

IN THE SENATE

SENATE BILL NO. 1085

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1 RELATING TO OUTFITTERS AND GUIDES; AMENDING SECTION 36-2102, IDAHO CODE,  
2 TO REVISE A DEFINITION AND TO DEFINE TERMS; AMENDING SECTION 36-2107,  
3 IDAHO CODE, TO PROVIDE FOR THE DIVISION ADMINISTRATOR; AMENDING SECTION  
4 36-2108, IDAHO CODE, TO REMOVE A PROVISION REGARDING A WRITTEN ENDORSE-  
5 MENT AND TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 36-2109, IDAHO  
6 CODE, TO REVISE A PROVISION REGARDING LICENSE EXPIRATION AND RENEWAL  
7 AND TO REVISE A PROVISION REGARDING OUTFITTER LICENSES; AMENDING SEC-  
8 TION 36-2113, IDAHO CODE, TO REVISE PROVISIONS REGARDING REVOCATION  
9 OR SUSPENSION OF A LICENSE; AMENDING SECTION 36-2120, IDAHO CODE, TO  
10 PROVIDE FOR THE ALLOCATION OF TAGS; AND DECLARING AN EMERGENCY AND PRO-  
11 VIDING AN EFFECTIVE DATE.  
12

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

14 SECTION 1. That Section 36-2102, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 36-2102. DEFINITIONS. (a) "Person" includes any individual, firm,  
17 partnership, corporation or other organization or any combination thereof.

18 (b) "Outfitter" includes any person who, while engaging in the acts  
19 enumerated herein: (1) advertises or otherwise holds himself out to the  
20 public for hire; (2) provides facilities and services for consideration; and  
21 (3) maintains, leases, or otherwise uses equipment or accommodations for  
22 compensation for the conduct of outdoor recreational activities that are  
23 known to involve inherent risk limited to the following: hunting animals  
24 or birds; float or power boating on Idaho lakes, reservoirs, rivers, and  
25 streams; fishing on Idaho lakes, reservoirs, rivers, and streams; and haz-  
26 ardous desert or mountain excursions. Any firm, partnership, corporation or  
27 other organization or combination thereof operating as an outfitter shall  
28 designate one (1) or more individuals as agents who shall, together with  
29 the licensed outfitter, be held responsible for the conduct of the licensed  
30 outfitter's operations and who shall meet all of the qualifications of a  
31 licensed outfitter.

32 (c) "Guide" is any natural person who is employed by a licensed outfit-  
33 ter to furnish personal services for the conduct of outdoor recreational ac-  
34 tivities directly related to the conduct of activities for which the employ-  
35 ing outfitter is licensed. Any such person not employed by a licensed out-  
36 fitter who offers or provides facilities or services as specified in subsec-  
37 tion (b) of this section shall be deemed in violation of the provisions of  
38 this chapter, except: (1) any employee of the state of Idaho or the United  
39 States when acting in his official capacity, or (2) any natural person who is  
40 employed by a licensed outfitter solely for the following activities: car-  
41 ing for, grooming or saddling of livestock, cooking, woodcutting, and trans-

1 porting people, equipment and personal property on public roads shall be ex-  
2 empt from the provisions of this chapter.

3 (d) "Board" means the Idaho outfitters and guides licensing board.

4 (e) "License year" means that period of time beginning on April 1 and  
5 expiring March 31 the following year.

6 (f) "Individual" means any person other than a partnership, corpora-  
7 tion or any other organization or combination thereof.

8 (g) "Allocated tag" means a hunting tag that has been allocated by the  
9 fish and game commission pursuant to section 36-408(4), Idaho Code.

10 (h) "Capped hunt" means a game management area, unit, or zone for which  
11 the fish and game commission has limited or "capped" the number of deer or elk  
12 tags available for use in a general season hunt.

13 (i) "Controlled hunt" means a hunt for a species that has a framework  
14 determined by the fish and game commission and that has a limited number of  
15 tags that are distributed by random drawing to hunters.

16 (j) "Outfitted hunter tag use history" means the number of tags used by  
17 clients of an outfitter for the hunt or hunts with the most similar framework  
18 to the hunt for which the allocated tag is being designated.

19 (k) "Remaining allocated tag" means an allocated tag in an existing  
20 capped or controlled hunt that would have been designated to a particular  
21 outfitting operation had the outfitting operation used all of its previously  
22 designated allocated tags in the preceding big game season or seasons and  
23 that will be designated pursuant to this chapter.

24 (l) "Base allocation" means the historic tag use of an outfitting oper-  
25 ation over the preceding two (2) years in a given hunt as computed in section  
26 36-2120(2), Idaho Code.

27 (m) "Pool" means a group of tags that have not been utilized or have been  
28 surrendered by the outfitting operation to which they were originally desig-  
29 nated and are made available to other operations in the same hunt.

30 (n) "Utilized" means that a tag has been purchased, exchanged, or con-  
31 verted at the department of fish and game as a designated allocated tag.

32 (o) "Commission" means the Idaho fish and game commission.

33 (p) "Compensation" means the receipt, exchange, or taking of goods,  
34 services, or cash in exchange for outfitted or guided activities. A bona  
35 fide charging of out-of-pocket travel expenses by members of a recreational  
36 party is not deemed compensation. However, such out-of-pocket expenses  
37 shall not include depreciation, amortization, wages, or other recompense.

38 (q) "Facilities and services" or "facilities or services" means the  
39 provision of personnel; lodging, including a tent, home, lodge, or hotel or  
40 motel; transportation, other than by commercial carrier; guiding; prepara-  
41 tion and serving of food and equipment; or any other accommodation for the  
42 benefit of clientele in the conduct of outdoor recreational activities as  
43 designated in subsection (b) of this section.

44 (r) "Hazardous desert or mountain excursions" means outfitted or  
45 guided activities conducted in a desert or mountainous environment that may  
46 constitute a potential danger to the health, safety, or welfare of partic-  
47 ipants involved and are known to involve inherent risk. These activities  
48 include day or overnight trailrides, backpacking, technical mountaineering  
49 and rock climbing, cross-country skiing, backcountry alpine skiing, animal  
50 pack trips, snowmobiling, operating an all-terrain vehicle, paragliding,

1 anadromous fishing, chukar hunting, trapping, motored and non-motored cy-  
2 cling, wagon rides, sleigh rides, and dog sled rides.

3 (s) "Minor amendment" means all outfitter license amendment requests  
4 that can be processed by the board without requiring recommendation of a land  
5 managing agency or other agency before the board takes final action on said  
6 amendment request.

7 (t) "Operating area" means the area assigned by the board to an outfit-  
8 ter for the conduct of outfitting activities.

9 (u) "Out-of-pocket expenses" means the direct expenses attributable to  
10 a recreational activity. Such direct expenses do not include compensation  
11 for either sponsors or participants, amortization or depreciation of debt or  
12 equipment, or costs of nonexpendable supplies.

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

15 36-2107. POWERS AND DUTIES OF BOARD. The board shall have the follow-  
16 ing 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  
24 of rules of governmental bodies, condition and type of gear and equipment,  
25 and examinations to be given applicants, whether oral, written or demonstra-  
26 tive, 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~~ division administrator shall have the power to hire en-  
 8 forcement agents in order to conduct investigations and enforce the provi-  
 9 sions of this chapter. All enforcement agents appointed by the board who are  
 10 certified by the Idaho peace officer standards and training council shall  
 11 have the power of peace officers limited to:

- 12 1. Enforcement of the provisions of this chapter.
- 13 2. Responding to express requests from other law enforcement agencies  
 14 for aid and assistance in enforcing other laws. For purposes of this  
 15 section, such a request from a law enforcement agency shall mean only a  
 16 request as to a particular and singular violation or suspicion of viola-  
 17 tion of law and shall not constitute a continuous request for assistance  
 18 outside the purview of enforcement of the provisions of this chapter.

19 (h) The board shall designate the number of deer or elk tags allocated  
 20 pursuant to section 36-408(4), Idaho Code, among the authorized outfitting  
 21 operations within each capped or controlled zone, unit, or game management  
 22 area in a fair and equitable manner designed to maximize the use of allocated  
 23 tags by the outfitted public and promote predictability for individual out-  
 24 fitting operations that have previously used or ensured the use of the allo-  
 25 cated tags designated to them. The board will report the number of tags des-  
 26 ignated to each outfitter operation back to the department of fish and game  
 27 for distribution.

28 SECTION 3. That Section 36-2108, Idaho Code, be, and the same is hereby  
 29 amended to read as follows:

30 36-2108. APPLICATION FOR LICENSE -- CONTENTS -- FEE -- QUALIFICATIONS  
 31 -- TERM -- BOND. (a) Each applicant for an outfitter's or guide's license  
 32 shall make application for such license upon a form to be prescribed and fur-  
 33 nished by the board.

34 1. All applications for an outfitter's license shall be signed by the  
 35 applicant, under oath or affirmation that all information supplied by  
 36 him in the application form is true and correct as he verily believes and  
 37 shall be duly notarized. Such applications shall include, but are not  
 38 limited to, a worded description of the boundaries of the operating area  
 39 in which such activity will be conducted.

40 2. All applications for a guide's license shall be signed by the ap-  
 41 plicant. ~~Such application shall contain the written endorsement of the~~  
 42 ~~outfitter(s) by whom the applicant will be employed.~~

43 (b) Applications shall be made to and filed with the board and, unless  
 44 arrangements have been made otherwise with the board, accompanied by proof  
 45 of eligibility for a bond payable to the person or persons employing the li-  
 46 censee and in a form approved by the board in the sum of ten thousand dollars  
 47 (\$10,000) for outfitters, to be executed by a qualified surety, duly autho-  
 48 rized to do business in this state, conditioned that for the current license  
 49 year said applicant, his agents and employees, if said license is issued to

1 him, shall conduct his business as an outfitter without fraud or fraudulent  
2 representation, and will faithfully perform his contracts with and duties to  
3 his patrons; said bond shall be filed with the board before issuance of the  
4 license as provided herein.

5 (c) The board, in its discretion, may make such additional investiga-  
6 tion and inquiry relative to the applicant and his qualifications as it shall  
7 deem advisable, provided that final decision by the board upon an applica-  
8 tion submitted by an applicant who has held during the preceding license year  
9 a license of the same kind for which application is made, and upon an applica-  
10 tion submitted by an applicant not holding during the preceding license year  
11 a license of the same kind or embracing the same activity(ies) or area for  
12 which application is made, shall be made not later than the end of the license  
13 year in which the board receives all materials required to be submitted in  
14 order to complete a license application or ninety (90) days from the date the  
15 board receives all such materials, whichever is later.

16 (d) The applicant shall pay license, penalty, amendment and applica-  
17 tion fees to the board as hereinafter provided:

18 1. The license fee shall be paid prior to the issuance of a license.

19 2. The license fee shall be used for the investigation of applicants,  
20 for enforcement of this chapter, and for the administration costs of the  
21 board.

22 3. ~~The license fee for outfitters for the 2005 license year shall be~~  
23 ~~three hundred dollars (\$300) for online licensing and three hundred~~  
24 ~~fifty dollars (\$350) for offline licensing; for the 2006 license year~~  
25 ~~it shall be three hundred twenty-five dollars (\$325) for online li-~~  
26 ~~censing and three hundred seventy-five dollars (\$375) for offline~~  
27 ~~licensing; for the 2007 license year it shall be three hundred fifty~~  
28 ~~dollars (\$350) for online licensing and four hundred dollars (\$400)~~  
29 ~~for offline licensing; for the 2008 license year it shall be three hun-~~  
30 ~~dred seventy-five dollars (\$375) for online licensing and four hundred~~  
31 ~~twenty-five dollars (\$425) for offline licensing; for the 2009 license~~  
32 ~~year, and for each year thereafter, it shall be four hundred dollars~~  
33 ~~(\$400) for online licensing and four hundred fifty dollars (\$450) for~~  
34 ~~offline licensing; the license fee for a designated agent as defined~~  
35 ~~in section 36-2102(b), Idaho Code, for the 2005 license year shall be~~  
36 ~~one hundred twenty dollars (\$120) for online licensing and one hundred~~  
37 ~~forty dollars (\$140) for offline licensing; for the 2006 license year~~  
38 ~~it shall be one hundred twenty-five dollars (\$125) for online licensing~~  
39 ~~and one hundred fifty dollars (\$150) for offline licensing; for the 2007~~  
40 ~~license year it shall be one hundred thirty dollars (\$130) for online~~  
41 ~~licensing and one hundred sixty dollars (\$160) for offline licensing;~~  
42 ~~for the 2008 license year, and for each year thereafter, it shall be one~~  
43 ~~hundred forty dollars (\$140) for online licensing and one hundred sixty~~  
44 ~~dollars (\$160) for offline licensing; and the license fee for guides for~~  
45 ~~the 2005 license year shall be ninety-five dollars (\$95.00) for online~~  
46 ~~licensing and one hundred five dollars (\$105) for offline licensing;~~  
47 ~~for the 2006 license year it shall be ninety-five dollars (\$95.00) for~~  
48 ~~online licensing and one hundred ten dollars (\$110) for offline licens-~~  
49 ~~ing; for the 2007 license year it shall be one hundred dollars (\$100)~~  
50 ~~for online licensing and one hundred fifteen dollars (\$115) for offline~~

1        ~~licensing; for the 2008 license year, and for each year thereafter, it~~  
 2        shall be one hundred five dollars (\$105) for online licensing and one  
 3        hundred fifteen dollars (\$115) for offline licensing.

4        4. A penalty fee in the amount of ~~fifty dollars (\$50.00), which shall~~  
 5        ~~increase to one hundred fifty dollars (\$150) beginning January 1, 2005,~~  
 6        may be charged in addition to the regular outfitter's license fee for  
 7        any such renewal applicant whose application is not complete by the end  
 8        of the outfitter's license year; this does not apply to a new applicant  
 9        for an outfitter's license.

10       5. A ~~seventy-five dollar (\$75.00) fee, which shall increase to two-hun-~~  
 11       ~~dred-dollars (\$200) beginning January 1, 2005, fee~~ shall be charged for  
 12       every amendment to an outfitter's license other than a minor amendment,  
 13       a ~~ten dollar (\$10.00) fee, which shall increase to thirty-five-dollars~~  
 14       ~~(\$35.00) beginning January 1, 2005, fee~~ shall be charged for every mi-  
 15       nor amendment to an outfitter's license, and a ~~ten dollar (\$10.00) fee,~~  
 16       ~~which shall increase to twenty-dollars (\$20.00) beginning January 1,~~  
 17       ~~2005, fee~~ shall be charged for every amendment to the license of a des-  
 18       ignated agent or guide.

19       6. The following fees shall be established annually by the board and  
 20       shall be used for application related expenses: a one-time application  
 21       fee for outfitters not to exceed four hundred dollars (\$400); a one-time  
 22       application fee for designated agents not to exceed fifty dollars  
 23       (\$50.00); and a one-time application fee for guides not to exceed ~~ten~~  
 24       ~~dollars (\$10.00), the maximum of which shall increase to twenty dollars~~  
 25       ~~(\$20.00) beginning January 1, 2005.~~ The board shall establish by rule  
 26       a policy to refund unused application fees and shall establish by rule  
 27       fees for expedited, exceptional, resubmittal or emergency processing  
 28       of license applications, a fee credit for electronic filing of applica-  
 29       tions and a fee for the use of credit cards corresponding to the cost to  
 30       the agency of processing the card use.

31       SECTION 4. That Section 36-2109, Idaho Code, be, and the same is hereby  
 32       amended to read as follows:

33       36-2109. FORM AND TERM OF LICENSE -- NOTICE OF DENIAL. (a) Upon concur-  
 34       rence of a majority, the board, in its discretion may issue a license to any  
 35       applicant who has filed an application in proper form with the board includ-  
 36       ing, but not limited to, payment of the license fee and furnishing of bond.  
 37       Said license shall be in the form prescribed by the board, shall be valid ~~for~~  
 38       ~~the year issued from the date issued, and shall expire on March 31 of the fol-~~  
 39       ~~lowing year as determined by law or rule;~~ provided, that no outfitter's or  
 40       guide's license may be sold, assigned or otherwise transferred either by any  
 41       holder thereof or by the operation of law except as provided in this chapter.  
 42       The board may prescribe by rule that limitations or qualifications placed  
 43       upon an outfitter's or guide's license as provided in this chapter shall be  
 44       indicated on the face of the license or as an attachment to the license which  
 45       shall be considered a part of the license.

46       (b) A An outfitter license granted by the board including any attach-  
 47       ment thereto shall specify the activities licensed and the exact territorial  
 48       limits of the outfitter's area of operation and shall specify the species  
 49       of game to be hunted. In so approving and/or licensing any outfitter's or

1 guide's activity, the board shall consider the following matters, among oth-  
2 ers:

- 3 1. The length of time in which the applicant has operated in that area;
- 4 2. The extent to which the applicant is qualified by reason of experi-  
5 ence, equipment or resources to operate in that area;
- 6 3. The applicant's previous safety record;
- 7 4. The accessibility of the area, the particular terrain and the  
8 weather conditions normal to that area during the outfitter's or  
9 guide's season;
- 10 5. The total amount of outfitter's area requested by any applicant giv-  
11 ing due consideration to the effect that such area license grant would  
12 have upon the environment, the amount of game that can be harvested, and  
13 the number of persons that can be adequately served in the area.

14 (c) The board shall refuse to issue any license to any applicant for an  
15 outfitter's or guide's license who the board finds is not a competent per-  
16 son, who has been convicted, found guilty, or received a withheld judgment  
17 or a suspended sentence in this state or in any other state of a crime that  
18 is deemed relevant in accordance with section 67-9411(1), Idaho Code, who is  
19 less than eighteen (18) years of age, or who does not possess a working knowl-  
20 edge of the game and fishing laws of the state of Idaho and the regulations  
21 of the United States forest service. The board shall also refuse to issue an  
22 outfitter's license to any applicant who the board finds does not have suffi-  
23 cient financial responsibility to conduct adequately the business of an out-  
24 fitter. The board shall refuse to issue any license to a firm, partnership,  
25 corporation or other organization or any combination thereof that fails to  
26 have at least one (1) designated agent conducting its outfitting business  
27 who meets all of the qualifications and requirements of a licensed outfit-  
28 ter. The board may also refuse to grant an outfitter's or guide's license to  
29 any applicant for violation of any of the provisions hereinafter specified  
30 in this chapter as grounds for revocation or suspension of an outfitter's or  
31 guide's license. If the application is denied, the board shall notify the  
32 applicant, in writing, of the reasons for such denial within ten (10) days  
33 and if the applicant shall correct, to the satisfaction of the board, such  
34 reasons within thirty (30) days of receipt of such notice and if, thereafter,  
35 a majority of the board concur, the board may issue a license to the appli-  
36 cant.

37 (d) No license shall be issued by the board until a majority thereof has  
38 reported favorably thereon; except, an application for a license identical  
39 to a license held during the previous year may be issued on approval by one  
40 (1) board member providing there is no adverse information on file regarding  
41 the applicant.

42 SECTION 5. That Section 36-2113, Idaho Code, be, and the same is hereby  
43 amended to read as follows:

44 36-2113. REVOCATION OR SUSPENSION OF LICENSE -- GROUNDS. (a) Every li-  
45 cense ~~shall, by virtue of this chapter, be~~ is subject to suspension, revoca-  
46 tion, refusal to issue or renew, probation or other restriction by the board  
47 for the commission of any of the following acts:

- 48 1. For supplying false information or for failure to provide informa-  
49 tion required to be furnished ~~by the license application form for a li-~~

1 ~~license currently valid~~ or for other fraud or deception in procuring a li-  
2 cense under the provisions of this chapter.

3 2. For fraudulent, untruthful or misleading advertising.

4 3. For conviction of a felony.

5 4. For two (2) or more forfeitures of any deposits of money or collat-  
6 eral with a court or administrative agency or for a conviction for vio-  
7 lation of regulations of the United States forest service or the bureau  
8 of land management.

9 5. For unethical or unprofessional conduct as defined by rules of the  
10 board.

11 6. For conviction of any violation of any state or federal fish and game  
12 or outfitting and guiding laws.

13 7. For a substantial breach of any contract with any person utilizing  
14 his services.

15 8. For willfully (i) operating in any area for which the licensee is not  
16 licensed, or (ii) engaging in any activity for which the licensee is not  
17 licensed.

18 9. For the employment of an unlicensed guide by an outfitter.

19 10. For inhumane treatment of any animal used by the licensed outfit-  
20 ter or guide in the conduct of his business which endangers the health or  
21 safety of any guest or patron or which interferes with the conduct of his  
22 business.

23 11. For failure by any firm, partnership, corporation or other organ-  
24 ization or any combination thereof licensed as an outfitter to have at  
25 least one (1) licensed outfitter as designated agent conducting its  
26 outfitting business who meets all of the qualifications and require-  
27 ments of a licensed outfitter.

28 12. For the failure to provide any animal used by the licensed outfitter  
29 or guide in the conduct of his business with proper food, drink and shel-  
30 ter, or for the subjection of any such animal to needless abuse or cruel  
31 and inhumane treatment.

32 13. For failure of an outfitter to serve the public in any of the follow-  
33 ing ways: (i) by nonuse of license privileges as defined by rules of the  
34 board, (ii) by limiting services to any individual, group, corporation  
35 or club that limits its services to a membership, or (iii) by not offer-  
36 ing services to the general public.

37 14. For violation of or noncompliance with any applicable provision of  
38 this chapter, or for violation of any lawful rule or order of the outfit-  
39 ters and guides licensing board.

40 (b) For the purposes of this section, the term "conviction" shall mean a  
41 finding of guilt, an entry of a guilty plea by a defendant and its acceptance  
42 by the court, or a forfeiture of bail bond or collateral deposited to secure  
43 a defendant's appearance, suspended sentence, probation or withheld judg-  
44 ment.

45 (c) In addition to the penalties imposed in this section, the board may  
46 impose an administrative fine not to exceed five thousand dollars (\$5,000)  
47 for each violation of the provisions of this chapter.

48 (d) The jurisdiction and authority of the board pursuant to this sec-  
49 tion and section 36-2114, Idaho Code, extend to any former licensee for a vi-  
50 olation of this section which occurred during the period of licensure.



1 (e) The assessment of costs and fees incurred in the investigation and  
2 prosecution or defense of a licensee under this section shall be governed by  
3 the provisions of section 12-117(5), Idaho Code.

4 SECTION 6. That Section 36-2120, Idaho Code, be, and the same is hereby  
5 amended to read as follows:

6 36-2120. DESIGNATION OF ALLOCATED TAGS. (1) Each time the commission  
7 ~~sets big game seasons~~ allocates tags, except as provided in subsection (3) of  
8 this section, the board shall:

9 (a) Designate allocated tags using a formula that prioritizes an indi-  
10 vidual outfitting operation's use, including the transfer of allocated  
11 tags previously designated to it;

12 (b) Designate any remaining or additional undesignated allocated tags  
13 based on each outfitting operation's base allocation number in compari-  
14 son to its use of previously designated allocated tags and in proportion  
15 to other outfitting operations;

16 (c) Incorporate the base allocation number into the formula used to  
17 designate allocated tags to each outfitting operation; and

18 (d) When reasonably practical to do so, designate allocated tags before  
19 the date on which nonallocated tags become available for sale to nonres-  
20 idents for the hunt in which tags are allocated.

21 (2) An individual outfitting operation's base allocation number is  
22 computed as follows:

23 (a) In capped hunts, the average of the two (2) calendar years preced-  
24 ing the date of allocation of all outfitted hunter tag use history in the  
25 hunt with the most similar framework to the hunt for which the allocated  
26 tag is being designated.

27 (b) In controlled hunts, the highest year within the two (2) calendar  
28 years preceding the date of allocation of all outfitted hunter tag use  
29 history in the controlled hunt or hunts with the most similar framework  
30 to the hunt for which the allocated tag is being designated.

31 (3) If the commission ~~sets big game seasons~~ allocates tags more fre-  
32 quently than biennially, the board will designate allocated tags only for  
33 the hunts for which the fish and game commission adjusted the number of allo-  
34 cated tags.

35 (4) If the commission reduces the number of allocated tags for a hunt  
36 from the immediately preceding big game season setting for that hunt, the  
37 board will designate allocated tags as set forth in this section, and then it  
38 will reduce each outfitting operation's designation by the same percentage  
39 as the percentage reduction to the total number of allocated tags, if neces-  
40 sary.

41 (5) If the commission allocates tags for a ~~new~~ newly capped or con-  
42 trolled hunt, the board will designate allocated tags for that hunt propor-  
43 tionately based on each outfitting operation's base allocation number.

44 (6) The board may adjust the number of tags that would be otherwise des-  
45 igned to an outfitting operation for a hunt based upon a request and demon-  
46 stration of hardship by one (1) or more outfitting operations authorized for  
47 that hunt, upon notice and an opportunity to be heard by all affected outfit-  
48 ting operations.

1           (7) Prior to turning back unsold allocated tags to the department of  
2 fish and game, a pool for these tags will be established within each hunt.  
3 These pooled tags will be accessible to other licensed outfitters in the same  
4 hunt for periods of time specified by the board.

5           (8) The board will notify licensees of the number of allocated tags des-  
6 ignated to its operations and the basis for designation.

7           SECTION 7. An emergency existing therefor, which emergency is hereby  
8 declared to exist, this act shall be in full force and effect on and after  
9 July 1, 2023.