

IN THE SENATE

SENATE BILL NO. 1159

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO FISH AND GAME; AMENDING SECTION 36-104, IDAHO CODE, TO PROVIDE
2 FOR LIMITATIONS ON POWERS RELATING TO THE ENFORCEMENT OF CERTAIN FED-
3 ERAL LAWS AND REGULATIONS.
4

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

6 SECTION 1. That Section 36-104, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 36-104. GENERAL POWERS AND DUTIES OF COMMISSION. (a) Organization --
9 Meetings. The members of the commission shall annually meet at their of-
10 fices and organize by electing from their membership a chairman, who shall
11 hold office for a period of one (1) year, or until his successor has been
12 duly elected. In addition to the regular annual meeting, to be held in Jan-
13 uary, said commission shall hold other regular quarterly meetings each year
14 at such places within the state as the commission shall select for the trans-
15 action of business. Special meetings may be called at any time and place by
16 the chairman or a majority of the members of the commission. Notice of the
17 time, place and purpose of any and all special meetings shall be given by the
18 secretary to each member of the commission prior to said meeting.

19 (b) Authorization for Commission Powers and Duties. For the purpose of
20 administering the policy as declared in section 36-103, Idaho Code, the com-
21 mission is hereby authorized and empowered to:

22 1. Investigate and find facts regarding the status of the state's
23 wildlife populations in order to give effect to the policy of the state
24 hereinbefore announced.

25 2. Hold hearings for the purpose of hearing testimony, considering
26 evidence and determining the facts as to when the supply of any of
27 the wildlife in this state will be injuriously affected by the taking
28 thereof, or for the purpose of determining when an open season may be
29 declared for the taking of wildlife. Whenever said commission deter-
30 mines that the supply of any particular species of wildlife is being,
31 or will be, during any particular period of time, injuriously affected
32 by depletion by permitting the same to be taken, or if it should find a
33 longer or different season, or different bag limit should be adopted for
34 the better protection thereof, or if it finds that an open season may be
35 declared without endangering the supply thereof, then it shall make a
36 rule or proclamation embodying its findings in respect to when, under
37 what circumstances, in which localities, by what means, what sex, and in
38 what amounts and numbers the wildlife of this state may be taken.

39 3. Whenever it finds it necessary for the preservation, protection, or
40 management of any wildlife of this state, by reason of any act of God
41 or any other sudden or unexpected emergency, declare by temporary rule
42 or proclamation the existence of such necessity, and the cause thereof,

1 and prescribe and designate all affected areas or streams, and close the
2 same to hunting, angling or trapping, or impose such restrictions and
3 conditions upon hunting, angling or trapping as said commission shall
4 find to be necessary. Every such temporary rule shall be made in accor-
5 dance with the provisions of chapter 52, title 67, Idaho Code.

6 4. At any time it shall deem necessary for the proper management of
7 wildlife on any game preserve in the state of Idaho, declare an open
8 season in any game preserve as it deems appropriate.

9 5. (A) Upon notice to the public, hold a public drawing giving to li-
10 cense holders, under the wildlife laws of this state, the privi-
11 lege of drawing by lot for a controlled hunt permit authorizing the
12 person to whom issued to hunt, kill, or attempt to kill any species
13 of wild animals or birds designated by the commission under such
14 rules as it shall prescribe.

15 (B) The commission may, under rules or proclamations as it may
16 prescribe, authorize the director to issue additional controlled
17 hunt permits and collect fees therefor authorizing landowners of
18 property valuable for habitat or propagation purposes of deer, elk
19 or antelope, or the landowner's designated agent(s) to hunt deer,
20 elk or antelope in controlled hunts containing the eligible prop-
21 erty owned by those landowners in units where any permits for deer,
22 elk or antelope are limited.

23 (C) A nonrefundable fee as specified in section 36-416, Idaho
24 Code, shall be charged each applicant for a controlled hunt per-
25 mit. Successful applicants for controlled hunt permits shall be
26 charged the fee as specified in section 36-416, Idaho Code. Ad-
27 ditionally, a fee may be charged for telephone and credit card
28 orders in accordance with subsection (e)11. of section 36-106,
29 Idaho Code. The department shall include a checkoff form to allow
30 applicants to designate one dollar (\$1.00) of such nonrefundable
31 application fee for transmittal to the reward fund of citizens
32 against poaching, inc., an Idaho nonprofit corporation. The net
33 proceeds from the nonrefundable fee shall be deposited in the fish
34 and game account and none of the net proceeds shall be used to pur-
35 chase lands.

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

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

44 7. Acquire for and on behalf of the state of Idaho, by purchase, condem-
45 nation, lease, agreement, gift, or other device, lands or waters suit-
46 able for the purposes hereinafter enumerated in this paragraph. When-
47 ever the commission proposes to purchase a tract of land in excess of
48 fifteen (15) acres, the commission shall notify the board of county com-
49 missioners of the county where this land is located of the intended ac-
50 tion. The board of county commissioners shall have ten (10) days after

1 official notification to notify the commission whether or not they de-
2 sire the commission to hold a public hearing on the intended purchase
3 in the county. The commission shall give serious consideration to all
4 public input received at the public hearing before making a final deci-
5 sion on the proposed acquisition. Following any land purchase, the fish
6 and game commission shall provide, upon request by the board of county
7 commissioners, within one hundred twenty (120) days, a management plan
8 for the area purchased that would address noxious weed control, fenc-
9 ing, water management and other important issues raised during the pub-
10 lic hearing. When considering purchasing lands pursuant to this para-
11 graph, the commission shall first make a good faith attempt to obtain a
12 conservation easement, as provided in chapter 21, title 55, Idaho Code,
13 before it may begin proceedings to purchase, condemn or otherwise ac-
14 quire such lands. If the attempt to acquire a conservation easement is
15 unsuccessful and the commission then purchases, condemns or otherwise
16 acquires the lands, the commission shall record in writing the reasons
17 why the attempt at acquiring the conservation easement was unsucces-
18 sful and then file the same in its records and in a report to the joint
19 finance-appropriations committee. The commission shall develop, oper-
20 ate, and maintain the lands, waters or conservation easements for said
21 purposes, which are hereby declared a public use:

22 (A) For fish hatcheries, nursery ponds, or game animal or game
23 bird farms;

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

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

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

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

34 9. Enter into cooperative agreements with state and federal agencies,
35 municipalities, corporations, organized groups of landowners, associ-
36 ations, and individuals for the development of wildlife rearing, propa-
37 gating, management, protection and demonstration projects.

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

48 (A) The landowners, with the assistance of the department, shall
49 cause notice of the restrictions, including the effective date
50 thereof, to be posted on the main traveled roads entering the areas

1 to which the restrictions apply. Provided, however, that nothing
 2 in this subsection shall allow the unlawful posting of signs or
 3 other information on or adjacent to public highways as defined in
 4 subsection (5) of section 40-109, Idaho Code.

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

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

15 11. Capture, propagate, transport, buy, sell or exchange any species
 16 of wildlife needed for propagation or stocking purposes, or to exercise
 17 control of undesirable species.

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

20 13. Adopt rules governing the application and issuance of permits for
 21 and administration of fishing contests on waters under the jurisdiction
 22 of the state. The fee for each permit shall be as provided for in section
 23 36-416, Idaho Code.

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

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

32 (c) Limitation on Powers.

33 1. Nothing in this title shall be construed to authorize the commis-
 34 sion to change any penalty prescribed by law for a violation of its pro-
 35 visions, or to change the amount of license fees or the authority con-
 36 ferred by licenses prescribed by law.

37 2. Neither the department of fish and game, nor the commission, shall
 38 act to enforce, or enter into any agreement with any federal agency as-
 39 sociated with the enforcement of, federal laws or regulations relating
 40 to road closures or any other enforcement of federal laws or regulations
 41 relating to roads on federal land.

42 (d) Organization of Work. The commission shall organize the depart-
 43 ment, in accordance with the provisions of title 67, Idaho Code, into admin-
 44 istrative units as may be necessary to efficiently administer said depart-
 45 ment. All employees of the department except the director shall be selected
 46 and appointed by the director in conformance with the provisions of chapter
 47 53, title 67, Idaho Code.