disabili-
46 ty has been made with the department, the determination shall remain on file
47 within the electronic filing system and the license holder shall not be re-
48 quired to present a physician's determination each year or prove their dis-
49 ability each year.

1 (h) Military Furlough Licenses -- Combination -- Fishing. A license of
2 the first class may be had by a resident person engaged in the military ser-
3 vice of the United States, while on temporary furlough or leave, possessing
4 the qualifications therein described on payment of a fee as specified in sec-
5 tion 36-416, Idaho Code, for a combined fishing and hunting license, and as
6 specified in section 36-416, Idaho Code, for a fishing license.

7 (i) Adult Licenses -- Three Year -- Combination -- Fishing -- Hunting.
8 A license of the first class may be had by a person possessing the qualifi-
9 cations therein described on payment of three (3) times the fee as specified
10 in section 36-416, Idaho Code, for a combined fishing and hunting license en-
11 titling the purchaser to hunt and fish for game animals, game birds, fish,
12 unprotected and predatory wildlife of the state, three (3) times the fee as
13 specified in section 36-416, Idaho Code, for a fishing license entitling the
14 purchaser to fish in the public waters of the state, or three (3) times the
15 fee as specified in section 36-416, Idaho Code, for a hunting license enti-
16 tling the purchaser to hunt game animals, game birds, unprotected and preda-
17 tory wildlife of the state. The expiration date for said licenses shall be
18 December 31 of the third year following the date of issuance.

19 (j) Junior Licenses -- Three Year -- Hunting. A license of the second
20 class may be had by a person possessing the qualifications therein described
21 on payment of three (3) times the fee as specified in section 36-416, Idaho
22 Code, for a hunting license. The expiration date for said license shall be
23 December 31 of the third year following the date of issuance.

24 (k) Junior Licenses -- Three Year -- Combination -- Fishing Licenses. A
25 license of the third class may be purchased by a person possessing the qual-
26 ifications therein described on payment of three (3) times the fee as spec-
27 ified in section 36-416, Idaho Code, for a combined fishing and hunting li-
28 cense and three (3) times the fee as specified in section 36-416, Idaho Code,
29 for a fishing license entitling the purchaser to the same privileges as the
30 corresponding license of the first class provides. The expiration date for
31 said licenses shall be December 31 of the third year following the date of is-
32 suance.

33 (l) Senior Resident Combination License -- Three Year. A license of the
34 fourth class may be had by a person possessing the qualifications therein de-
35 scribed on payment of three (3) times the fee as specified in section 36-416,
36 Idaho Code, for a combined fishing and hunting license entitling the pur-
37 chaser to the same privileges as the corresponding license of the first class
38 provides. The expiration date for said license shall be December 31 of the
39 third year following the date of issuance.

40 (m) Disabled Persons Licenses -- Three Year -- Combination -- Fish-
41 ing. A license of the ~~ninth~~ first class may be had by any resident disabled
42 person possessing the qualifications therein described on payment of three
43 (3) times the fee as specified in section 36-416, Idaho Code, for a combined
44 fishing and hunting license, and a fee as specified in section 36-416, Idaho
45 Code, for a fishing license entitling the purchaser to the same privileges as
46 the corresponding license of the first class provides. The expiration date
47 for said licenses shall be December 31 of the third year following the date
48 of issuance.

49 SECTION 2. That Section 36-1604, Idaho Code, be, and the same is hereby
50 amended to read as follows:

1 36-1604. LIMITATION OF LIABILITY OF LANDOWNER. (a) Statement of Pur-
2 pose. The purpose of this section is to encourage owners of land to make
3 land, airstrips and water areas available to the public without charge for
4 recreational purposes by limiting their liability toward persons entering
5 thereon for such purposes.

6 (b) Definitions. As used in this section:

7 1. "Airstrips" means either improved or unimproved landing areas used
8 by pilots to land, park, take off, unload, load and taxi aircraft.
9 Airstrips shall not include landing areas which are or may become el-
10 igible to receive federal funding pursuant to the federal airport and
11 airway improvement act of 1982 and subsequent amendments thereto.

12 2. "Land" means private or public land, roads, airstrips, trails,
13 water, watercourses, irrigation dams, water control structures,
14 headgates, private or public ways and buildings, structures, and ma-
15 chinery or equipment when attached to or used on the realty.

16 3. "Owner" means the possessor of a fee interest, a tenant, lessee, oc-
17 cupant or person in control of the premises.

18 4. "Recreational purposes" includes, but is not limited to, any of
19 the following activities or any combination thereof: hunting, fish-
20 ing, swimming, boating, rafting, tubing, camping, picnicking, hiking,
21 pleasure driving, the flying of aircraft, bicycling, running, playing
22 on playground equipment, skateboarding, athletic competition, nature
23 study, ~~water skiing~~ waterskiing, animal riding, motorcycling, snowmo-
24 biling, recreational vehicles, winter sports, and viewing or enjoying
25 historical, archeological, scenic, geological or scientific sites,
26 when done without charge of the owner.

27 (c) Owner Exempt from Warning. An owner of land owes no duty of care
28 to keep the premises safe for entry by others for recreational purposes, or
29 to give any warning of a dangerous condition, use, structure, or activity on
30 such premises to persons entering for such purposes. Neither the installa-
31 tion of a sign or other form of warning of a dangerous condition, use, struc-
32 ture, or activity, nor any modification made for the purpose of improving the
33 safety of others, nor the failure to maintain or keep in place any sign, other
34 form of warning, or modification made to improve safety, shall create lia-
35 bility on the part of an owner of land where there is no other basis for such
36 liability.

37 (d) Owner Assumes No Liability. An owner of land or equipment who ei-
38 ther directly or indirectly invites or permits without charge any person to
39 use such property for recreational purposes does not thereby:

40 1. Extend any assurance that the premises are safe for any purpose.

41 2. Confer upon such person the legal status of an invitee or licensee to
42 whom a duty of care is owed.

43 3. Assume responsibility for or incur liability for any injury to per-
44 son or property caused by an act of omission of such persons.

45 (e) Provisions Apply to Leased Public Land. Unless otherwise agreed in
46 writing, the provisions of this section shall be deemed applicable to the du-
47 ties and liability of an owner of land leased to the state or any subdivision
48 thereof for recreational purposes.

49 (f) Provisions Apply to Land Subject to a Conservation Easement. Un-
50 less otherwise agreed in writing, the provisions of this section shall be

1 deemed applicable to the duties and liability of an owner of land subject to a
2 conservation easement to any governmental entity or nonprofit organization.

3 (g) Provisions Apply to Funding, Maintenance or Improvements. The pro-
4 visions of this section shall be deemed applicable to the duties and liabil-
5 ity of any governmental entity, nongovernmental organization or person that
6 provides funds, performs maintenance, makes or supports improvements, holds
7 conservation easements or takes similar action regarding land made avail-
8 able to the public without charge for recreational purposes.

9 (h) Owner Not Required to Keep Land Safe. Nothing in this section shall
10 be construed to:

11 1. Create a duty of care or ground of liability for injury to persons or
12 property.

13 2. Relieve any person using the land of another for recreational pur-
14 poses from any obligation which he may have in the absence of this
15 section to exercise care in his use of such land and in his activities
16 thereon, or from legal consequences or failure to employ such care.

17 3. Apply to any person or persons who for compensation permit the land
18 to be used for recreational purposes.

19 (hi) User Liable for Damages. Any person using the land of another for
20 recreational purposes, with or without permission, shall be liable for any
21 damage to property, livestock or crops which he may cause while on said prop-
22 erty.