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LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

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1 AN ACT
2 RELATING TO WOLVES; AMENDING CHAPTER 58, TITLE 67, IDAHO CODE, BY THE ADDI-
3 TION OF A NEW SECTION 67-5805, IDAHO CODE, TO PROVIDE LEGISLATIVE FIND-
4 INGS AND INTENT; AMENDING CHAPTER 58, TITLE 67, IDAHO CODE, BY THE ADDI-
5 TION OF A NEW SECTION 67-5806, IDAHO CODE, TO PROVIDE FOR DECLARATIONS
6 OF EMERGENCY; AMENDING CHAPTER 58, TITLE 67, IDAHO CODE, BY THE ADDI-
7 TION OF A NEW SECTION 67-5807, IDAHO CODE, TO PROVIDE A PROCEDURE FOR IS-
8 SUANCE OF EXECUTIVE ORDERS AND PROCLAMATIONS RELATING TO CERTAIN DISAS-
9 TER EMERGENCIES, TO REQUIRE THE OFFICE OF SPECIES CONSERVATION TO TAKE
10 CERTAIN STEPS, TO PROVIDE FOR APPEAL, TO PROVIDE FOR THE DURATION OF AND
11 TERMINATION OF EXECUTIVE ORDERS AND PROCLAMATIONS, TO PROVIDE FOR CON-
12 TENT OF EXECUTIVE ORDERS AND PROCLAMATIONS AND TO PROVIDE FOR THE DIS-
13 SEMINATION OF FILING OF EXECUTIVE ORDERS AND PROCLAMATIONS; AND AMEND-
14 ING SECTION 31-2202, IDAHO CODE, TO PROVIDE FOR DUTIES OF THE SHERIFF
15 RELATING TO EXECUTIVE ORDERS OR PROCLAMATIONS OF THE GOVERNOR ASSOCI-
16 ATED WITH THE ERADICATION OF WOLF PACKS.

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

18 SECTION 1. That Chapter 58, Title 67, Idaho Code, be, and the same is
19 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
20 ignated as Section 67-5805, Idaho Code, and to read as follows:

21 67-5805. LEGISLATIVE FINDINGS AND INTENT. (1) Section 1, Article I, of
22 the constitution of the state of Idaho provides: "All men are by nature free
23 and equal, and have certain inalienable rights, among which are enjoying and
24 defending life and liberty; acquiring, possessing and protecting property;
25 pursuing happiness and securing safety." It is the duty and right of the leg-
26 islature and the governor to protect the state, its citizens and property.
27 Section 36-103(a), Idaho Code, provides: "All wildlife, including all wild
28 animals, wild birds, and fish, within the state of Idaho, is hereby declared
29 to be the property of the state of Idaho." The state of Idaho therefore has
30 the responsibility to manage the big game animals of the state.

31 (2) The Idaho legislature finds and declares that the state's citizens,
32 businesses, hunting, tourism and agricultural industries, private property
33 and wildlife, are immediately and continuously threatened and harmed by the
34 sustained presence and growing population of Canadian gray wolves in the
35 state of Idaho. The Idaho legislature, therefore, finds the population of
36 gray wolves in Idaho, having been introduced into the state in 1995, over the
37 united objection of the Idaho congressional delegation, Idaho legislature,
38 Idaho governor, Idaho counties and numerous Idaho agricultural groups who
39 were gravely concerned with the negative effects this action would impose on
40 Idaho and Idahoans, is now many times exceeding the target number originally
41 set by the federal government and the number set in Idaho's federally-ap-
42 proved 2002 wolf management plan. The U.S. fish and wildlife service (USFWS)

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1 has delisted the gray wolf in Idaho in 2008 and 2009 returning management to
2 the state, only to be sued both times by environmental groups forcing the
3 wolf to be relisted as endangered. As a result of all the above, the legis-
4 lature finds that public safety has been compromised, economic activity has
5 been disrupted and private and public property continue to be imperiled. The
6 uncontrolled proliferation of imported wolves on private land has produced
7 a clear and present danger to humans, their pets and livestock, and has al-
8 tered and hindered historical uses of private and public land, dramatically
9 inhibiting previously safe activities such as walking, picnicking, biking,
10 berry picking, hunting and fishing. The continued uncontrolled presence
11 of gray wolves represents an unfunded mandate, a federal commandeering of
12 both state and private citizen resources and a government taking that makes
13 private property unusable for the quiet enjoyment of property owners. An
14 emergency existing therefore, it is the intent of the legislature to reg-
15 ulate the presence Canadian gray wolves in Idaho in order to safeguard the
16 public, wildlife, economy and private property against additional devas-
17 tation to Idaho's social culture, economy and natural resources, and to
18 preserve the ability to benefit from private and public property within the
19 state and experience the quiet enjoyment of such property.

20 SECTION 2. That Chapter 58, Title 67, Idaho Code, be, and the same is
21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
22 ignated as Section 67-5806, Idaho Code, and to read as follows:

23 67-5806. DECLARATION OF EMERGENCY. A disaster emergency, as defined
24 in section 46-1002(3) and (4), Idaho Code, is in existence as a result of
25 the introduction of Canadian gray wolves, which have caused and continue to
26 threaten vast devastation of Idaho's social culture, economy and natural re-
27 sources. The geographical extent of this emergency shall include any part of
28 the state of Idaho where gray wolves have been sighted and whose sighting has
29 been documented or otherwise confirmed by the office of species conservation
30 or department of fish and game.

31 SECTION 3. That Chapter 58, Title 67, Idaho Code, be, and the same is
32 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
33 ignated as Section 67-5807, Idaho Code, and to read as follows:

34 67-5807. GOVERNOR -- EXECUTIVE ORDERS. (1) Pursuant to this act, the
35 governor may issue executive orders and proclamations and amend or rescind
36 such orders and proclamations. Executive orders and proclamations have the
37 force and effect of law. A disaster emergency shall be declared by executive
38 order or proclamation of the governor if the governor finds any of the fol-
39 lowing:

- 40 (a) Any Canadian gray wolf within the state is a carrier of a disease
41 harmful to humans, livestock, pets and wild game and that there is a risk
42 of transmission of such disease to humans, livestock, pets or wild game;
- 43 (b) The potential of human-wolf conflict exists and that the Canadian
44 gray wolf is frequenting areas inhabited by humans, or showing habitu-
45 ated behavior toward humans;

1 (c) That the potential for livestock-wolf conflict exists and that the
2 Canadian gray wolf is frequenting areas which are largely ranchland
3 with livestock, or showing evidence of habituated behavior toward live-
4 stock;

5 (d) The numbers of Canadian gray wolves are such that there is an im-
6 pact to Idaho big game herds as identified in the wolf management plan
7 of 2002, and that there is evidence that increasing the number of wolves
8 beyond one hundred (100) has had detrimental impacts on big game popula-
9 tions, the economic viability of the Idaho department of fish and game,
10 outfitters and guides, and others who depend on a viable population of
11 big game animals;

12 (e) The numbers of big game animals have been significantly impacted
13 below that of recent historical numbers and that there has been a mea-
14 surable diminution in the value of businesses tied to outfitting and
15 other game or hunting based businesses.

16 (2) The executive order or proclamation shall direct the office of
17 species conservation to initiate emergency proceedings in accordance with
18 section 67-5247, Idaho Code. Any person may challenge an action or pro-
19 posed action of the office of species conservation by following the appeals
20 process prescribed by the Idaho administrative procedures act, chapter 52,
21 title 67, Idaho Code.

22 (3) The state of disaster emergency shall continue until the governor
23 finds that either gray wolves are delisted in Idaho with full state manage-
24 ment restored or the threat has been dealt with to the extent that emergency
25 conditions no longer exist. When either or both of these events occur, the
26 governor shall terminate the state of disaster emergency by executive order
27 or proclamation. Provided however, that no state of disaster emergency pur-
28 suant to the provisions of this act may continue for longer than one (1) year.
29 The legislature by concurrent resolution may terminate a state of disaster
30 emergency at any time. Thereupon, the governor shall issue an executive or-
31 der or proclamation ending the state of disaster emergency. All executive
32 orders or proclamations issued pursuant to this section shall indicate which
33 of the conditions in this section exist, the area or areas threatened and the
34 actions planned to resolve the issue, including contracting with USDA-APHIS
35 wildlife services, and steps to be taken by the county sheriff in the af-
36 fected area as provided in section 31-2202(13), Idaho Code. An executive
37 order or proclamation shall be disseminated promptly by means calculated to
38 bring its contents to the attention of the general public and unless the cir-
39 cumstances attendant upon the disaster prevent or impede, be promptly filed
40 with the office of species conservation, the department of fish and game, the
41 office of the secretary of state and the office of the sheriff of each county
42 where the state of disaster emergency applies.

43 SECTION 4. That Section 31-2202, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 31-2202. DUTIES OF SHERIFF. The policy of the state of Idaho is that
46 the primary duty of enforcing all penal provisions and statutes of the state
47 is vested with the sheriff of each county as provided in section 31-2227,
48 Idaho Code. The sheriff shall perform the following:

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- 1 (1) Preserve the peace.
- 2 (2) Arrest and take before the nearest magistrate for examination all
3 persons who attempt to commit or who have committed a public offense, unless
4 otherwise provided by law.
- 5 (3) Prevent and suppress all affrays, breaches of the peace, riots and
6 insurrections which may come to his knowledge.
- 7 (4) Attend all courts, including magistrate's division of the district
8 court when ordered by a district judge, at their respective terms held within
9 his county, and obey the lawful orders and directions of the courts.
- 10 (5) Command the aid of as many inhabitants of the county as he may think
11 necessary in the execution of these duties.
- 12 (6) Take charge of and keep the county jail and the prisoners therein.
- 13 (7) Indorse upon all process and notices the year, month, day, hour and
14 minute of reception, and issue therefor to the person delivering it, on pay-
15 ment of fees, a certificate showing the names of the parties, title of paper
16 and time of reception.
- 17 (8) Serve all process and notices in the manner prescribed by law.
- 18 (9) Certify under his hand upon process or notices the manner and time
19 of service, or, if he fails to make service, the reasons of his failure, and
20 return the same without delay.
- 21 (10) Perform such other duties as are required of him by law.
- 22 (11) Keep a record of all stolen cars reported within his county,
23 which record shall contain the name of the motor vehicle, the engine number
24 thereof, a complete description of such vehicle and such other information
25 as may aid in the identification of the stolen car. Such record shall be open
26 to public inspection during office hours, and immediately upon receiving a
27 report of a stolen car the sheriff shall prepare and forward a copy thereof to
28 the director of the Idaho state police and he shall also notify the director
29 of the Idaho state police of any and all cars recovered.
- 30 (12) At the specific request of the governor or his designated agent
31 prevent the unauthorized importation of wild omnivores or carnivores capa-
32 ble of causing injury to people or their property.
- 33 (13) Upon issuance of an executive order or proclamation by the governor
34 pursuant to section 67-5807, Idaho Code, aid in the eradication of such wolf
35 packs as specified and requested by the governor;
- 36 (14) Work in his county with the Idaho state police in the following re-
37 spects:
 - 38 (a) Require all persons using the highways in the state to do so care-
39 fully, safely and with exercise of care for the persons, property and
40 safety of others;
 - 41 (b) Safeguard and protect the surface and other physical portions of
42 the state highways;
 - 43 (c) Enforce all of the laws of the state enacted for the identification,
44 inspection and transportation of livestock and all laws of the state de-
45 signed to prevent the theft of livestock;
 - 46 (d) Regulate traffic on all highways and roads in the state; and respond
47 to calls following wrecks and make investigations relative thereto;
 - 48 (e) Use whatever force is necessary to protect the public from wild or
49 domestic omnivores or carnivores in a manner that is consistent with 50
50 C.F.R. section 17.84(i).

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1 (145) Work in his county with the Idaho transportation department to
2 give examinations for and sell drivers' licenses and identification cards.

3 (156) Expeditiously and promptly investigate all cases involving miss-
4 ing children when such cases are reported to him.

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1 Relating to wolves; to provide for declarations of emergency; to provide a
2 procedure for issuance of executive orders and proclamations relating to
3 certain disaster emergencies; and to provide for duties of the sheriff re-
4 lating to executive orders or proclamations of the governor associated with
5 the eradication of wolf packs.