
SUBSTITUTE HOUSE BILL 1399

State of Washington

65th Legislature

2017 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Dent, Blake, Irwin, Shea, Dye, Pettigrew, Buys, Koster, and Schmick)

READ FIRST TIME 02/16/17.

1 AN ACT Relating to compensation for property damage caused by
2 wild deer or elk; amending RCW 77.36.070, 77.36.080, 77.36.100, and
3 77.36.130; reenacting and amending RCW 77.36.010; and creating a new
4 section.

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

6 **Sec. 1.** RCW 77.36.010 and 2013 c 329 s 1 are each reenacted and
7 amended to read as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Agricultural crop" means a horticultural or agricultural
11 product, or commercial agricultural crop, including the growing or
12 harvested product. For the purposes of this chapter all parts of
13 horticultural trees shall be considered an agricultural crop and
14 shall be eligible for claims.

15 (2) "Claim" means an application to the department for
16 compensation under this chapter.

17 (~~(2) "Commercial crop" means a horticultural or agricultural~~
18 ~~product, including the growing or harvested product. For the purposes~~
19 ~~of this chapter all parts of horticultural trees shall be considered~~
20 ~~a commercial crop and shall be eligible for claims.))~~

21 (3) "Compensation" means a cash payment, materials, or service.

1 (4) "Damage" means economic losses caused by wildlife
2 interactions.

3 (5) "Immediate family member" means spouse, state registered
4 domestic partner, brother, sister, grandparent, parent, child, or
5 grandchild.

6 (6) "Livestock" means cattle, sheep, and horses.

7 (7) "Owner" means a person who has a legal right to
8 (~~commercial~~) agricultural crops, livestock, or other property that
9 was damaged during a wildlife interaction.

10 (8) "Wildlife interaction" means the negative interaction and the
11 resultant damage between wildlife and (~~commercial~~) agricultural
12 crops, livestock, or other property.

13 **Sec. 2.** RCW 77.36.070 and 2009 c 333 s 59 are each amended to
14 read as follows:

15 The department may pay no more than (~~one~~) two hundred
16 (~~twenty~~) forty thousand dollars per fiscal year from the state
17 wildlife account created in RCW 77.12.170 for claims and assessment
18 costs for damage to (~~commercial~~) agricultural crops caused by wild
19 deer or elk submitted under RCW 77.36.100.

20 **Sec. 3.** RCW 77.36.080 and 2009 c 333 s 60 are each amended to
21 read as follows:

22 (1) Unless the legislature declares an emergency under this
23 section, the department may pay no more than thirty thousand dollars
24 per fiscal year from the general fund for claims and assessment costs
25 for damage to (~~commercial~~) agricultural crops caused by wild deer
26 or elk submitted under RCW 77.36.100.

27 (2)(a) The legislature may declare an emergency if weather, fire,
28 or other natural events result in deer or elk causing excessive
29 damage to (~~commercial~~) agricultural crops.

30 (b) After an emergency declaration, the department may pay as
31 much as may be subsequently appropriated, in addition to the funds
32 authorized under subsection (1) of this section, for claims and
33 assessment costs under RCW 77.36.100. Such money shall be used to pay
34 wildlife interaction claims only if the claim meets the conditions of
35 RCW 77.36.100 and the department has expended all funds authorized
36 under RCW 77.36.070 or subsection (1) of this section.

1 **Sec. 4.** RCW 77.36.100 and 2013 c 329 s 4 are each amended to
2 read as follows:

3 (1)(a) Except as limited by RCW 77.36.070, 77.36.080, 77.36.170,
4 and 77.36.180, the department shall offer to distribute money
5 appropriated to pay claims to the owner of (~~commercial~~)
6 agricultural crops for damage caused by wild deer or elk or to the
7 owners of livestock that has been killed by bears, wolves, or
8 cougars, or injured by bears, wolves, or cougars to such a degree
9 that the market value of the livestock has been diminished, or to the
10 owner of other property that has been damaged by wild deer or elk.
11 Payments for claims for damage to livestock are not subject to the
12 limitations of RCW 77.36.070 and 77.36.080, but may not, except as
13 provided in RCW 77.36.170 and 77.36.180, exceed the total amount
14 specifically appropriated therefor. "Other property" eligible for
15 compensation under this subsection includes, but is not limited to,
16 irrigation equipment and fencing.

17 (b) Owners of (~~commercial~~) agricultural crops (~~or livestock~~),
18 livestock, or other property are only eligible for a claim under this
19 subsection if:

20 (i) The (~~commercial~~) agricultural crop owner satisfies the
21 definition of "eligible farmer" in RCW 82.08.855;

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

23 (iii) The damage caused to the (~~commercial~~) agricultural crop
24 (~~or livestock~~), livestock, or other property satisfies the criteria
25 for damage established by the commission under (c) of this
26 subsection.

27 (c) The commission shall adopt and maintain by rule criteria that
28 clarifies the damage to (~~commercial~~) agricultural crops (~~and~~
29 ~~livestock~~), livestock, and other property qualifying for
30 compensation under this subsection. An owner of (~~a commercial~~) an
31 agricultural crop (~~or livestock~~), livestock, or other property must
32 satisfy the criteria prior to receiving compensation under this
33 subsection. The criteria for damage adopted under this subsection
34 must include, but not be limited to, a required minimum economic loss
35 to the owner of the (~~commercial~~) agricultural crop (~~or livestock~~)
36 livestock, or other property, which may not be set at a value of less
37 than (~~five hundred dollars~~) one thousand five hundred dollars for
38 damage to agricultural crops or other property by wild deer or elk or
39 less than five hundred dollars for damage to livestock caused by
40 bears, wolves, or cougars.

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

11 (b) The commission shall adopt and maintain by rule criteria for
12 damage to property other than (~~a-commercial~~) an agricultural crop
13 or livestock that is damaged by wildlife and may be eligible for
14 compensation under this subsection, including criteria for filing a
15 claim for compensation under this subsection.

16 (3)(a) To prevent or offset wildlife interactions, the department
17 may offer materials or services to a person who applies to the
18 department for assistance in providing mitigating actions designed to
19 reduce wildlife interactions if the actions are designed to address
20 damage that satisfies the criteria for damage established by the
21 commission under this section.

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

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

29 (a) Is denied; or

30 (b) Is disputed by the owner and the owner disagrees with the
31 amount of compensation determined by the department.

32 (5) The commission shall adopt rules setting limits and
33 conditions for the department's expenditures on claims and
34 assessments for (~~commercial~~) agricultural crops, livestock, other
35 property, and mitigating actions. The maximum amount that the
36 department is authorized to charge for a damage assessment in
37 connection with a claim filed under this chapter shall be limited to
38 the actual costs incurred by the department to conduct the
39 assessment, or two percent of the compensation awarded to the owner,
40 whichever is less.

1 **Sec. 5.** RCW 77.36.130 and 2013 c 329 s 5 are each amended to
2 read as follows:

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

7 (a) The value of the damage to the property by wildlife, reduced
8 by the amount of compensation provided to the claimant by any
9 nonprofit organizations that provide compensation to private property
10 owners due to financial losses caused by wildlife interactions. The
11 value of killed or injured livestock may be no more than the market
12 value of the lost livestock subject to the conditions and criteria
13 established by rule of the commission; (~~or~~)

14 (b)(i) Twenty thousand dollars for damage to agricultural crops
15 or other property caused by wild deer or elk; or

16 (ii) Ten thousand dollars for damage caused by all other wildlife
17 covered under this section.

18 (2) The department may offer to pay a claim for an amount in
19 excess of (~~ten thousand dollars~~) the maximum amounts described in
20 subsection (1)(b) of this section to the owners of (~~commercial~~)
21 agricultural crops or livestock filing a claim under RCW 77.36.100
22 only if the outcome of an appeal filed by the claimant under RCW
23 77.36.100 determines a payment higher than (~~ten thousand dollars~~)
24 the maximum amounts described in subsection (1)(b) of this section.

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

28 (4) The burden of proving all property damage, including damage
29 to (~~commercial~~) agricultural crops and livestock, belongs to the
30 claimant.

31 NEW SECTION. **Sec. 6.** This act applies to claims arising on or
32 after September 1, 2017.

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