
HOUSE BILL 1831

State of Washington

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By Representatives Kretz, Blake, Grant, Buri, Holmquist, B. Sullivan, Orcutt, Serben, McCune, Sump, Cox, Walsh, Clements, Roach, Linville, Newhouse, Haler and Pearson

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1 AN ACT Relating to damage to livestock caused by wildlife; and
2 amending RCW 77.36.005, 77.36.010, 77.36.040, 77.36.050, 77.36.060,
3 77.36.070, and 77.36.080.

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

5 **Sec. 1.** RCW 77.36.005 and 1996 c 54 s 1 are each amended to read
6 as follows:

7 The legislature finds that:

8 (1) As the number of people in the state grows, wildlife management
9 techniques change, and wildlife habitat is altered, people will
10 encounter wildlife more frequently. As a result, conflicts between
11 humans and wildlife will also increase. Wildlife is a public resource
12 of significant value to the people of the state and the responsibility
13 to minimize and resolve these conflicts is shared by all citizens of
14 the state.

15 (2) In particular, the state recognizes the importance of
16 commercial agricultural and horticultural crop production, the state's
17 livestock industry, and the value of healthy ((~~deer and elk~~)) wildlife
18 populations, which can damage ((~~such~~)) crops and livestock. The
19 legislature further finds that damage prevention is key to maintaining

1 healthy (~~deer and elk~~) wildlife populations, wildlife-related
2 recreational opportunities, (~~and~~) commercially productive
3 agricultural and horticultural crops, and a thriving livestock
4 industry, and that the state, participants in wildlife recreation, and
5 private landowners and tenants share the responsibility for damage
6 prevention. Toward this end, the legislature encourages landowners and
7 tenants to contribute through their land management practices to
8 healthy wildlife populations and to provide access for related
9 recreation. It is in the best interests of the state for the
10 department (~~of fish and wildlife~~) to respond quickly to wildlife
11 damage complaints and to work with these landowners and tenants to
12 minimize and/or prevent damages and conflicts while maintaining (~~deer~~
13 ~~and elk~~) wildlife populations for enjoyment by all citizens of the
14 state.

15 (3) A timely and simplified process for resolving claims for
16 damages caused by (~~deer and elk~~) wildlife for commercial agricultural
17 (~~or~~), horticultural, or livestock products is beneficial to the
18 claimant and the state.

19 **Sec. 2.** RCW 77.36.010 and 1996 c 54 s 2 are each amended to read
20 as follows:

21 (~~Unless otherwise specified,~~) The (~~following~~) definitions in
22 this section apply throughout this chapter(~~+~~) unless the context
23 clearly requires otherwise.

24 (1) "Crop" means a commercially raised horticultural and/or
25 agricultural product and includes growing or harvested product but does
26 not include livestock. For the purposes of this chapter all parts of
27 horticultural trees shall be considered a crop and shall be eligible
28 for claims.

29 (2) "Emergency" means an unforeseen circumstance beyond the control
30 of the landowner or tenant that presents a real and immediate threat to
31 crops, domestic animals, or fowl.

32 (3) "Immediate family member" means spouse, brother, sister,
33 grandparent, parent, child, or grandchild.

34 (4) "Livestock" has the same meaning as defined in RCW 16.36.005.

35 **Sec. 3.** RCW 77.36.040 and 1996 c 54 s 5 are each amended to read
36 as follows:

1 (1)(a) Pursuant to this section, the director or the director's
2 designee may distribute money appropriated to pay claims for damages to
3 crops caused by wild deer or elk in an amount of up to ten thousand
4 dollars per claim. Damages payable under this section are limited to
5 the value of such commercially raised horticultural or agricultural
6 crops, whether growing or harvested, and shall be paid only to the
7 owner of the crop at the time of damage, without assignment. Damages
8 shall not include damage to other real or personal property including
9 other vegetation or animals, damages caused by animals other than wild
10 deer or elk, lost profits, consequential damages, or any other damages
11 whatsoever. ((These damages))

12 **(b) Pursuant to this section, the director or the director's**
13 **designee may distribute money appropriated to reimburse the owner of**
14 **livestock that has been killed by predatory wildlife, or injured by**
15 **predatory wildlife to such a degree that the commercial value of the**
16 **livestock has been diminished. Each individual animal represents one**
17 **claim, and each claim must be paid the fair market value of the killed**
18 **or injured animal as determined by the director upon recommendation of**
19 **the department of agriculture.**

20 **(c) Damage claim payments under this section** shall comprise the
21 exclusive remedy for claims against the state for damages caused by
22 wildlife.

23 (2) The director may adopt rules for the form of affidavits or
24 proof to be provided in claims under this section. The director may
25 adopt rules to specify the time and method of assessing damage. The
26 burden of proving damages shall be on the claimant. Payment of claims
27 shall remain subject to the other conditions and limits of this
28 chapter.

29 (3) If funds are limited, payments of claims shall be prioritized
30 in the order that the claims are received. No claim may be processed
31 if:

32 (a) The claimant did not notify the department within ten days of
33 discovery of ((the)) **damage to crops or within seventy-two hours of the**
34 **discovery of a predatory wildlife attack on livestock.** If the claimant
35 intends to take steps that prevent determination of damages, such as
36 harvest of damaged crops, then the claimant shall notify the department
37 as soon as reasonably possible after discovery so that the department

1 has an opportunity to document the damage and take steps to prevent
2 additional damage; or

3 (b) The claimant did not present a complete, written claim within
4 sixty days after the damage, or the last day of damaging if the damage
5 was of a continuing nature.

6 (4) The director or the director's designee may examine and assess
7 the damage upon notice. The department and claimant may agree to an
8 assessment of damages by a neutral person or persons knowledgeable in
9 horticultural ~~((of))~~, agricultural, or livestock practices. The
10 department and claimant shall share equally in the costs of such third
11 party examination and assessment of damage.

12 (5) There shall be no payment for damages if:

13 (a) The crops are on lands leased from any public agency;

14 (b) The landowner or claimant failed to use or maintain applicable
15 damage prevention materials or methods furnished by the department, or
16 failed to comply with a wildlife damage prevention agreement under RCW
17 77.12.260;

18 (c) The director has expended all funds appropriated for payment of
19 such claims for the current fiscal year; or

20 (d) The damages are covered by insurance. The claimant shall
21 notify the department at the time of claim of insurance coverage in the
22 manner required by the director. Insurance coverage shall cover all
23 damages prior to any payment under this chapter.

24 (6) When there is a determination of claim by the director or the
25 director's designee pursuant to this section, the claimant has sixty
26 days to accept the claim or it is deemed rejected.

27 **Sec. 4.** RCW 77.36.050 and 1996 c 54 s 6 are each amended to read
28 as follows:

29 If the claimant does not accept the director's decision under RCW
30 77.36.040, or if the claim exceeds ten thousand dollars, then the claim
31 may be filed with the ~~((office of))~~ risk management division of the
32 office of financial management under RCW 4.92.040(5). The ~~((office~~
33 ~~of))~~ risk management division shall recommend to the legislature
34 whether the claim should be paid. If the legislature approves the
35 claim, the director shall pay it from moneys appropriated for that
36 purpose. No funds shall be expended for damages under this chapter
37 except as appropriated by the legislature.

1 **Sec. 5.** RCW 77.36.060 and 1996 c 54 s 7 are each amended to read
2 as follows:

3 The director may refuse to consider and pay claims ~~((of))~~ for
4 damage to crops for persons who have posted the property against
5 hunting or who have not allowed public hunting during the season prior
6 to the occurrence of the damages.

7 **Sec. 6.** RCW 77.36.070 and 1996 c 54 s 8 are each amended to read
8 as follows:

9 The department may pay no more than one hundred twenty thousand
10 dollars per fiscal year from the wildlife fund for claims under RCW
11 77.36.040 and for assessment costs and compromise of claims. Such
12 money shall be used to pay animal damage claims only if the claim meets
13 the conditions of RCW 77.36.040 and, for crop claims only, the damage
14 occurred in a place where the opportunity to hunt was not restricted or
15 prohibited by a county, municipality, or other public entity during the
16 season prior to the occurrence of the damage.

17 **Sec. 7.** RCW 77.36.080 and 1996 c 54 s 9 are each amended to read
18 as follows:

19 (1) The department may pay no more than thirty thousand dollars per
20 fiscal year from the general fund for claims under RCW 77.36.040 and
21 for assessment costs and compromise of claims unless the legislature
22 declares an emergency. Such money shall be used to pay animal damage
23 claims only if the claim meets the conditions of RCW 77.36.040 and, for
24 crop claims only, the damage occurred in a place where the opportunity
25 to hunt was restricted or prohibited by a county, municipality, or
26 other public entity during the season prior to the occurrence of the
27 damage.

28 (2) The legislature may declare an emergency, defined for the
29 purposes of this section as any happening arising from weather, other
30 natural conditions, or fire that causes unusually great damage to
31 commercially raised livestock or agricultural or horticultural crops by
32 ~~((deer or elk))~~ wildlife. In an emergency, the department may pay as
33 much as may be subsequently appropriated, in addition to the funds
34 authorized under subsection (1) of this section, for claims under RCW
35 77.36.040 and for assessment and compromise of claims. Such money

1 shall be used to pay animal damage claims only if the claim meets the
2 conditions of RCW 77.36.040 and the department has expended all funds
3 authorized under RCW 77.36.070 or subsection (1) of this section.

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