

# HOUSE BILL REPORT

## HB 1399

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**As Reported by House Committee On:**  
Agriculture & Natural Resources

**Title:** An act relating to compensation for property damage caused by wild deer or elk.

**Brief Description:** Concerning compensation for property damage caused by wild deer or elk.

**Sponsors:** Representatives Dent, Blake, Irwin, Shea, Dye, Pettigrew, Buys, Koster and Schmick.

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 1/25/17, 2/1/17, 2/9/17, 2/14/17 [DPS].

**Brief Summary of Substitute Bill**

- Expands the scope of crops eligible for compensation as a result of wildlife damage from commercial crops to agricultural crops in general.
- Increases, from \$120,000 to \$240,000, the maximum amount that the Washington Department of Fish and Wildlife (WDFW) may pay per fiscal year from the State Wildlife Account for damage caused to agricultural crops by wild deer or elk.
- Increases, from \$10,000 to \$20,000, the maximum compensation payable for each claim of damage to property or crops caused by elk or deer.
- Adds a definition of property that is eligible for compensation, to include irrigation equipment and fencing.
- Limits the amount of money that the WDFW may charge an owner in connection with a damage assessment to the WDFW's actual costs to conduct the assessment, not to exceed 2 percent of the compensation awarded to the owner.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass.  
Signed by 14 members: Representatives Blake, Chair; Chapman, Vice Chair; Buys, Ranking

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Minority Member; Dent, Assistant Ranking Minority Member; Chandler, Fitzgibbon, Kretz, Orcutt, Pettigrew, Robinson, Schmick, Springer, Stanford and J. Walsh.

**Staff:** Robert Hatfield (786-7117).

**Background:**

Washington Department of Fish and Wildlife.

The Washington Department of Fish and Wildlife (WDFW) manages and protects the state's fish and wildlife resources. The WDFW also monitors wildlife that threaten human safety or cause property damage.

Crops Reimbursement for Wildlife Damage.

The WDFW is directed, subject to funding limits, to monetarily compensate the owners of commercial crops damaged by deer or elk, and the owners of livestock that are killed or significantly injured by bears, cougars, or wolves. Each individual claim is eligible to be paid the value of the lost property, less any payments received by a nonprofit organization, up to a maximum of \$10,000. The WDFW may offer to pay a claim in excess of this amount if the outcome of an appeal filed by a claimant pursuant to rules adopted by the Fish and Wildlife Commission (Commission) determines a payment higher than these amounts.

Total compensation for the owners of commercial crops generally may not exceed \$120,000 per year from the State Wildlife Account, and total compensation for the owners of commercial livestock may not exceed the amounts specifically appropriated for that purpose. The WDFW may additionally use up to \$50,000 from the State Wildlife Account as compensation to the owners of livestock lost to wolf predation.

The owners of property that does not qualify as commercial crops or livestock may still apply to the WDFW for compensation for damage caused by mammals or birds. However, unlike compensation for crops and livestock, the WDFW is not required to provide compensation, and compensation is subject to certain restrictions and qualifications.

The Commission, pursuant to legislative direction, has identified criteria that determine whether damage to property qualifies for compensation. Different criteria may apply to mandatory compensation claims and discretionary claims. For mandatory commercial crop and livestock claims, the criteria must provide for a minimum economic loss of not less than \$500 in order to qualify for compensation.

Property owners may not receive compensation from the WDFW if they have insurance that covers their damages. Also, they must first exhaust any available compensation offers from nonprofit organizations and utilize all applicable legal and practicable self-help preventive measures. Self-help measures include nonlethal methods of damage prevention and materials and services provided by the WDFW.

The WDFW maintains a process for a compensation applicant to follow. Elements of the process must include forms of proof, anticipated timelines for decisions from the WDFW, prioritization of claims, a process for determining damage assessments, and protocols for when an owner intends to salvage any still-harvestable crops.

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**Summary of Substitute Bill:**

The scope of crops eligible for compensation is expanded from commercial crops to agricultural crops in general.

The maximum amount that the Washington State Department of Fish and Wildlife (WDFW) may pay per fiscal year from the State Wildlife Account for damage caused to agricultural crops by wild deer or elk is raised to \$240,000 from \$120,000.

For damage to property or crops caused by wild deer or elk, the minimum economic loss to the owner in order to qualify for mandatory compensation is raised from \$500 to \$1,500. For damage to livestock caused by bears, wolves, or cougars, the minimum economic loss remains at \$500.

For damage to property other than agricultural crops or livestock that is eligible for compensation, a definition of property is added, to include, but not be limited to, fencing and irrigation equipment.

The amount that the WDFW may charge an owner in connection with a damage assessment is limited to the WDFW's actual costs to conduct the assessment, not to exceed 2 percent of the compensation awarded to the owner.

The maximum compensation payable for each claim of damage to property or crops caused by elk or deer is raised to \$20,000. For damage caused by other wildlife, the maximum cash compensation payable is \$10,000 per claim.

**Substitute Bill Compared to Original Bill:**

A definition of property that is eligible for certain forms of compensation is added. Property is defined to include fencing and irrigation equipment. A limitation is added on the amount of money that the WDFW may charge an owner in connection with a damage assessment to the WDFW's actual costs to conduct the assessment, not to exceed 2 percent of the compensation awarded to the owner.

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**Appropriation:** None.**Fiscal Note:** Available. New fiscal note requested on February 14, 2017.**Effective Date of Substitute Bill:** This bill takes effect 90 days after adjournment of the session in which the bill is passed.**Staff Summary of Public Testimony:**

(In support) In Skagit County, property owners have experienced livestock losses because elk have damaged fences, allowing livestock to escape. Increasing the minimum claim amount will reduce frivolous claims. Filing claims is an onerous process, so it seems unlikely there would be many frivolous claims. Property owners have been self-funding property damage for years.

(Opposed) None.

**Persons Testifying:** Representative Dent, prime sponsor; Cindy Alia, Citizens Alliance for Property Rights; Anis Aoude, Department of Fish and Wildlife; and Tom Davis, Washington Farm Bureau and Washington Cattlemen's Association.

**Persons Signed In To Testify But Not Testifying:** None.