

IN THE SENATE

SENATE BILL NO. 1282

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

1  
2 RELATING TO FISH AND GAME; AMENDING SECTION 36-104, IDAHO CODE, TO PROVIDE  
3 FOR RULEMAKING, TO PROVIDE FOR SPECIAL INCENTIVE TAGS TO HUNT ANTELOPE,  
4 ELK OR DEER IN DESIGNATED UNITS TO CERTAIN PRIVATE LANDOWNERS AND TO  
5 PROVIDE FOR THE USE OR SALE OF SUCH TAGS; AND AMENDING SECTION 36-405,  
6 IDAHO CODE, TO PROHIBIT SPECIFIED CONDUCT UNLESS OTHERWISE PROVIDED BY  
7 LAW.

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, hold a public drawing giving to  
14 license holders, under the wildlife laws of this state, the privi-  
15 lege of drawing by lot for a controlled hunt permit authorizing the  
16 person to whom issued to hunt, kill, or attempt to kill any species  
17 of wild animals or birds designated by the commission under such  
18 rules as it shall prescribe.

19 (B) Establish, pursuant to rule, a program to provide special in-  
20 centive tags to hunt antelope, elk or deer, in designated units,  
21 to private landowners that allow hunters reasonable access, as ne-  
22 gotiated with the department of fish and game, to their property  
23 or through their property to public lands for hunting purposes.  
24 Provided they hold a valid hunting license issued by the state of  
25 Idaho, any landowner issued such a special incentive tag may use  
26 the special incentive tag himself or herself or may sell the spe-  
27 cial incentive tag to another person who holds a valid hunting li-  
28 cence issued by the state of Idaho at any price upon which the par-  
29 ties mutually agree.

30 (C) The commission may, under rules or proclamations as it may  
31 prescribe, authorize the director to issue additional controlled  
32 hunt permits and collect fees therefor authorizing landowners of  
33 property valuable for habitat or propagation purposes of deer, elk  
34 or antelope, or the landowner's designated agent(s) to hunt deer,  
35 elk or antelope in controlled hunts containing the eligible prop-  
36 erty owned by those landowners in units where any permits for deer,  
37 elk or antelope are limited.

38 (D) A nonrefundable fee as specified in section 36-416, Idaho  
39 Code, shall be charged each applicant for a controlled hunt per-  
40 mit. Successful applicants for controlled hunt permits shall be  
41 charged the fee as specified in section 36-416, Idaho Code. Ad-  
42 ditionally, a fee may be charged for telephone and credit card  
43 orders in accordance with subsection (e)11. of section 36-106,  
44 Idaho Code. The department shall include a checkoff form to allow  
45 applicants to designate one dollar (\$1.00) of such nonrefundable  
46 application fee for transmittal to the reward fund of citizens  
47 against poaching, inc., an Idaho nonprofit corporation. The net  
48 proceeds from the nonrefundable fee shall be deposited in the fish  
49 and game account and none of the net proceeds shall be used to pur-  
50 chase lands.

1           (DE) The commission may by rule establish procedures relating to  
2           the application for the purchase of controlled hunt bonus or pref-  
3           erence points by sportsmen and the fee for such application shall  
4           be as specified in section 36-416, Idaho Code.

5           6. Adopt rules pertaining to the importation, exportation, release,  
6           sale, possession or transportation into, within or from the state of  
7           Idaho of any species of live, native or exotic wildlife or any eggs  
8           thereof.

9           7. Acquire for and on behalf of the state of Idaho, by purchase, condem-  
10          nation, lease, agreement, gift, or other device, lands or waters suit-  
11          able for the purposes hereinafter enumerated in this paragraph. When-  
12          ever the commission proposes to purchase a tract of land in excess of  
13          fifteen (15) acres, the commission shall notify the board of county com-  
14          missioners of the county where this land is located of the intended ac-  
15          tion. The board of county commissioners shall have ten (10) days after  
16          official notification to notify the commission whether or not they de-  
17          sire the commission to hold a public hearing on the intended purchase  
18          in the county. The commission shall give serious consideration to all  
19          public input received at the public hearing before making a final deci-  
20          sion on the proposed acquisition. Following any land purchase, the fish  
21          and game commission shall provide, upon request by the board of county  
22          commissioners, within one hundred twenty (120) days, a management plan  
23          for the area purchased that would address noxious weed control, fenc-  
24          ing, water management and other important issues raised during the pub-  
25          lic hearing. When considering purchasing lands pursuant to this para-  
26          graph, the commission shall first make a good faith attempt to obtain a  
27          conservation easement, as provided in chapter 21, title 55, Idaho Code,  
28          before it may begin proceedings to purchase, condemn or otherwise ac-  
29          quire such lands. If the attempt to acquire a conservation easement is  
30          unsuccessful and the commission then purchases, condemns or otherwise  
31          acquires the lands, the commission shall record in writing the reasons  
32          why the attempt at acquiring the conservation easement was unsuccess-  
33          ful and then file the same in its records and in a report to the joint  
34          finance-appropriations committee. The commission shall develop, oper-  
35          ate, and maintain the lands, waters or conservation easements for said  
36          purposes, which are hereby declared a public use:

37           (A) For fish hatcheries, nursery ponds, or game animal or game  
38           bird farms;

39           (B) For game, bird, fish or fur-bearing animal restoration, prop-  
40           agation or protection;

41           (C) For public hunting, fishing or trapping areas to provide  
42           places where the public may fish, hunt, or trap in accordance with  
43           the provisions of law, or the regulation of the commission;

44           (D) To extend and consolidate by exchange, lands or waters suit-  
45           able for the above purposes.

46          8. Enter into cooperative agreements with educational institutions,  
47          and state, federal, or other agencies to promote wildlife research and  
48          to train students for wildlife management.

49          9. Enter into cooperative agreements with state and federal agencies,  
50          municipalities, corporations, organized groups of landowners, associ-

1 ations, and individuals for the development of wildlife rearing, propa-  
2 gating, management, protection and demonstration projects.

3 10. In the event owners or lawful possessors of land have restricted the  
4 operation of motor-propelled vehicles upon their land, the commission,  
5 upon consultation with all other potentially affected landowners, and  
6 having held a public hearing, if requested by not less than ten (10) res-  
7 idents of any county in which the land is located, may enter into coop-  
8 erative agreements with those owners or possessors to enforce those re-  
9 strictions when the restrictions protect wildlife or wildlife habitat.  
10 Provided, however, the commission shall not enter into such agreements  
11 for lands which either lie outside or are not adjacent to any adjoining  
12 the proclaimed boundaries of the national forests in Idaho.

13 (A) The landowners, with the assistance of the department, shall  
14 cause notice of the restrictions, including the effective date  
15 thereof, to be posted on the main traveled roads entering the areas  
16 to which the restrictions apply. Provided, however, that nothing  
17 in this subsection shall allow the unlawful posting of signs or  
18 other information on or adjacent to public highways as defined in  
19 subsection (5) of section 40-109, Idaho Code.

20 (B) Nothing in this section authorizes the establishment of any  
21 restrictions that impede normal forest or range management opera-  
22 tions.

23 (C) No person shall violate such restrictions on the use of motor-  
24 propelled vehicles or tear down or lay down any fencing or gates  
25 enclosing such a restricted area or remove, mutilate, damage or  
26 destroy any notices, signs or markers giving notice of such re-  
27 strictions. The commission may promulgate rules to administer the  
28 restrictions and cooperative agreements addressed in this subsec-  
29 tion.

30 11. Capture, propagate, transport, buy, sell or exchange any species  
31 of wildlife needed for propagation or stocking purposes, or to exercise  
32 control of undesirable species.

33 12. Adopt rules pertaining to the application for, issuance of and ad-  
34 ministration of a lifetime license certificate system.

35 13. Adopt rules governing the application and issuance of permits for  
36 and administration of fishing contests on waters under the jurisdiction  
37 of the state. The fee for each permit shall be as provided for in section  
38 36-416, Idaho Code.

39 14. Adopt rules governing the application for and issuance of licenses  
40 by telephone and other electronic methods.

41 15. Enter into agreements with cities, counties, recreation districts  
42 or other political subdivisions for the lease of lands or waters, in  
43 accordance with all other applicable laws, including applicable pro-  
44 visions of titles 42 and 43, Idaho Code, to cost-effectively provide  
45 recreational opportunities for taxpayers or residents of those local  
46 governments or political subdivisions.

47 16. Adopt rules governing a mentored hunting program.

48 (c) Limitation on Powers. Nothing in this title shall be construed to  
49 authorize the commission to change any penalty prescribed by law for a viola-

1 tion of its provisions, or to change the amount of license fees or the author-  
2 ity conferred by licenses prescribed by law.

3 (d) Organization of Work. The commission shall organize the depart-  
4 ment, in accordance with the provisions of title 67, Idaho Code, into admin-  
5 istrative units as may be necessary to efficiently administer said depart-  
6 ment. All employees of the department except the director shall be selected  
7 and appointed by the director in conformance with the provisions of chapter  
8 53, title 67, Idaho Code.

9 SECTION 2. That Section 36-405, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 36-405. APPLICATION FOR LICENSE -- DUPLICATE LICENSE -- UNLAWFUL PUR-  
12 CHASE, POSSESSION, AND USE OF LICENSE. (a) Application Required.

13 1. Any person making application for a senior resident license, or res-  
14 ident license shall provide his Idaho driver's license number as proof  
15 of residence, or in the case of nondrivers, other suitable proof of res-  
16 idency, and state the class of license applied for, the name of the ap-  
17 plicant, the age of the applicant, his date of birth, his length of res-  
18 idence, his current address, and such other information as may be re-  
19 quired by the director.

20 2. Any person making application for a duplicate license shall state  
21 the type and class of license originally purchased and such other infor-  
22 mation as may be required by the director.

23 3. No person shall willfully make a false statement as to:

24 (A) Name, age, his date of birth, length of residence or current  
25 address when such statement is made for the purpose of obtaining  
26 any license.

27 (B) Type and class of original license purchased when applying for  
28 a duplicate license.

29 (b) Loss of License -- New One Required. In case of loss of a license,  
30 a new one shall be required to entitle the person who lost the same to hunt,  
31 fish or trap. Such person may upon application:

32 1. Purchase a new license at the regular fee; or

33 2. Replace a lost license with a duplicate license for which a fee as  
34 specified in section 36-416, Idaho Code, shall be charged.

35 3. When a duplicate license has been issued the original license shall  
36 become null and void.

37 (c) Unlawful Purchase, Possession and Use of License.

38 1. Every person buying a license must buy a license of the proper type  
39 or class according to his residence and age. No person shall purchase or  
40 possess a license of the wrong class and such license shall be void and  
41 of no effect from the date of issuance.

42 2. No person shall:

43 (A) Acquire more than one (1) regular controlled hunt permit per  
44 species or more tags per species than the commission has set a bag  
45 limit for that species except as provided in subsection (b) of this  
46 section or to have said permits or tags in his possession.

47 (B) Unless otherwise provided by law, tTransfer any fishing,  
48 hunting, or trapping license to any other person or for any person  
49 to make use of such license issued to any other person.