

IN THE SENATE

SENATE BILL NO. 1232, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO FISH AND GAME; AMENDING SECTION 36-106, IDAHO CODE, TO  
2 CLARIFY APPLICATION OF CERTAIN PROVISIONS, TO STRIKE ARCHAIC  
3 VERBIAGE, TO REVISE CERTAIN RESTRICTIONS, TO PROVIDE THAT THE  
4 DEPARTMENT OF FISH AND GAME SHALL TAKE SPECIFIED ACTION  
5 RELATING TO THE RELOCATION OF BIGHORN SHEEP, TO STATE A POLICY OF  
6 THE STATE OF IDAHO, TO PROVIDE FOR CERTAIN WRITTEN AGREEMENTS  
7 PRIOR TO SPECIFIED TRANSPLANT OR RELOCATION OF BIGHORN SHEEP,  
8 TO PROVIDE FOR THE DEVELOPMENT OF A STATE MANAGEMENT PLAN  
9 BY THE DEPARTMENT, TO PROVIDE FOR THE DEVELOPMENT OF BEST  
10 MANAGEMENT PRACTICES WITH CERTAIN PERMITTEES, TO PROVIDE FOR  
11 CERTAIN CERTIFICATION BY THE DIRECTOR OF THE DEPARTMENT OF FISH  
12 AND GAME AND TO DELETE REFERENCE TO PROVISIONS RELATING TO  
13 THE EMPLOYMENT OF CERTAIN VETERINARIANS BY THE DEPARTMENT  
14 OF AGRICULTURE; AMENDING SECTION 36-408, IDAHO CODE, TO DELETE  
15 REFERENCE TO A CERTAIN VETERINARIAN PROGRAM AND TO MAKE  
16 TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.  
17

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

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

21 36-106. DIRECTOR OF DEPARTMENT OF FISH AND GAME. (a) Office of Director  
22 Created. The commission shall appoint a director of the department of fish and game,  
23 hereinafter referred to as the director, who shall be a person with knowledge of, and experience  
24 in, the requirements for the protection, conservation, restoration, and management of the  
25 wildlife resources of the state. The director shall not hold any other public office, nor any  
26 office in any political party organization, and shall devote his entire time to the service of the  
27 state in the discharge of his official duties, under the direction of the commission.

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

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

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

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

3 (e) Duties and Powers of Director.

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

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

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

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

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

26 (B) The director shall have supervision over all of the matters pertaining to  
27 the inspection, cultivation, propagation and distribution of the wildlife propagated  
28 under the provisions of title 36, Idaho Code. He shall also have the power and  
29 authority to obtain, by purchase or otherwise, wildlife of any kind or variety which  
30 he may deem most suitable for distribution in the state and may have the same  
31 properly cared for and distributed throughout the state of Idaho as he may deem  
32 necessary.

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

39 (D) Unless relocation is required pursuant to subparagraph (E) herein,  
40 Notwithstanding the provisions of section 36-408, Idaho Code, to the contrary,  
41 ~~on and after the effective date of this act,~~ the director shall not expend any funds,  
42 or take any action, or authorize any employee or agent of the department or other  
43 person to take any action, to undertake actual transplants of bighorn sheep into  
44 areas they do not now inhabit ~~or to augment the number of bighorn sheep in~~  
45 ~~existing herds~~ for the purpose of augmenting existing populations until:

1 (i) The boards of county commissioners of the counties in which the  
2 release is proposed to take place have been given reasonable notice of the  
3 proposed release.

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

7 (iii) The president pro tempore of the senate and the speaker of the  
8 house of representatives have received from the director a plan for the  
9 forthcoming year that details, to the best of the department's ability, the  
10 proposed transplants which shall include the estimated numbers of bighorn  
11 sheep to be transplanted and a description of the areas the proposed  
12 transplant or transplants are planned for.

13 Upon request, the department shall grant one (1) hearing per transplant or  
14 relocation if any affected individual or entity expresses written concern within  
15 ten (10) days of notification regarding any transplants or relocations of bighorn  
16 sheep and shall take into consideration these concerns in approving, modifying or  
17 canceling any proposed bighorn sheep transplant or relocation. Any such hearing  
18 shall be held within thirty (30) days of the request. ~~Upon~~ It is the policy of the  
19 state of Idaho that existing sheep or livestock operations in the area of any bighorn  
20 sheep transplant or relocation are recognized and that the potential risk, if any, of  
21 disease transmission and loss of bighorn sheep when the same invade domestic  
22 livestock or sheep operations is accepted. Prior to any transplant or relocation  
23 of bighorn sheep into areas they do not now inhabit or a transplant or relocation  
24 to ~~augment~~ for the purpose of augmenting existing populations, the department  
25 shall provide for any affected federal or state land grazing permittees or owners  
26 or leaseholders of private land a written ~~letter~~ agreement signed by all federal,  
27 state and private entities responsible for the transplant or relocation stating that  
28 the existing sheep or livestock operations in the area of any such bighorn sheep  
29 transplant or relocation are recognized and that the potential risk, if any, of disease  
30 transmission and loss of bighorn sheep when the same invade domestic livestock  
31 or sheep operations is accepted.

32 (E) The Idaho department of fish and game: (1) shall develop a state management  
33 plan to maintain a viable, self-sustaining population of bighorn sheep in Idaho  
34 which shall consider as part of the plan the current federal or state domestic sheep  
35 grazing allotment(s) that currently have any bighorn sheep upon or in proximity  
36 to the allotment(s); (2) within ninety (90) days of the effective date of this act  
37 will cooperatively develop best management practices with the permittee(s) on the  
38 allotment(s). Upon commencement of the implementation of best management  
39 practices, the director shall certify that the risk of disease transmission, if  
40 any, between bighorn and domestic sheep is acceptable for the viability of the  
41 bighorn sheep. The director's certification shall continue for as long as the best  
42 management practices are implemented. The director may also certify that the risk  
43 of disease transmission, if any, between bighorn and domestic sheep is acceptable  
44 for the viability of the bighorn sheep based upon a finding that other factors exist,  
45 including but not limited to previous exposure to pathogens that make separation  
46 between bighorn and domestic sheep unnecessary.

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

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

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

22 (D) During the closure of any open season or the opening of any special  
23 depredation season by the director all provisions of laws relating to the closed  
24 season or the special depredation season on such wildlife shall be in force and  
25 whoever violates any of the provisions shall be subject to the penalties prescribed  
26 therefor.

27 (E) Prior to the opening of any special depredation hunt, the director or his  
28 designee shall be authorized to provide up to a maximum of fifty percent (50%)  
29 of the available permits for such big game to the landholder(s) of privately  
30 owned land within the hunt area or his designees. If the landholder(s) chooses  
31 to designate hunters, he must provide a written list of the names of designated  
32 individuals to the department. If the landholder(s) fails to designate licensed  
33 hunters, then the department will issue the total available permits in the manner  
34 set by rule. All hunters must have a current hunting license and shall have equal  
35 access to both public and private lands within the hunt boundaries. It shall be  
36 unlawful for any landholder(s) to receive any form of compensation from a person  
37 who obtains or uses a depredation controlled hunt permit.

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

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

43 9. Any deer, elk, antelope, moose, bighorn sheep or bison imported or transported by  
44 the department of fish and game shall be tested for the presence of certain communicable  
45 diseases that can be transmitted to domestic livestock. Those communicable diseases to  
46 be tested for shall be arrived at by mutual agreement between the department of fish and

1 game and the department of agriculture. Any moneys expended by the department of fish  
2 and game on wildlife disease research shall be mutually agreed upon by the department of  
3 fish and game and the department of agriculture.

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

8 ~~In order to enhance and protect the health of wildlife within the state, as well as~~  
9 ~~safeguard the health of livestock resources, the director of the department of agriculture~~  
10 ~~shall employ at least one (1) veterinarian licensed in Idaho whose duties shall include, but~~  
11 ~~not be limited to, addressing wildlife disease issues and coordinating disease prevention~~  
12 ~~work between the department of fish and game and the department of agriculture. The~~  
13 ~~employing of said veterinarian shall be by mutual agreement of the director of the~~  
14 ~~department of fish and game and of the director of the department of agriculture. The~~  
15 ~~veterinarian shall be on the staff of the division of animal industries, department of~~  
16 ~~agriculture. The salary or compensation to be paid said veterinarian or veterinarians~~  
17 ~~shall be divided equally between the department of fish and game and the department of~~  
18 ~~agriculture, and the department of fish and game's portion shall be deposited directly into~~  
19 ~~the livestock disease control account. The veterinarian shall be employed on and after~~  
20 ~~July 1, 1989.~~

21 10. In order to monitor and evaluate the disease status of wildlife and to protect  
22 Idaho's livestock resources, any suspicion by fish and game personnel of a potential  
23 communicable disease process in wildlife shall be reported within twenty-four (24) hours  
24 to the department of agriculture. All samples collected for disease monitoring or disease  
25 evaluation of wildlife shall be submitted to the division of animal industries, department  
26 of agriculture.

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

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

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

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

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

44 SECTION 2. That Section 36-408, Idaho Code, be, and the same is hereby amended to  
45 read as follows:

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

6 (2) Limit – Licenses, Tags or Permits – Controlled Hunts. The commission is hereby  
7 authorized to establish a limit annually as to the number of each kind and class of licenses,  
8 tags, or permits to be sold or issued and is further authorized to limit the number or prohibit  
9 entirely, the participation by nonresidents in controlled hunts.

10 (3) Outfitters Set-aside. When the commission establishes a limit as to the number  
11 of nonresident deer tags and nonresident elk tags, it shall set aside annually a maximum of  
12 twenty-five percent (25%) of the nonresident deer tag and nonresident elk tag limit. The  
13 set-aside tags shall be sold pursuant to commission rule, only to persons that have entered  
14 into an agreement for that year to utilize the services of an outfitter licensed pursuant to chapter  
15 21, title 36, Idaho Code.

16 In order for a person to purchase any set-aside nonresident deer tag or nonresident elk  
17 tag, that person's outfitter must submit an application with the proper fees as required by  
18 the director. If any nonresident deer tags or nonresident elk tags set aside pursuant to this  
19 subsection are unsold by July 1 of the year in which they were set aside, they may be sold by  
20 the department to the general public who are nonresidents. The commission may promulgate  
21 all necessary rules to implement the provisions of this subsection.

22 (4) Deer and Elk Tag Allocation. If the commission limits the number of deer or elk tags  
23 available for use in any game management area, unit or zone, the commission may allocate by  
24 rule a number of deer or elk tags for use by hunters that have entered into an agreement for that  
25 year to utilize the services of an outfitter licensed pursuant to chapter 21, title 36, Idaho Code.

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

28 (a) Auction bighorn sheep tag. One (1) special bighorn sheep tag shall be auctioned  
29 off by an incorporated nonprofit organization dedicated to wildlife conservation, selected  
30 by the commission. The tag shall be issued by the department of fish and game to the  
31 highest eligible bidder. No more than five percent (5%) of all proceeds for the tag may  
32 be retained by the organization. The tag to be issued pursuant to this subsection shall be  
33 taken from the nonresident bighorn sheep tag quota. The net proceeds shall be forwarded  
34 to the director for deposit in the fish and game expendable trust account and shall be  
35 used for bighorn sheep research and management purposes. Moneys raised pursuant to  
36 this subsection may not be used to transplant additional bighorn sheep into that portion  
37 of southwest Idaho south of the Snake River and west of U.S. highway no. 93, nor for  
38 litigation or environmental impact statements involving bighorn sheep. No transplants of  
39 bighorn sheep accomplished with moneys raised pursuant to this subsection shall occur in  
40 any area until hearings are conducted in the area.

41 (b) Lottery bighorn sheep tag. The commission is also authorized to issue one (1)  
42 special bighorn sheep tag which will be disposed of by lottery. The lottery permit can  
43 be marketed by the department of fish and game or a nonprofit organization dedicated  
44 to wildlife conservation selected by the commission. The tag will be issued by the  
45 department of fish and game to an eligible person drawn from the lottery provided in this  
46 subsection. No more than twenty-five percent (25%) of gross revenue can be retained

1 for administrative costs by the organization. All net proceeds for the tag disposed of by  
2 lottery pursuant to this subsection shall be remitted to the department and deposited in the  
3 fish and game expendable trust account. Moneys in the account from the lottery bighorn  
4 sheep tag shall be utilized by the department in solving problems between bighorn  
5 sheep and domestic sheep, solving problems between wildlife and domestic animals or  
6 improving relationships between sportsmen and private landowners ~~by being utilized in~~  
7 ~~the veterinarian program established in subsection (e)9. of section 36-106, Idaho Code.~~

8 (6) Issuance of free permit or tag to minor children with life-threatening medical  
9 conditions. Notwithstanding any other provision of law, the commission may issue free big  
10 game permits or tags to minor children who have life-threatening medical conditions that  
11 have been certified eligible by a qualified organization. The commission may prescribe by  
12 rule the manner and conditions of issuing and using the permits or tags authorized under  
13 this subsection (6). For purposes of this subsection (6) a "qualified organization" means a  
14 nonprofit organization that is qualified under section 501(c)(3) of the Internal Revenue Code  
15 and that affords opportunities and experiences to minor children with life-threatening medical  
16 conditions.

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

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