

IN THE SENATE

SENATE BILL NO. 1124

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO WILDLIFE; AMENDING SECTION 36-106, IDAHO CODE, TO
2 PROVIDE FOR CERTAIN WRITTEN AGREEMENTS PRIOR TO TRANSPLANT
3 OR RELOCATION OF BIGHORN SHEEP, TO DELETE REFERENCE TO AN
4 EFFECTIVE DATE, CERTAIN CONDITIONS AND HEARING PROVISIONS,
5 TO PROVIDE FOR NOTIFICATION, TO PROVIDE THAT THE DEPARTMENT
6 OF FISH AND GAME SHALL CONSULT, COORDINATE AND COOPERATE
7 WITH CERTAIN BOARDS OF COUNTY COMMISSIONERS RELATING TO THE
8 TRANSPLANTATION OR RELOCATION OF BIGHORN SHEEP, TO PROVIDE
9 FOR APPROVAL BY CERTAIN BOARDS OF COUNTY COMMISSIONERS, TO
10 PROVIDE FOR PUBLIC HEARINGS, TO PROVIDE AN EXEMPTION, TO DELETE
11 REFERENCE TO CERTAIN AGREEMENTS, TO PROVIDE FOR THE DIRECTOR'S
12 RELOCATION OR CONTROL OF CERTAIN BIGHORN SHEEP, TO PROVIDE AN
13 EXCEPTION, TO PROVIDE A BASIS FOR CERTIFICATION AND TO PROVIDE
14 FOR OBJECTIONS TO THE SUFFICIENCY OF CERTIFICATION, TO REVISE
15 PROVISIONS RELATING TO TESTING FOR COMMUNICABLE DISEASES, TO
16 PROVIDE THAT TEST RESULTS SHALL BE GIVEN TO THE DEPARTMENT OF
17 AGRICULTURE, TO PROHIBIT CERTAIN ANIMALS FROM BEING RELOCATED,
18 TRANSPLANTED OR IMPORTED INTO IDAHO, TO PROVIDE THAT THE
19 DEPARTMENT OF AGRICULTURE SHALL PERIODICALLY PROVIDE A LIST OF
20 NEW COMMUNICABLE DISEASES TO THE DEPARTMENT OF FISH AND GAME,
21 TO DELETE REFERENCE TO PROVISIONS RELATING TO THE EMPLOYMENT
22 OF CERTAIN VETERINARIANS BY THE DEPARTMENT OF AGRICULTURE, TO
23 PROVIDE FOR CERTAIN NOTIFICATION IF A COMMUNICABLE DISEASE IS
24 FOUND IN WILDLIFE, AND TO PROVIDE THAT THE STATE VETERINARIAN
25 OF THE IDAHO STATE DEPARTMENT OF AGRICULTURE HAS AUTHORITY
26 OVER THE DISPOSITION OF CERTAIN DISEASED WILDLIFE; AND AMENDING
27 SECTION 25-210, IDAHO CODE, TO REVISE PROVISIONS RELATING TO
28 TESTING FOR COMMUNICABLE DISEASES, TO PROVIDE THAT TEST
29 RESULTS SHALL BE GIVEN TO THE DEPARTMENT OF AGRICULTURE, TO
30 PROHIBIT CERTAIN ANIMALS FROM BEING RELOCATED, TRANSPLANTED
31 OR IMPORTED INTO IDAHO, TO PROVIDE THAT THE DEPARTMENT
32 OF AGRICULTURE SHALL PERIODICALLY PROVIDE A LIST OF NEW
33 COMMUNICABLE DISEASES TO THE DEPARTMENT OF FISH AND GAME; AND
34 DECLARING AN EMERGENCY.
35

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

37 SECTION 1. That Section 36-106, Idaho Code, be, and the same is hereby amended to
38 read as follows:

1 36-106. DIRECTOR OF DEPARTMENT OF FISH AND GAME. (a) Office of Director
2 Created. The commission shall appoint a director of the department of fish and game,
3 hereinafter referred to as the director, who shall be a person with knowledge of, and experience
4 in, the requirements for the protection, conservation, restoration, and management of the
5 wildlife resources of the state. The director shall not hold any other public office, nor any
6 office in any political party organization, and shall devote his entire time to the service of the
7 state in the discharge of his official duties, under the direction of the commission.

8 (b) Secretary to Commission. The director or his designee shall serve as secretary to the
9 commission.

10 (c) Compensation and Expenses. The director shall receive such compensation as the
11 commission, with the concurrence and approval of the governor, may determine and shall
12 be reimbursed at the rate provided by law for state employees for all actual and necessary
13 traveling and other expenses incurred by him in the discharge of his official duties.

14 (d) Oath and Bond. Before entering upon the duties of his office, the director shall take
15 and subscribe to the official oath of office, as provided by section 59-401, Idaho Code, and
16 shall, in addition thereto, swear and affirm that he holds no other public office, nor any position
17 under any political committee or party. Such oath, or affirmation, shall be signed in the office
18 of the secretary of state.

19 The director shall be bonded to the state of Idaho in the time, form and manner prescribed
20 by chapter 8, title 59, Idaho Code.

21 (e) Duties and Powers of Director.

22 1. The director shall have general supervision and control of all activities, functions, and
23 employees of the department of fish and game, under the supervision and direction of the
24 commission, and shall enforce all the provisions of the laws of the state, and rules and
25 proclamations of the commission relating to wild animals, birds, and fish and, further,
26 shall perform all the duties prescribed by section 67-2405, Idaho Code, and other laws of
27 the state not inconsistent with this act, and shall exercise all necessary powers incident
28 thereto not specifically conferred on the commission.

29 2. The director is hereby authorized to appoint as many classified employees as the
30 commission may deem necessary to perform administrative duties, to enforce the laws
31 and to properly implement management, propagation, and protection programs established
32 for carrying out the purposes of the Idaho fish and game code.

33 3. The appointment of such employees shall be made by the director in accordance with
34 chapter 53, title 67, Idaho Code, and rules promulgated pursuant thereto, and they shall be
35 compensated as provided therein. Said employees shall be bonded to the state of Idaho in
36 the time, form, and manner prescribed by chapter 8, title 59, Idaho Code.

37 4. The director is hereby authorized to establish and maintain fish hatcheries for the
38 purpose of hatching, propagating, and distributing all kinds of fish.

39 5. (A) The director, or any person appointed by him in writing to do so, may take
40 wildlife of any kind, dead or alive, or import the same, subject to such conditions,
41 restrictions and rules as he may provide, for the purpose of inspection, cultivation,
42 propagation, distribution, scientific or other purposes deemed by him to be of
43 interest to the fish and game resources of the state.

44 (B) The director shall have supervision over all of the matters pertaining to
45 the inspection, cultivation, propagation and distribution of the wildlife propagated
46 under the provisions of title 36, Idaho Code. He shall also have the power and

1 authority to obtain, by purchase or otherwise, wildlife of any kind or variety which
 2 he may deem most suitable for distribution in the state and may have the same
 3 properly cared for and distributed throughout the state of Idaho as he may deem
 4 necessary.

5 (C) The director is hereby authorized to issue a license/tag/permit to a nonresident
 6 landowner who resides in a contiguous state for the purpose of taking one (1)
 7 animal during an emergency depredation hunt which includes the landowner's
 8 Idaho property subject to such conditions, restrictions or rules as the director may
 9 provide. The fee for this license/tag/permit shall be equal to the costs of a resident
 10 hunting license, a resident tag fee and a resident depredation permit.

11 (D) Prior to any transplant or relocation of bighorn sheep, the director shall
 12 provide for any affected federal or state land grazing permittees or owners or
 13 leaseholders of private land, a written agreement signed by all federal, state and
 14 private entities responsible for the transplant or relocation stating that: (i) The
 15 existing domestic sheep or livestock operations in the area of any such bighorn
 16 sheep transplant or relocation are recognized and that the potential risk, if any, of
 17 disease transmission and loss of bighorn sheep when the same invade domestic
 18 livestock or sheep operations is accepted; (ii) The transplant or relocation will not
 19 adversely impact existing domestic sheep operations; and (iii) If adverse impacts
 20 occur from any past, present or future transplant or relocation, the domestic sheep
 21 and livestock operations will be held harmless from all such adverse impacts.

22 (E) Notwithstanding the provisions of section 36-408, Idaho Code, to the contrary,
 23 ~~on and after the effective date of this act,~~ the director shall not expend any funds,
 24 or take any action, or authorize any employee or agent of the department or other
 25 person to take any action, to undertake actual transplants of bighorn sheep into
 26 areas they do not now inhabit or to augment the number of bighorn sheep in
 27 existing herds until:

28 (i) ~~The boards of county commissioners of the counties in which the~~
 29 ~~release is proposed to take place have been given reasonable notice of the~~
 30 ~~proposed release.~~

31 (ii) ~~The affected federal and state land grazing permittees and owners or~~
 32 ~~leaseholders of private land in or contiguous to the proposed release site~~
 33 ~~have been given reasonable notice of the proposed release.~~

34 (iii) ~~The president pro tempore of the senate and the speaker of the~~
 35 ~~house of representatives have received from the director a plan for the~~
 36 ~~forthcoming year that details, to the best of the department's ability, the~~
 37 ~~proposed transplants which shall include the estimated numbers of bighorn~~
 38 ~~sheep to be transplanted and a description of the areas the proposed~~
 39 ~~transplant or transplants are planned for.~~

40 ~~Upon request, the department shall grant one (1) hearing per transplant if any~~
 41 ~~affected individual or entity expresses written concern within ten (10) days~~
 42 ~~of notification regarding any transplants of bighorn sheep and shall take into~~
 43 ~~consideration these concerns in approving, modifying or canceling any proposed~~
 44 ~~bighorn sheep transplant. Any such hearing shall be held within thirty (30) days~~
 45 ~~of the request. Upon any transplant of bighorn sheep into areas they do not~~
 46 ~~now inhabit or a transplant to augment existing populations, the department shall~~

~~provide for any affected federal or state land grazing permittees or owners or leaseholders of private land a written letter signed by all federal, state and private entities responsible for the transplant stating that the existing sheep or livestock operations in the area of any such bighorn sheep transplant are recognized and that the potential risk, if any, of disease transmission and loss of bighorn sheep when the same invade domestic livestock or sheep operations is accepted.~~

The department shall issue written notification to the boards of county commissioners of the affected counties in which the proposed release is to take place, all legislators representing the affected areas, owners or leaseholders of private land in or contiguous to the affected areas, and any domestic sheep operators including grazing federal permittees and state lessees within the affected areas. Notification shall include a proposed plan that details cost, estimated numbers of bighorn sheep proposed to be transplanted or relocated, the health status of the bighorn sheep proposed to be transplanted or relocated, the geographical origination location of the bighorn sheep proposed to be transplanted or relocated, reason for the transplant or relocation, identification of all domestic sheep operations, including a map showing domestic sheep grazing areas related to the proposed transplant or relocation area, and any other pertinent information. Within ten (10) days of notification, the department shall begin consultation, coordination and cooperation with the affected boards of county commissioners. The boards shall have final decision-making ability over approving, modifying or canceling any or all of the proposed transplant or relocation plan. No bighorn sheep shall be transplanted or relocated until the boards of county commissioners have given written approval of the plan and any conditions thereof.

(ii) Upon written request by an affected board of county commissioners, or any legislator representing an affected area, affected landowner, grazing permittee or lessee, the department shall hold one (1) public hearing per transplant or relocation site within ten (10) days of receiving the request. The department shall take into consideration the concerns raised and resolve them within the consultation, coordination and cooperation process with the affected boards of county commissioners.

(iii) The director shall be exempt from having to conform to the provisions in subparagraph (E)(i) and (ii) herein when relocation of any bighorn sheep is required by subparagraph (F) herein. Provided however, that the director is not permitted to use this exemption to transplant any bighorn sheep into areas they do not now inhabit.

(F) Should any bighorn sheep graze, stray or drift upon, or in close proximity to, any private, state or federal lands that have any domestic sheep use, or any domestic sheep allotments administrated by the bureau of land management or the U.S. forest service, the director shall relocate or control the bighorn sheep to ensure that appropriate separation between the bighorn sheep and the domestic sheep is maintained, unless the director certifies that there is no risk of disease transmission between the bighorn sheep and the domestic sheep. This certification may be based upon:

1 (i) An agreement regarding a separation strategy between the bighorn
 2 sheep and the domestic sheep entered into by the owners of the domestic
 3 sheep and the director or his designee; or

4 (ii) A finding by the director that the bighorn sheep have already been
 5 exposed to certain pathogens that makes separation between the bighorn
 6 sheep and the domestic sheep unwarranted.

7 Provided however, if the owner of the private land, or if the administrator or
 8 permittee/leaseholder of state or federal lands, objects to the sufficiency of the
 9 certification, the director shall relocate or control the bighorn sheep to ensure
 10 that appropriate separation between the bighorn sheep and the domestic sheep is
 11 maintained to avoid impairing any domestic sheep operation dependent upon the
 12 affected private, state or federal land involved, and to avoid any potential harm to
 13 bighorn sheep.

14 6. (A) The director shall have the power, at any time when it is desired to introduce any
 15 new species, or if at any time any species of wildlife of the state of Idaho shall
 16 be threatened with excessive shooting, trapping, or angling or otherwise, to close
 17 any open season or to reduce the bag limit or possession limit for such species
 18 for such time as he may designate; in the event an emergency is declared to exist
 19 such closure shall become effective forthwith upon written order of the director; in
 20 all other cases upon publication and posting as provided in section 36-105, Idaho
 21 Code.

22 (B) In order to protect property from damage by wildlife, the fish and game
 23 commission may delegate to the director or his designee the authority to declare an
 24 open season upon that particular species of wildlife to reduce its population. The
 25 director or his designee shall make an order embodying his findings in respect to
 26 when, under what circumstances, in which localities, by what means, and in what
 27 amounts, numbers and sex the wildlife subject to the hunt may be taken. In the
 28 event an emergency is declared to exist such open season shall become effective
 29 forthwith upon written order of the director or his designee; in all other cases upon
 30 publication and posting as provided in section 36-105, Idaho Code.

31 (C) Any season closure order issued under authority hereof shall be published in
 32 at least one (1) newspaper of general circulation in the area affected by the order
 33 for at least once a week for two (2) consecutive weeks, and such order shall be
 34 posted in public places in each county as the director may direct.

35 (D) During the closure of any open season or the opening of any special
 36 depredation season by the director all provisions of laws relating to the closed
 37 season or the special depredation season on such wildlife shall be in force and
 38 whoever violates any of the provisions shall be subject to the penalties prescribed
 39 therefor.

40 (E) Prior to the opening of any special depredation hunt, the director or his
 41 designee shall be authorized to provide up to a maximum of fifty percent (50%)
 42 of the available permits for such big game to the landholder(s) of privately
 43 owned land within the hunt area or his designees. If the landholder(s) chooses
 44 to designate hunters, he must provide a written list of the names of designated
 45 individuals to the department. If the landholder(s) fails to designate licensed
 46 hunters, then the department will issue the total available permits in the manner

1 set by rule. All hunters must have a current hunting license and shall have equal
 2 access to both public and private lands within the hunt boundaries. It shall be
 3 unlawful for any landholder(s) to receive any form of compensation from a person
 4 who obtains or uses a depredation controlled hunt permit.

5 7. The director shall make an annual report to the governor, the legislature, and the
 6 secretary of state, of the doings and conditions of his office, which report shall be made in
 7 accordance with section 67-2509, Idaho Code.

8 8. The director may sell or cause to be sold publications and materials in accordance
 9 with section 59-1012, Idaho Code.

10 9. ~~Prior to a~~Any deer, elk, antelope, moose, bighorn sheep or bison being imported
 11 or transported by the department of fish and game, the animal shall be tested for the
 12 presence of ~~certain~~ any communicable diseases that can be transmitted to domestic
 13 livestock. ~~Those communicable diseases to be tested for shall be arrived at by mutual~~
 14 ~~agreement between the department of fish and game and~~ Any positive test results shall
 15 immediately be given to the department of agriculture, division of animal industries. No
 16 animal of the above species that tests positive will be allowed to be relocated, transported
 17 or imported in Idaho. Each January, and at any time necessary throughout the year, the
 18 department of agriculture, division of animal industries, shall provide to the department of
 19 fish and game an updated list of new communicable diseases for which the department of
 20 fish and game is required to test. Any moneys expended by the department of fish and
 21 game on wildlife disease research shall be mutually agreed upon by the department of fish
 22 and game and the department of agriculture.

23 In addition, a comprehensive animal health program for all deer, elk, antelope, moose,
 24 bighorn sheep, or bison imported into, transported, or resident within the state of Idaho
 25 shall be implemented after said program is mutually agreed upon by the department of
 26 fish and game and the department of agriculture.

27 ~~In order to enhance and protect the health of wildlife within the state, as well as~~
 28 ~~safeguard the health of livestock resources, the director of the department of agriculture~~
 29 ~~shall employ at least one (1) veterinarian licensed in Idaho whose duties shall include, but~~
 30 ~~not be limited to, addressing wildlife disease issues and coordinating disease prevention~~
 31 ~~work between the department of fish and game and the department of agriculture. The~~
 32 ~~employing of said veterinarian shall be by mutual agreement of the director of the~~
 33 ~~department of fish and game and of the director of the department of agriculture. The~~
 34 ~~veterinarian shall be on the staff of the division of animal industries, department of~~
 35 ~~agriculture. The salary or compensation to be paid said veterinarian or veterinarians~~
 36 ~~shall be divided equally between the department of fish and game and the department of~~
 37 ~~agriculture, and the department of fish and game's portion shall be deposited directly into~~
 38 ~~the livestock disease control account. The veterinarian shall be employed on and after~~
 39 ~~July 1, 1989.~~

40 10. In order to monitor and evaluate the disease status of wildlife and to protect
 41 Idaho's livestock resources, any suspicion by fish and game personnel of a potential
 42 communicable disease process in wildlife shall be reported within twenty-four (24)
 43 hours to the department of agriculture. All samples collected for disease monitoring or
 44 disease evaluation of wildlife shall be submitted to the division of animal industries,
 45 department of agriculture. Upon a positive result of any communicable disease, the
 46 department of fish and game shall notify within twenty-four (24) hours, the boards of

1 county commissioners of the affected counties, all legislators representing the affected
 2 areas, owners or leaseholders of private land in or contiguous to the affected areas and
 3 any livestock owners in or contiguous to the affected areas. The Idaho state department
 4 of agriculture veterinarian shall have authority over the disposition of any wildlife which
 5 tests positive for any communicable disease.

6 11. (A) The director is authorized to enter into an agreement with an independent
 7 contractor for the purpose of providing a telephone order and credit card payment
 8 service for controlled hunt permits, licenses, tags, and permits.

9 (B) The contractor may collect a fee for its service in an amount to be set by
 10 contract.

11 (C) All moneys collected for the telephone orders of such licenses, tags, and
 12 permits shall be and remain the property of the state, and such moneys shall be
 13 directly deposited by the contractor into the state treasurer's account in accordance
 14 with the provisions of section 59-1014, Idaho Code. The contractor shall furnish
 15 a good and sufficient surety bond to the state of Idaho in an amount sufficient to
 16 cover the amount of the telephone orders and potential refunds.

17 (D) The refund of moneys for unsuccessful controlled hunt permit applications
 18 and licenses, tags, and permits approved by the department may be made by the
 19 contractor crediting the applicant's or licensee's credit card account.

20 12. The director may define activities or facilities that primarily provide a benefit: to the
 21 department; to a person; for personal use; to a commercial enterprise; or for a commercial
 22 purpose.

23 SECTION 2. That Section 25-210, Idaho Code, be, and the same is hereby amended to
 24 read as follows:

25 25-210. POWERS OF VETERINARIANS AND INSPECTORS. (1) In order to prevent
 26 the introduction or dissemination of disease among the animals of this state, the administrator
 27 of the division shall be authorized and directed to:

28 (a) Quarantine any portion of this state and it shall be unlawful to move animals from or
 29 into such quarantined area except in accordance with the rules of the division;

30 (b) Prohibit or restrict entry of animals into the state that may be exposed to, infected
 31 with or may otherwise harbor or be contaminated with any contagious, infectious or
 32 communicable disease or agent;

33 (c) Prohibit or restrict entry of vehicles, other means of conveyance or any other item
 34 into the state which may harbor or be contaminated with any contagious, infectious or
 35 communicable disease or agent;

36 (d) Prohibit or restrict movement of vehicles, other means of conveyance, or any
 37 other item, that may harbor or be contaminated with any contagious, infectious or
 38 communicable disease or agent, out of any quarantined area or into any quarantined area;

39 (e) Authorize and empower state veterinarians, livestock inspectors and the inspectors or
 40 agents of the United States department of agriculture/animal and plant health inspection
 41 service/veterinary services under the joint supervision of the state division and chief
 42 of the United States department of agriculture/animal and plant health inspection
 43 service/veterinary services to inspect, quarantine, treat, test, vaccinate, and condemn,
 44 appraise, slaughter and dispose of any animals affected or infected with any contagious,

1 infectious or communicable disease, or infected with the disease of epithelioma of the
2 eye, commonly known as "cancer eye," or that have been exposed to any such disease;

3 (f) Order the preventive slaughter or destruction of disease susceptible animals that have
4 not been exposed to create an area or areas that are free of all susceptible animals in order
5 to stop spread of a highly contagious disease in the state;

6 (g) Establish biosecurity procedures and restrict human access to quarantined areas and
7 infected and exposed premises in order to prevent dissemination of disease;

8 (h) Quarantine, clean and disinfect all premises where infected or exposed animals have
9 been kept.

10 (2) In order to carry out the purpose of this chapter, state and federal veterinarians,
11 inspectors, or agents are hereby authorized and empowered to enter any field, feed yard, barn,
12 stable, railroad car, stockyards, truck, airplane, other means of conveyance, or other premises
13 in this state where animals are kept. Said veterinarians, inspectors or agents, state and federal,
14 shall be empowered to call on sheriffs, constables and peace officers to assist them in the
15 discharge of their duties and in carrying out the provisions of this chapter and of said Acts of
16 Congress approved May 29, 1884, and the Act of March 3, 1905. Such sheriffs, constables,
17 and other peace officers shall give such assistance as may be requested by said veterinarians,
18 inspectors or agents in carrying out the provisions of this chapter and said Acts of Congress.
19 The word animal or animals used in this chapter shall include any vertebrate member of the
20 animal kingdom, except man; and the word disease shall include diseases of these animals.

21 (3) Prior to aAny deer, elk, antelope, moose, bighorn sheep or bison ~~handled, being~~
22 imported or transported by the department of fish and game, the animal shall be tested for the
23 presence of ~~certain~~ any communicable diseases that can be transmitted to domestic livestock.
24 ~~Those communicable diseases to be tested for shall be arrived at by mutual agreement between~~
25 ~~the department of fish and game and the department of agriculture~~ Any positive test results
26 shall immediately be given to the department of agriculture, division of animal industries. No
27 animal of the above species that tests positive will be allowed to be relocated, transported
28 or imported in Idaho. Each January, and at any time necessary throughout the year, the
29 department of agriculture, division of animal industries, shall provide to the department of fish
30 and game an updated list of new communicable diseases for which the department of fish and
31 game is required to test.

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