
SECOND SUBSTITUTE SENATE BILL 5784

AS AMENDED BY THE HOUSE

Passed Legislature - 2024 Regular Session

State of Washington 68th Legislature 2024 Regular Session

By Senate Ways & Means (originally sponsored by Senators Van De Wege, Muzzall, Mullet, Nobles, Wagoner, and Warnick; by request of Department of Fish and Wildlife)

READ FIRST TIME 02/05/24.

1 AN ACT Relating to deer and elk damage to commercial crops;
2 amending RCW 77.36.080, 77.36.100, and 77.36.130; adding a new
3 section to chapter 77.36 RCW; creating new sections; and providing an
4 expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature has historically
7 appropriated \$30,000 per fiscal year from the state general fund and
8 \$120,000 per fiscal year from the fish, wildlife, and conservation
9 account for the payment of claims for crop damage and tasked the
10 department of fish and wildlife with prioritizing those claims within
11 amounts appropriated. The legislature has never intended to assume
12 responsibility for claims in excess of amounts appropriated in any
13 fiscal year.

14 Claims awarded or agreed upon prior to the effective date of this
15 section are in excess of amounts appropriated. The legislature
16 intends to appropriate an additional \$184,000 for those claims. No
17 further amounts will be appropriated for payment on those claims.
18 Going forward, the legislature intends to prioritize claims in a more
19 equitable manner that compensates claimants according to the
20 percentage of their loss.

1 **Sec. 2.** RCW 77.36.080 and 2009 c 333 s 60 are each amended to
2 read as follows:

3 (1) Unless the legislature declares an emergency under this
4 section, the department may pay no more than (~~thirty thousand~~
5 ~~dollars~~) \$300,000 per fiscal year from the general fund for claims
6 and assessment costs for damage to commercial crops caused by wild
7 deer or elk submitted under RCW 77.36.100.

8 (2)(a) The legislature may declare an emergency if weather, fire,
9 or other natural events result in deer or elk causing excessive
10 damage to commercial crops.

11 (b) After an emergency declaration, the department may pay as
12 much as may be subsequently appropriated, in addition to the funds
13 authorized under subsection (1) of this section, for claims and
14 assessment costs under RCW 77.36.100. Such money shall be used to pay
15 wildlife interaction claims only if the claim meets the conditions of
16 RCW 77.36.100 and the department has expended all funds authorized
17 under RCW 77.36.070 or subsection (1) of this section.

18 **Sec. 3.** RCW 77.36.100 and 2013 c 329 s 4 are each amended to
19 read as follows:

20 (1)(a) Except as limited by RCW 77.36.070, 77.36.080, 77.36.170,
21 and 77.36.180, the department shall offer to distribute money
22 appropriated to pay claims to the owner of commercial crops for
23 damage caused by wild deer or elk or to the owners of livestock that
24 has been killed by bears, wolves, or cougars, or injured by bears,
25 wolves, or cougars to such a degree that the market value of the
26 livestock has been diminished. Payments for claims for damage to
27 livestock are not subject to the limitations of RCW 77.36.070 and
28 77.36.080, but may not, except as provided in RCW 77.36.170 and
29 77.36.180, exceed the total amount specifically appropriated
30 therefor.

31 (b) Owners of commercial crops or livestock are only eligible for
32 a claim under this subsection if:

33 (i) The commercial crop owner satisfies the definition of
34 "eligible farmer" in RCW 82.08.855;

35 (ii) The conditions of RCW 77.36.110 have been satisfied; and

36 (iii) The damage caused to the commercial crop or livestock
37 satisfies the criteria for damage established by the commission under

38 (c) of this subsection.

1 (c) The commission shall adopt and maintain by rule criteria that
2 clarifies the damage to commercial crops and livestock qualifying for
3 compensation under this subsection. An owner of a commercial crop or
4 livestock must satisfy the criteria prior to receiving compensation
5 under this subsection. The criteria for damage adopted under this
6 subsection must include, but not be limited to, a required minimum
7 economic loss to the owner of the commercial crop or livestock, which
8 may not be set at a value of less than (~~five hundred dollars~~) \$500.

9 (2)(a) Subject to the availability of nonstate funds, nonstate
10 resources other than cash, or amounts appropriated for this specific
11 purpose, the department may offer to provide compensation to offset
12 wildlife interactions to a person who applies to the department for
13 compensation for damage to property other than commercial crops or
14 livestock that is the result of a mammalian or avian species of
15 wildlife on a case-specific basis if the conditions of RCW 77.36.110
16 have been satisfied and if the damage satisfies the criteria for
17 damage established by the commission under (b) of this subsection.

18 (b) The commission shall adopt and maintain by rule criteria for
19 damage to property other than a commercial crop or livestock that is
20 damaged by wildlife and may be eligible for compensation under this
21 subsection, including criteria for filing a claim for compensation
22 under this subsection.

23 (3)(a) To prevent or offset wildlife interactions, the department
24 may offer materials or services to a person who applies to the
25 department for assistance in providing mitigating actions designed to
26 reduce wildlife interactions if the actions are designed to address
27 damage that satisfies the criteria for damage established by the
28 commission under this section.

29 (b) The commission shall adopt and maintain by rule criteria for
30 mitigating actions designed to address wildlife interactions that may
31 be eligible for materials and services under this section, including
32 criteria for submitting an application under this section.

33 (4) (a) An owner who files a claim under this section may appeal
34 the decision of the department pursuant to rules adopted by the
35 commission if the claim:

36 (~~(a)~~) (i) Is denied; or

37 (~~(b)~~) (ii) Is disputed by the owner and the owner disagrees
38 with the amount of compensation determined by the department.

39 (b) An appeal of a decision of the department addressing deer or
40 elk damage to commercial crops is limited to \$30,000.

1 (5) ~~((The))~~ (a) Consistent with this section, the commission
2 shall adopt rules setting limits and conditions for the department's
3 expenditures on claims and assessments for commercial crops,
4 livestock, other property, and mitigating actions.

5 (b) Claims awarded or agreed upon that are unpaid due to being in
6 excess of available funds in the current fiscal year are eligible for
7 payment in the next state fiscal year.

8 (c) If additional funds are not appropriated by the legislature
9 in the subsequent fiscal year specifically for unpaid claims, then no
10 further payment may be made on the claim.

11 (d) Claims awarded or agreed upon during a fiscal year must be
12 prioritized for payment based upon the highest percentage of loss,
13 calculated by comparing agreed-upon or awarded commercial crop
14 damages to the gross sales or harvested value of commercial crops for
15 the previous tax year.

16 (e) The payment of a claim under this section is conditional on
17 the availability of specific funding for this purpose and is not a
18 guarantee of reimbursement.

19 **Sec. 4.** RCW 77.36.130 and 2013 c 329 s 5 are each amended to
20 read as follows:

21 (1) Except as otherwise provided in this section and as limited
22 by RCW 77.36.100, 77.36.070, 77.36.080, 77.36.170, and 77.36.180, the
23 cash compensation portion of each claim by the department under this
24 chapter is limited to the lesser of:

25 (a) The value of the damage to the property by wildlife, reduced
26 by the amount of compensation provided to the claimant by any
27 nonprofit organizations that provide compensation to private property
28 owners due to financial losses caused by wildlife interactions. The
29 value of killed or injured livestock may be no more than the market
30 value of the lost livestock subject to the conditions and criteria
31 established by rule of the commission; or

32 (b) ~~((Ten thousand dollars))~~ \$30,000.

33 ~~(2) ((The department may offer to pay a claim for an amount in~~
34 ~~excess of ten thousand dollars to the owners of commercial crops or~~
35 ~~livestock filing a claim under RCW 77.36.100 only if the outcome of~~
36 ~~an appeal filed by the claimant under RCW 77.36.100 determines a~~
37 ~~payment higher than ten thousand dollars.~~

1 ~~(3)~~) All payments of claims by the department under this chapter
2 must be paid to the owner of the damaged property and may not be
3 assigned to a third party.

4 ~~((4))~~ (3) The burden of proving all property damage, including
5 damage to commercial crops and livestock, belongs to the claimant.

6 NEW SECTION. **Sec. 5.** By December 1, 2024, the department of
7 fish and wildlife shall review crop and livestock wildlife damage
8 programs in other states and submit to the legislature a list of
9 recommendations for changes to Washington statutes.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 77.36
11 RCW to read as follows:

12 (1) The department, in coordination, decision making, and
13 stewardship with tribal comanagers, shall develop a three-year pilot
14 program to collar elk within herds nearest agricultural lands within
15 the department's south central management region. The pilot program
16 must include elk herds that cause year-round damage or seasonal crop
17 damage. The collaring of elk may include a data sharing agreement
18 between the department, a technology company, and farmers to provide
19 the farmers with knowledge of when elk are in the area or nearing
20 private property when damage may occur to their crops. The use of the
21 data agreement and the intent of the pilot project is to help farmers
22 in training and education as a means to more effectively deploy
23 hazing techniques in an effort to prevent crop, fence, and property
24 damage from elk. Other tools may include damage permits issued to
25 tribal and nontribal hunters to reduce the local population on
26 private lands, as long as an agreement is signed by the landowner,
27 tribal member, and the department.

28 (2) Subject to amounts appropriated for this specific purpose,
29 the department shall make funding available to the Yakama nation
30 wildlife staff to participate in the pilot project established in
31 this section, including for collaring and monitoring the elk
32 population. The department shall share GPS collar data with the
33 Yakama nation wildlife resource management program to assist in
34 management goals and objectives and to provide best management
35 practices.

36 (3) The department must report back to the appropriate committees
37 of the legislature by December 1, 2027, regarding the pilot program
38 created in this section.

1 (4) This section expires July 1, 2028.

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