

# HOUSE BILL REPORT

## 2SSB 5784

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### As Passed House - Amended:

March 1, 2024

**Title:** An act relating to deer and elk damage to commercial crops.

**Brief Description:** Concerning deer and elk damage to commercial crops.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Van De Wege, Muzzall, Mullet, Nobles, Wagoner and Warnick; by request of Department of Fish and Wildlife).

### Brief History:

#### Committee Activity:

Agriculture & Natural Resources: 2/16/24, 2/21/24 [DPA];  
Appropriations: 2/23/24, 2/26/24 [DPA(AGNR)].

#### Floor Activity:

Passed House: 3/1/24, 91-5.

### Brief Summary of Second Substitute Bill (As Amended by House)

- Increases the annual compensation limit for commercial crop damage claims caused by deer or elk paid from the State General Fund from \$30,000 to \$300,000.
- Establishes a limit of \$30,000 for an appeal of a decision of the Department of Fish and Wildlife (DFW) addressing deer or elk damage to commercial crops.
- Increases the limit for an individual damage claim from \$10,000 to \$30,000.
- Creates a three-year pilot program at the DFW to collar and monitor elk in South Central Washington in an effort to prevent crop and property damage.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

- Requires the DFW to review damage compensation programs in other states and submit recommendations to the Legislature for changes to Washington statutes by December 1, 2024.

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## HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** Do pass as amended. Signed by 8 members: Representatives Chapman, Chair; Reeves, Vice Chair; Dent, Ranking Minority Member; Kloba, Lekanoff, Orcutt, Schmick and Springer.

**Staff:** Rebecca Lewis (786-7339).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended by Committee on Agriculture & Natural Resources. Signed by 26 members: Representatives Bergquist, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg, Callan, Chopp, Davis, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Stokesbary, Stonier, Tharinger and Wilcox.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair.

**Staff:** Dan Jones (786-7118).

### **Background:**

The Department of Fish and Wildlife (DFW) works with landowners and tenants suffering game damage in order to control the damage without killing the animals when practical and to increase the harvest of damage-causing animals in hunting seasons. The Fish and Wildlife Commission may authorize special hunts to reduce damage from wildlife if there are recurring complaints.

The DFW may compensate eligible farmers for damage to their commercial crops from deer or elk. The DFW may not pay out more than \$120,000 per fiscal year from the Wildlife Fund and no more than \$30,000 per fiscal year from the State General Fund. The Legislature may declare an emergency under certain circumstances and may appropriate additional monies to the DFW for damage claims. The maximum payment amount for a claim is \$10,000, except in a case where the outcome of an appeal filed by a claimant determines a higher payment.

## **Summary of Amended Bill:**

### Commercial Crop Damage Compensation and Claims.

The annual compensation limit for commercial crop damage claims caused by deer or elk paid from the State General Fund is increased from \$30,000 to \$300,000. The maximum payment amount for a claim is increased from \$10,000 to \$30,000. An appeal of a decision of the DFW for deer or elk damage to commercial crops is limited to \$30,000.

A claim awarded, but not paid due to being in excess of funds available in the current fiscal year, is eligible for payment in the next fiscal year. If additional funds are not provided by the Legislature in the next fiscal year, then no further payment may be made on the claim. Payment of a claim is conditional on the availability of specific funding and is not a guarantee of reimbursement. Claims submitted during a fiscal year will be prioritized for payment based upon the highest percentage of loss, calculated by comparing agreed-upon or awarded commercial crop damages to the gross sales or harvested value of commercial crops for the previous tax year.

The DFW must review crop and livestock wildlife damage programs in other states and submit recommendations to the Legislature for any changes to Washington statutes by December 1, 2024.

### Elk Management Pilot Project.

The DFW must develop, in consultation with tribal comanagers, a three-year pilot program to collar elk within herds nearest agricultural lands within the DFW's South Central Management Region. The pilot program must include elk herds that cause year-round damage or seasonal crop damage. The collaring of elk may include a data-sharing agreement between the DFW, a technology company, and farmers to provide the farmers with knowledge of when elk are in the area or nearing private property when damage may occur to their crops. The intent of the pilot project is to help farmers in training and education as a means to more effectively deploy hazing techniques in an effort to prevent crop, fence, and property damage from elk.

Within the scope of the pilot project, depredation permits may be issued to tribal and nontribal hunters if there is an agreement signed by the landowner, tribal member, and the DFW. Subject to amounts appropriated, the DFW must make funding available to Yakama Nation wildlife staff to participate in the pilot project, including for activities related to collaring and monitoring elk. The DFW must share GPS collar data with the Yakama Nation to assist in management goals and objectives and provide best management practices.

The DFW must report back to the appropriate committees of the Legislature by December 1, 2027, regarding the pilot program.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony (Agriculture & Natural Resources):**

(In support) It is important for the Legislature to act on this issue this year. Originally the compensation limit for damage to commercial crops was \$1,000, and the Legislature has increased the limit several times over the years. In 2021 there was an explosion of very large claims. An amendment to the bill in the Senate added language to prioritize claims based on the percentage of loss, which is an attempt to prioritize compensation for small farmers rather than large corporate operations. Now the state is in an unsustainable spot. The pilot project created in the bill will provide data to identify successful techniques to prevent and mitigate crop damage. It is specifically targeted where there is an active elk herd and a well-defined border between public and private land.

(Opposed) None.

**Staff Summary of Public Testimony (Appropriations):**

(In support) The current program for compensating farmers for damage to their commercial crops caused by deer and elk is out of balance. The Department of Fish and Wildlife (DFW) is asking the Legislature to increase the funds available, raise the compensation caps, and prioritize paying out damage claims based on the biggest loss percentage. This is necessary to balance wildlife health with agricultural concerns. The pilot program will allow the DFW and the Yakama Nation to use hazing techniques to help reduce crop damage by elk. Sometimes hazing does not work, so the bill also allows for the use of depredation permits only under an agreement signed by the DFW, the landowner, and the tribal member.

(Opposed) None.

**Persons Testifying (Agriculture & Natural Resources):** Tom McBride, Department of Fish and Wildlife; and Caleb Gwerder, Washington Farm Bureau.

**Persons Testifying (Appropriations):** Thomas McBride, Washington Department of Fish and Wildlife; and Mark Nuetzmann, Yakama Nation Wildlife Program.

**Persons Signed In To Testify But Not Testifying (Agriculture & Natural Resources):** None.

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