

2ESHB 1147 - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 77.36.005 and 1996 c 54 s 1 are each amended to read
4 as follows:

5 The legislature finds that:

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

13 (2) In particular, the state recognizes the importance of
14 commercial agricultural and horticultural crop production, the state's
15 commercial livestock industry, and the value of healthy ((~~deer and~~
16 ~~elk~~)) wildlife populations, which can damage ((~~such~~)) crops and
17 commercial livestock. The legislature further finds that damage
18 prevention is key to maintaining healthy ((~~deer and elk~~)) wildlife
19 populations, wildlife-related recreational opportunities, ((~~and~~))
20 commercially productive agricultural and horticultural crops, and a
21 thriving commercial livestock industry, and that the state,
22 participants in wildlife recreation, and private landowners and tenants
23 share the responsibility for damage prevention. Toward this end, the
24 legislature encourages landowners and tenants to contribute through
25 their land management practices to healthy wildlife populations and to
26 provide access for related recreation. It is in the best interests of
27 the state for the department ((~~of fish and wildlife~~)) to respond
28 quickly to wildlife damage complaints and to work with these landowners
29 and tenants to minimize and/or prevent damages and conflicts while

1 maintaining (~~deer and elk~~) wildlife populations for enjoyment by all
2 citizens of the state.

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

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

9 (~~Unless otherwise specified,~~) The (~~following~~) definitions in
10 this section apply throughout this chapter(~~+~~) unless the context
11 clearly requires otherwise.

12 (1) "Commercial livestock" means cattle, sheep, and horses held or
13 raised by a person for sale, trade, or barter, and from which the
14 person derives an annual income from the sales of the animals in excess
15 of ten thousand dollars.

16 (2) "Crop" means a commercially raised horticultural and/or
17 agricultural product and includes growing or harvested product but does
18 not include livestock. For the purposes of this chapter all parts of
19 horticultural trees shall be considered a crop and shall be eligible
20 for claims.

21 (~~+~~) (3) "Emergency" means an unforeseen circumstance beyond the
22 control of the landowner or tenant that presents a real and immediate
23 threat to crops, domestic animals, or fowl.

24 (~~+~~) (4) "Immediate family member" means spouse, brother,
25 sister, grandparent, parent, child, or grandchild.

26 (5) "Predatory wildlife" means bears, wolves, and cougars.

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

29 (1)(a) Pursuant to this section, the director or the director's
30 designee may distribute money appropriated to pay claims for damages to
31 crops caused by wild deer or elk in an amount of up to ten thousand
32 dollars per claim. Damages payable under this section are limited to
33 the value of such commercially raised horticultural or agricultural
34 crops, whether growing or harvested, and shall be paid only to the
35 owner of the crop at the time of damage, without assignment. Damages
36 shall not include damage to other real or personal property including

1 other vegetation or animals, damages caused by animals other than wild
2 deer or elk, lost profits, consequential damages, or any other damages
3 whatsoever. (~~These damages~~)

4 (b) Pursuant to this section, the director or the director's
5 designee may distribute money appropriated to reimburse the owner of
6 commercial livestock that has been killed by predatory wildlife, or
7 injured by predatory wildlife to such a degree that the market value of
8 the commercial livestock has been diminished, if during the current
9 fiscal biennium the department has received appropriations from either
10 the state wildlife account or the general fund above the amounts
11 specified in RCW 77.36.070 and 77.36.080 for the reimbursement of
12 damage to commercial livestock. Each individual animal represents one
13 claim, and each claim must be paid the fair market value of the killed
14 or injured animal up to the following values: Two hundred dollars for
15 sheep, one thousand five hundred dollars for cattle, and one thousand
16 five hundred dollars for horses.

17 (c) Damage claim payments under this section shall comprise the
18 exclusive remedy for claims against the state for damages caused by
19 wildlife.

20 (2) The director may, consistent with section 4 of this act, adopt
21 rules for the form of affidavits or proof to be provided in claims
22 under this section(~~(. The director may adopt rules)~~) and to specify
23 the time and method of assessing damage. The burden of proving damages
24 shall be on the claimant. Payment of claims shall remain subject to
25 the other conditions and limits of this chapter.

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

29 (a) The claimant did not notify the department within ten days of
30 discovery of (~~the~~) damage to crops or within seventy-two hours of the
31 discovery of a predatory wildlife attack on commercial livestock. If
32 the claimant intends to take steps that prevent determination of
33 damages, such as harvest of damaged crops, then the claimant shall
34 notify the department as soon as reasonably possible after discovery so
35 that the department has an opportunity to document the damage and take
36 steps to prevent additional damage; or

37 (b) The claimant did not present a complete, written claim within

1 sixty days after the damage, or the last day of damaging if the damage
2 was of a continuing nature.

3 (4)(a) The director or the director's designee may examine and
4 assess the damage upon notice, and may convene, upon its own initiative
5 or on the request of the claimant, the commercial livestock valuation
6 committee created in section 4 of this act to assist with the
7 assessment of the damage.

8 (b) The department and claimant may agree to an assessment of
9 damages by a neutral person or persons knowledgeable in horticultural
10 ~~((or)),~~ agricultural, or commercial livestock practices. The
11 department and claimant shall share equally in the costs of such third
12 party examination and assessment of damage.

13 (5) There shall be no payment for damages if:
14 (a) The crops are on lands leased from any public agency;
15 (b) The landowner or claimant failed to use or maintain applicable
16 damage prevention materials or methods furnished by the department, or
17 failed to comply with a wildlife damage prevention agreement under RCW
18 77.12.260;

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

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

25 (e) The claimant has received compensation for the damages or is
26 eligible for compensation from a nongovernmental organization. The
27 department must provide the claimant with information about applicable
28 compensation programs offered by nongovernmental organizations.
29 However, the claimant is eligible for payment of damages under this
30 section if the claimant is denied compensation by all applicable
31 nongovernmental organizations.

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

35 (7) The limitation on claim payments established in subsection
36 (5)(a) of this section is limited only to crop damage and does not
37 apply to commercial livestock damaged or killed on land leased by a
38 public agency.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 77.36 RCW
2 to read as follows:

3 (1)(a) The commercial livestock valuation committee is created to
4 assist the director with the determination of the market value of
5 killed or injured commercial livestock for the purposes of reimbursing
6 the owner under RCW 77.36.040.

7 (b) In assisting with the determination of the market value of
8 injured or killed commercial livestock, the members of the commercial
9 livestock valuation committee must have access to all documentation
10 regarding a particular claim, along with other information that is
11 deemed useful by the committee members.

12 (c) The recommendation of the commercial livestock valuation
13 committee is deemed final when four or more of the committee members
14 determine the fair market value, if any, for the claim in question.

15 (2) The commercial livestock valuation committee is composed of
16 seven members appointed by the commission. The membership of the
17 commercial livestock valuation committee must be composed as follows:

18 (a) Three members must be professionally involved in sheep
19 production;

20 (b) Three members must be professionally involved in cattle
21 production; and

22 (c) One member must be professionally involved in horse production.

23 (3) The members of the commercial livestock valuation committee are
24 appointed for a four-year term. If a vacancy occurs on the committee
25 prior to the expiration of a term, the commission must appoint a
26 replacement within sixty days to complete the term. After a term
27 expires, a committee member may be reappointed.

28 (4) The commercial livestock valuation committee must be convened
29 at time intervals necessary to provide timely recommendations for
30 claims filed under RCW 77.36.040. A majority of members currently
31 serving on the committee constitutes a quorum, and the chair of the
32 committee must be selected by the committee members. The department
33 must provide staff support for all official committee meetings.

34 (5) Each member of the commercial livestock valuation committee
35 shall serve without compensation but may be reimbursed for travel
36 expenses as authorized in RCW 43.03.050 and 43.03.060.

37 (6) The members of the commercial livestock valuation committee, or

1 individuals acting on their behalf, are immune from civil liability for
2 official acts performed in the course of their duties.

3 **Sec. 5.** RCW 77.36.050 and 1996 c 54 s 6 are each amended to read
4 as follows:

5 (1) If the claimant does not accept the director's decision under
6 RCW 77.36.040, or if the claim exceeds ten thousand dollars, then the
7 claim may be filed with the (~~office of~~) risk management division of
8 the office of financial management under RCW 4.92.040(5). The (~~office~~
9 ~~of~~) risk management division shall recommend to the legislature
10 whether the claim should be paid. If the legislature approves the
11 claim, the director shall pay it from moneys appropriated for that
12 purpose. No funds shall be expended for damages under this chapter
13 except as appropriated by the legislature.

14 (2) For livestock claims only, the risk management division of the
15 office of financial management may consult the commercial livestock
16 valuation committee created in section 4 of this act.

17 **Sec. 6.** RCW 77.36.060 and 1996 c 54 s 7 are each amended to read
18 as follows:

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

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

25 (1) The department may pay no more than one hundred twenty thousand
26 dollars per fiscal year from the state wildlife (~~fund~~) account
27 created in RCW 77.12.170 for crop claims under RCW 77.36.040 and for
28 assessment costs and compromise of claims. Such money shall be used to
29 pay animal damage claims only if the claim meets the conditions of RCW
30 77.36.040 and the damage occurred in a place where the opportunity to
31 hunt was not restricted or prohibited by a county, municipality, or
32 other public entity during the season prior to the occurrence of the
33 damage.

34 (2) The department may pay no more than the amount indicated for
35 predatory wildlife damage in the current fiscal biennium's

1 appropriation to the department from the state wildlife account for
2 claims under RCW 77.36.040 and for assessment costs and compromise of
3 predatory wildlife claims. The money must be used to pay animal damage
4 claims only if the claim meets the conditions of RCW 77.36.040.

5 **Sec. 8.** RCW 77.36.080 and 1996 c 54 s 9 are each amended to read
6 as follows:

7 (1) The department may pay no more than thirty thousand dollars per
8 fiscal year from the general fund for claims under RCW 77.36.040 and
9 for assessment costs and compromise of crop claims unless the
10 legislature declares an emergency. Such money shall be used to pay
11 animal damage claims only if the claim meets the conditions of RCW
12 77.36.040 and the damage occurred in a place where the opportunity to
13 hunt was restricted or prohibited by a county, municipality, or other
14 public entity during the season prior to the occurrence of the damage.

15 (2) The department may pay no more than the amount indicated for
16 predatory wildlife damage in the current fiscal biennium's
17 appropriation to the department from the general fund for claims under
18 RCW 77.36.040 and for assessment costs and compromise of predatory
19 wildlife claims. The money must be used to pay animal damage claims
20 only if the claim meets the conditions of RCW 77.36.040.

21 (3) The legislature may declare an emergency, defined for the
22 purposes of this section as any happening arising from weather, fire,
23 or other natural conditions(~~(, or fire)~~) that causes unusually great
24 damage to (~~(commercially raised)~~) commercial livestock by predatory
25 wildlife or to agricultural or horticultural crops by deer or elk. In
26 an emergency, the department may pay as much as may be subsequently
27 appropriated, in addition to the funds authorized under subsection (1)
28 of this section, for claims under RCW 77.36.040 and for assessment and
29 compromise of claims. Such money shall be used to pay animal damage
30 claims only if the claim meets the conditions of RCW 77.36.040 and the
31 department has expended all funds authorized under RCW 77.36.070 or
32 subsection (1) of this section.

33 NEW SECTION. **Sec. 9.** A new section is added to chapter 77.36 RCW
34 to read as follows:

35 The department must obtain specific statutory authority prior to
36 implementing or approving any conservation and management plan or a

1 recovery plan that allows for the movement of a wolf within the state
2 by any person unless the movement is for the immediate preservation of
3 life or property."

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4 On page 1, line 1 of the title, after "wildlife;" strike the
5 remainder of the title and insert "amending RCW 77.36.005, 77.36.010,
6 77.36.040, 77.36.050, 77.36.060, 77.36.070, and 77.36.080; and adding
7 new sections to chapter 77.36 RCW."

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