

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 192

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-408, IDAHO CODE,
2 TO REVISE PROVISIONS REGARDING OUTFITTED HUNTER TAGS SET-ASIDE AND
3 DEER AND ELK TAGS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
4 36-2107, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE POWERS AND
5 DUTIES OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD AND TO MAKE
6 TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.
7

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

9 SECTION 1. That Section 36-408, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 36-408. COMMISSION'S AUTHORITY -- TAGS -- PERMITS -- NONRESIDENTS
12 LIMITED -- OUTFITTERS SET-ASIDE. (1) Tags and Permits -- Method of Use. The
13 commission is hereby authorized to prescribe the number and kind of wildlife
14 that may be taken under authority of the several types of tags and permits
15 provided for in this title and the manner in which said tags and permits shall
16 be used and validated.

17 (2) Limit -- Licenses, Tags or Permits -- Controlled Hunts. The commis-
18 sion is hereby authorized to establish a limit annually as to the number of
19 each kind and class of licenses, tags, or permits to be sold or issued and is
20 further authorized to limit the number or prohibit entirely the participa-
21 tion by nonresidents in controlled hunts.

22 (3) ~~Outfitters~~ Outfitted Hunter Tags Set-Aside. When the commission
23 establishes a limit as to the number of nonresident deer tags and nonresi-
24 dent elk tags, it shall set aside annually, when setting big game seasons, in
25 a statewide pool, a maximum of twenty-five percent (25%) of the nonresident
26 deer tag and nonresident elk tag limit. These tags may be allocated to the
27 outfitted hunters in capped zones and controlled hunts and set aside for out-
28 fitted hunter use in general hunts.

29 Such outfitted allocated set-aside tags shall be separate from the tag
30 numbers set for residents and nonresidents in each capped or controlled
31 zone, unit, or game management area. The set-aside tags shall be sold pur-
32 suant to commission rule, only to persons that have entered into an a signed
33 agreement for that year to utilize the services of an outfitter licensed
34 pursuant to chapter 21, title 36, Idaho Code.

35 In order for a person to purchase any set-aside nonresident deer tag or
36 nonresident elk tag, that person's outfitter must submit an application with
37 the proper fees as required by the director. If any nonresident deer tags
38 or nonresident elk tags set aside for use in general hunts pursuant to this
39 subsection are unsold by July 15 of the year in which they were set aside,
40 they may be sold by the department to the general public ~~who are nonresidents~~
41 pursuant to commission rule. If any nonresident deer tags or nonresident elk
42 tags set aside as allocated tags pursuant to this subsection are unsold by

1 July 31 of the year in which they were set aside, they may be sold by the de-
2 partment to the general public pursuant to commission rule.

3 The commission may promulgate all necessary rules to implement the pro-
4 visions of this subsection.

5 (4) Deer and Elk Tag Allocation. When setting big game seasons, if the
6 commission limits the number of deer or elk tags available for use in any game
7 management area, unit, or zone, the commission may allocate by rule, where
8 there are outfitted operations, a number of deer ~~or~~ and elk tags from the
9 outfitted hunter set-aside pool of tags for use by hunters that have entered
10 into an a signed agreement for that year to utilize the services of an outfit-
11 ter licensed pursuant to chapter 21, title 36, Idaho Code.

12 In addition to rules promulgated by the commission regarding allo-
13 cation, or pursuant to this section, in capped zones the commission may
14 allocate the number of outfitted hunter elk and deer tags based on the high-
15 est number within each of the last two (2) years of all elk or deer tags using
16 the services of an outfitter in each capped zone. Any additional tags above
17 the original outfitted hunter tag quota may come from the nonresident out-
18 fitted hunter set-aside pool or the nonresident quota in the capped zone, not
19 to exceed fifty percent (50%) of the nonresident quota for each capped zone.
20 In capped zones, when tag numbers change, they will apply proportionally to
21 all user groups.

22 In controlled hunts, the commission may allocate the number of outfit-
23 ted hunter elk or deer tags based on a number compiled from each outfitter's
24 highest year within the last two (2) years of all elk or deer tags using
25 the services of an outfitter for each controlled hunt. Any additional tags
26 above the original outfitted hunter tag quota may come from the nonresident
27 outfitted hunter set-aside pool or the nonresident quota in the controlled
28 hunt, not to exceed fifty percent (50%) of the nonresident quota for each
29 controlled hunt.

30 Outfitted hunter tag use history will be provided through records from
31 the sale of outfitted hunter tags compiled by the Idaho department of fish
32 and game and verified use other than allocated tags recorded with the depart-
33 ment by December 20 by outfitters. The department shall distribute the allo-
34 cated outfitted tags through its point-of-sale machines.

35 Beginning January 1, 2021, all outfitted deer and elk tag use shall be
36 verified in order to qualify for allocated outfitted hunter tag use history.
37 Verification consists of the purchase of allocated tags from the Idaho de-
38 partment of fish and game or the use of an outfitter-provided agreement, in-
39 cluding the tag number that is recorded with the department.

40 All big game tags used in outfitted hunts must be recorded by outfit-
41 ters with the department prior to December 20 each year. An administrative
42 fee of five dollars (\$5.00) shall be assessed for each outfitted big game
43 tag sold at a point-of-sale machine. An administrative fee of twenty dollars
44 (\$20.00) shall be assessed for each big game tag submitted for verification
45 as being outfitted.

46 The allocated tags shall be designated by the Idaho outfitters and
47 guides licensing board to those authorized outfitting operations licensed
48 for elk and deer hunting for the use by the outfitted hunter, pursuant to
49 section 36-2107(j), Idaho Code.

1 Those tags not qualified for allocated tag use history include emer-
2 gency depredation, landowner appreciation program hunts, or meat packing
3 without an outfitted allocated deer or elk tag.

4 The commission may promulgate all necessary rules to implement the pro-
5 visions of this subsection.

6 (5) Special Game Tags. The commission is hereby authorized to issue two
7 (2) special bighorn sheep tags per year.

8 (a) Auction bighorn sheep tag. One (1) special bighorn sheep tag shall
9 be auctioned off by an incorporated nonprofit organization dedicated
10 to wildlife conservation, selected by the commission. The tag shall
11 be issued by the department of fish and game to the highest eligible
12 bidder. No more than five percent (5%) of all proceeds for the tag may
13 be retained by the organization. The tag to be issued pursuant to this
14 subsection shall be taken from the nonresident bighorn sheep tag quota.
15 The net proceeds shall be forwarded to the director for deposit in the
16 fish and game expendable trust account and shall be used for bighorn
17 sheep research and management purposes. Moneys raised pursuant to this
18 subsection may not be used to transplant additional bighorn sheep into
19 that portion of southwest Idaho south of the Snake river and west of U.S.
20 highway no. 93, nor for litigation or environmental impact statements
21 involving bighorn sheep. No transplants of bighorn sheep accomplished
22 with moneys raised pursuant to this subsection shall occur in any area
23 until hearings are conducted in the area. Provided however, that none
24 of the proceeds generated from the auction of bighorn sheep tags pur-
25 suant to this paragraph be used to purchase or acquire private property
26 or federally managed grazing permits, nor shall any proceeds generated
27 be used for matching funds for the purchase of private property or the
28 retirement or the acquisition of federally managed grazing permits.

29 (b) Lottery bighorn sheep tag. The commission is also authorized to is-
30 sue one (1) special bighorn sheep tag, which will be disposed of by lot-
31 tery. The lottery permit can be marketed by the department of fish and
32 game or a nonprofit organization dedicated to wildlife conservation se-
33 lected by the commission. The tag will be issued by the department of
34 fish and game to an eligible person drawn from the lottery provided in
35 this subsection. No more than twenty-five percent (25%) of gross rev-
36 enue can be retained for administrative costs by the organization. All
37 net proceeds for the tag disposed of by lottery pursuant to this sub-
38 section shall be remitted to the department and deposited in the fish
39 and game expendable trust account. Moneys in the account from the lot-
40 tery bighorn sheep tag shall be utilized by the department in solving
41 problems between bighorn sheep and domestic sheep, solving problems be-
42 tween wildlife and domestic animals or improving relationships between
43 sportsmen and private landowners.

44 (6) Issuance of Free Permit or Tag to Minor Children with Life-Threat-
45 ening Medical Conditions. Notwithstanding any other provision of law, the
46 commission may issue free big game permits or tags to minor children who have
47 life-threatening medical conditions that have been certified eligible by
48 a qualified organization. The commission may prescribe by rule the manner
49 and conditions of issuing and using the permits or tags authorized under this
50 subsection. For purposes of this subsection, a "qualified organization"

1 means a nonprofit organization that is qualified under section 501(c)(3) of
2 the Internal Revenue Code and that affords opportunities and experiences to
3 minor children with life-threatening medical conditions.

4 (7) Issuance of Free Permit or Tag to Military Veterans with Disabili-
5 ties. Notwithstanding any other provision of law, the commission may issue
6 free big game permits or tags to disabled military veterans who have been
7 certified eligible by a qualified organization. The commission may pre-
8 scribe by rule the manner and conditions of issuing and using the permits or
9 tags authorized under this subsection. For purposes of this subsection, a
10 "qualified organization" means a governmental agency that assists veter-
11 ans or a nonprofit organization that is qualified under section 501(c)(3),
12 501(c)(4) or section 501(c)(19), of the Internal Revenue Code and that af-
13 fords opportunities, experiences and assistance to disabled veterans.

14 (8) Special Wolf Tags. The commission is hereby authorized to issue up
15 to ten (10) special auction or lottery tags for hunting wolves. Special wolf
16 tags will be auctioned off or made available through lottery by incorporated
17 nonprofit organizations dedicated to wildlife conservation and selected by
18 the director. No more than five percent (5%) of all proceeds for each tag
19 may be retained by the nonprofit organization for administrative costs in-
20 volved. Each wolf tag shall be issued by the department of fish and game and
21 awarded to the highest eligible bidder or winner of a lottery. Each tag will
22 be good for the harvest of one (1) wolf pursuant to commission rule. The pro-
23 ceeds from each tag will be sent to the director to be placed in the depart-
24 ment general license fund.

25 (9) Special Big Game Auction Tags -- Governor's Wildlife Partnership
26 Tags. The commission is hereby authorized to issue special big game auc-
27 tion tags hereafter named and referred to as "Governor's wildlife partner-
28 ship tags" for hunting designated species on dates and in areas designated by
29 the commission. To enhance and sustain the value of Idaho's wildlife, up to
30 three (3) tags per species per year may be issued for deer, elk and pronghorn
31 antelope, one (1) tag per year may be issued for moose, and one (1) tag per
32 species per year may be issued for mountain goat and bighorn sheep. Each tag
33 will be signed by the governor of Idaho prior to auction to the public and be
34 available to either residents or nonresidents of Idaho. Governor's wildlife
35 partnership tags issued for deer, elk, pronghorn antelope and moose pursuant
36 to this subsection shall be taken from the nonresident controlled hunt pro-
37 grams for these species adopted by the fish and game commission. Governor's
38 wildlife partnership tags issued for mountain goat and bighorn sheep shall
39 be taken from the nonresident mountain goat and bighorn sheep quota. Gover-
40 nor's wildlife partnership tags shall be auctioned off by incorporated non-
41 profit organizations dedicated to wildlife conservation and selected by the
42 director. No more than five percent (5%) of all proceeds from each tag sale
43 may be retained by the nonprofit organization for administrative costs in-
44 volved, including in the event a tag is redonated and reauctioned. Each tag
45 shall be issued by the department of fish and game and awarded to the high-
46 est eligible bidder. Each tag shall be good for the harvest of one (1) big
47 game animal pursuant to commission rule consistent with the provisions of
48 this subsection. The proceeds from each tag shall be sent to the director to
49 be allocated up to thirty percent (30%) for sportsmen access programs, such
50 as access yes, and the balance for wildlife habitat projects, wildlife man-

1 agement projects to increase the quantity and quality of big game herds, and
2 other research and management activities approved by the commission. Pro-
3 vided however, that none of the proceeds generated from the auctions pur-
4 suant to the provisions of this subsection shall be used to purchase or ac-
5 quire private property or federally managed grazing permits, nor shall any
6 proceeds generated be used for matching funds for the purchase of private
7 property or the retirement or the acquisition of federally managed grazing
8 permits. Moneys raised pursuant to this subsection may not be used to trans-
9 plant additional bighorn sheep into that portion of southwest Idaho south of
10 the Snake river and west of U.S. highway no. 93, nor for litigation or envi-
11 ronmental impact statements involving bighorn sheep.

12 SECTION 2. That Section 36-2107, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 36-2107. POWERS AND DUTIES OF BOARD. The board, which may by written
15 agreement authorize the bureau of occupational licenses as agent to act in
16 its interest, shall have the following duties and powers:

17 (a) To conduct examinations to ascertain the qualifications of appli-
18 cants for outfitter's or guide's licenses, and to issue such licenses to
19 qualified applicants, with such restrictions and limitations thereon as the
20 board may find reasonable.

21 (b) To prescribe and establish rules of procedure to carry into effect
22 the provisions of this chapter including, but not limited to, rules pre-
23 scribing all requisite qualifications of training, experience, knowledge of
24 rules of governmental bodies, condition and type of gear and equipment, ex-
25 aminations to be given applicants, whether oral, written or demonstrative,
26 or a combination thereof.

27 (c) To conduct hearings and proceedings to suspend, revoke or restrict
28 the licenses of outfitters or guides, and to suspend, revoke or restrict said
29 licenses for due cause in the manner hereinafter provided.

30 (d) The board is expressly vested with the power and the authority to
31 enforce the provisions of this chapter, including obtaining injunctive re-
32 lief, and to make and enforce any and all reasonable rules which shall by it
33 be deemed necessary and which are not in conflict with the provisions of this
34 chapter, for the express purpose of safeguarding the health, safety, welfare
35 and freedom from injury or danger of those persons utilizing the services of
36 outfitters and guides, and for the conservation of wildlife and range re-
37 sources.

38 (e) The board shall have the power to cooperate with the federal and
39 state government through its appropriate agency or instrumentality in mat-
40 ters of mutual concern regarding the business of outfitting and guiding in
41 Idaho.

42 (f) The board shall have the power throughout the state of Idaho to re-
43 quest the attendance of witnesses and the production of such books, records
44 and papers as may be required at any hearing before it. The board or its hear-
45 ing officer may issue and serve subpoenas or subpoenas duces tecum in a man-
46 ner consistent with chapter 52, title 67, Idaho Code, the rules of the of-
47 fice of the attorney general, and rules 45(e) (2) and 45(g) of the Idaho rules
48 of civil procedure. Payment of fees or mileage for service of subpoenas or
49 attendance of witnesses shall be paid by the board consistent with the pro-

1 visions of chapter 52, title 67, Idaho Code, the rules of the office of the
 2 attorney general, and rule 45(e) (1) of the Idaho rules of civil procedure.
 3 Disobedience of a subpoena or subpoena duces tecum may be enforced by making
 4 application to the district court. Disobedience by a licensee of a subpoena
 5 or subpoena duces tecum issued by the board shall be deemed a violation of a
 6 board order.

7 (g) The board shall have the power to appoint an executive director to
 8 serve at the pleasure of the board. The executive director shall carry out
 9 such administrative duties as delegated to the director by the board. The
 10 board may, in its discretion, refuse, sustain or reverse, by majority vote,
 11 any action or decision of the executive director. The executive director
 12 shall be exempt from the provisions of chapter 53, title 67, Idaho Code, and
 13 shall receive a salary that is fixed by the board.

14 (h) The board shall have the power to hire enforcement agents in or-
 15 der to conduct investigations and enforce the provisions of this chapter.
 16 All enforcement agents appointed by the board who are certified by the Idaho
 17 peace officer standards and training advisory council, shall have the power
 18 of peace officers limited to:

- 19 1. Enforcement of the provisions of this chapter.
- 20 2. Responding to express requests from other law enforcement agencies
 21 for aid and assistance in enforcing other laws. For purposes of this
 22 section, such a request from a law enforcement agency shall mean only a
 23 request as to a particular and singular violation or suspicion of vio-
 24 lation of law, and shall not constitute a continuous request for assis-
 25 tance outside the purview of enforcement of the provisions of this chap-
 26 ter.

27 (i) By August 1 of each year, the board shall provide to the director of
 28 the department of fish and game, in a manner and form prescribed by the direc-
 29 tor, the number of each species of big game taken in each management unit by
 30 clients of licensed outfitters between July 1 of the immediately preceding
 31 calendar year and June 30 of the current calendar year.

32 (j) The board shall ~~by rule~~ designate the number of deer or elk tags
 33 allocated pursuant to section 36-408(4), Idaho Code, among the authorized
 34 operating areas within the outfitting operations within each capped or con-
 35 trolled zone, unit, or game management area, unit or zone in a fair and equi-
 36 table manner. The number of tags designated to each outfitter operation will
 37 be reported back to the Idaho department of fish and game for distribution.

38 Individual outfitter computation in capped zones shall be made as fol-
 39 lows: The average of the last two (2) years of all outfitted elk or deer tag
 40 use in capped zones will become the individual outfitter's base allocation
 41 number for that tag until the next big game season setting, when the tag num-
 42 bers will be recomputed.

43 Individual outfitter computation in controlled hunts shall be made as
 44 follows: The highest year within the last two (2) years of outfitted elk and
 45 deer tag use in controlled zone, unit, or game management area will become
 46 the individual outfitter's base allocation number for elk or deer tags until
 47 the next big game season setting, when the tag numbers will be recomputed.

48 The board shall promulgate all necessary rules to implement the provi-
 49 sions of this subsection.

1 SECTION 3. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after its
3 passage and approval.