

HOUSE BILL REPORT

E2SHB 2365

As Passed House:
February 9, 2012

Title: An act relating to large wild carnivore conflict management.

Brief Description: Regarding large wild carnivore conflict management.

Sponsors: House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Blake, Kretz, Dunshee and McCune; by request of Department of Fish and Wildlife).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/24/12, 1/31/12 [DPS];
General Government Appropriations & Oversight: 2/2/12, 2/3/12 [DP2S(w/o sub AGNR)].

Floor Activity:

Passed House: 2/9/12, 97-0.

Brief Summary of Engrossed Second Substitute Bill

- Creates the nonappropriated Wildlife Conflict Account to house any unspent funds from the State Wildlife Account at the end of each biennium, and authorizes the use of the Wildlife Conflict Account solely for the mitigation, assessment, and payment of livestock losses.
- Authorizes the Department of Fish and Wildlife to use up to \$50,000 per fiscal year from the Wildlife Conflict Account for livestock predation compensation.
- Removes the condition that a livestock operator must raise livestock for commercial purposes in order to receive livestock depredation compensation.
- Prohibits the negligent or intentional feeding of wild carnivores.
- Adds the gray wolf to the list of big game species.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Blake, Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Dunshee, Finn, Hinkle, Kretz, Lytton, Orcutt, Pettigrew and Van De Wege.

Staff: Jason Callahan (786-7117).

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS & OVERSIGHT

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Agriculture & Natural Resources. Signed by 11 members: Representatives Hudgins, Chair; Moscoso, Vice Chair; McCune, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Ahern, Blake, Fitzgibbon, Ladenburg, Pedersen, Van De Wege and Wilcox.

Minority Report: Do not pass. Signed by 1 member: Representative Miloscia, Vice Chair.

Staff: Mary Mulholland (786-7391).

Background:

Wildlife Damage Compensation.

The Department of Fish and Wildlife (Department) is directed to, subject to funding limits, monetarily compensate the owners of commercial crops damaged by deer or elk and the owners of commercial livestock that are killed or significantly injured by bears, cougars, or wolves. Each individual claim by a crop or livestock owner is eligible to be paid the value of the lost crop less any payments received by a nonprofit organization up to a maximum of \$10,000. For livestock, the compensation is \$200 for each lost sheep and \$1,500 for each lost head of cattle or horse.

Total compensation for the owners of commercial crops generally may not exceed \$150,000 per year, and total compensation for the owners of commercial livestock may not exceed the amounts specifically appropriated for the purpose. To date, no funding has been provided for compensation to the owners of commercial livestock.

The owners of property that does not qualify as commercial crops or livestock may still apply to the Department for compensation for damage caused by mammals or birds. However, unlike compensation for crops and livestock, the Department is not required to provide compensation, and any compensation provided may not be in the form of monetary payments. Compensation for this class of damage must take the form of materials or services.

The Fish and Wildlife Commission has, pursuant to legislative direction, identified criteria that determines 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. The minimum loss must be set to at least \$500.

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

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

Big Game Designation.

There are 11 species of wildlife that are designated as "big game." These species include most wild ungulates, cougars, and bears. There are specific penalties, responsibilities, and prohibitions that apply only to big game species. For instance, there are enhanced penalties for wildlife-related crimes that involve big game species and, in the case of violations involving multiple individual animals, only species considered big game or endangered may be prosecuted as separate offenses for each animal taken.

Summary of Engrossed Second Substitute Bill:

Wildlife Damage Compensation.

The Department of Fish and Wildlife (Department) is authorized to spend up to \$50,000 per fiscal year from the State Wildlife Account to pay claims and assessment costs for injuries and losses to commercial livestock from bears, wolves, and cougars. This authority is additive to the Department's authority to use State Wildlife Account funding for ungulate damage to plant crops.

The Fish and Wildlife Commission (Commission) is directed to adopt rules setting limits and conditions for all wildlife damage claims, including plant crop damage, livestock predation, property damage, and other mitigating actions. The condition that a livestock operator must raise livestock for commercial purposes in order to participate in the livestock depredation compensation program is removed.

A non-appropriated account called the Wildlife Conflict Account is created. The purpose of the Wildlife Conflict Account is to house any funds in the State Wildlife Account that were dedicated to livestock predation compensation but were unexpended in any one biennium. The money collected in the Wildlife Conflict Account may only be used for the payment of livestock predation compensation, including claim assessment costs and reimbursement for injury caused to livestock by wildlife.

Big Game Designation.

The gray wolf (*Canis lupus*) is added to the list of species that are considered to be big game. Statutes establishing penalties, responsibilities, and prohibitions exclusive to big game species apply to the gray wolf by reference to the new definition.

Feeding of Wildlife.

The intentional feeding of bears, wolves, and cougars is made unlawful. A violation of this prohibition can be punished as a civil infraction if the feeding occurred negligently and as a criminal misdemeanor if the feeding was intentional.

The *negligent* feeding of large wild carnivores occurs when a person provides, leaves, or places in a building any food, food waste, or other substance that could attract a large carnivore in a situation where a reasonable person would understand that the act could attract a carnivore. An infraction for this behavior may be written by an enforcement officer employed by the Department, an ex officio fish and wildlife officer, or a local animal control officer if there is probable cause to believe that the behavior poses a risk to the safety of a person, livestock, or pet or if the person failed to comply with a written warning within two days of the warning's issuance. Written warnings may be issued if there are articulate facts to support the idea that a person is responsible for placing the food, food waste, or other substance in an inappropriate place and that the act poses a risk to the safety of people, pets, or livestock.

There are some exceptions from the prohibition against feeding carnivores. These exceptions include: permitted forest practices, licensed hunting and fishing, generally accepted ranching and farming operations, waste disposal facilities, permitted scientific collections, and employees and agents of the Department.

A person may be cited for the criminal misdemeanor of *intentional* feeding of large carnivores if the provision of food or food waste in a way that could attract carnivores was purposeful or done knowingly. A misdemeanor may also be cited if a person who receives an infraction for the negligent feeding of carnivores fails to correct the problem within 24 hours of being issued the infraction.

Landowner's Authority to Protect Livestock.

The Commission is directed to adopt rules allowing a property owner or the owner's family or employees to kill a gray wolf that is in the act of attacking livestock. The wolf may be killed without first obtaining a permit and free from prosecution for killing an endangered species.

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) Large carnivores are a critical part of the landscape, but their very nature creates conflicts with humans. The Department of Fish and Wildlife is obligated to manage carnivores, but also has a responsibility to protect the safety of citizens and their property. The longer the carnivore-human conflict goes unaddressed, the less support there is in the general public for carnivore management. The key to carnivore management is balance with other species and the needs of humans.

The state has made promises in both the wolf management plan and the wildlife damage compensation program. This bill takes steps towards fulfilling those promises.

(With concerns) Wildlife damage compensation should not be funded from the State Wildlife Account. The State Wildlife Account is funded by hunters and fishers license sales. It is an unfair policy shift to put the burden of funding wildlife conflict issues on the very individuals who are the most instrumental in reducing the conflict.

Even if that policy shift is accepted, it will take more than \$50,000 to compensate all of the affected livestock operators. Funding at that low of a level does not come close to meeting the known needs. At the very least, the funding should roll over and accumulate so it can be used in years of heavy carnivore damage. It is unfair that only commercial livestock producers can receive compensation. Small scale family farms also suffer from carnivore predation.

Too much authority is being given to the Fish and Wildlife Commission. The Legislature should maintain some control in the wildlife damage compensation program to ensure it is run in an equitable manner.

There are better ways to protect wolves than assessing a \$4,000 administrative penalty when one is killed. A penalty of that magnitude may create a fracture between hunters and livestock operators.

(Opposed) None.

Staff Summary of Public Testimony (General Government Appropriations & Oversight):

(In support with concerns) The source of funding for livestock compensation should be borne by the general public, not by the small user group paying into the State Wildlife Account through licensing fees. A \$200,000 annual limit on livestock compensation places too large of a burden on the State Wildlife Account. Non commercial livestock operators will be able to apply for livestock loss compensation.

(Opposed) None.

Persons Testifying (Agriculture & Natural Resources): (In support) Dave Ware, Department of Fish and Wildlife.

(With concerns) Tom Davis, Washington Farm Bureau; and Jack Field, Washington Cattlemen's Association.

Persons Testifying (General Government Appropriations & Oversight): Jack Field, Washington Cattlemen's Association; Tom Davis, Washington Farm Bureau; and Dave Klare; Department of Fish and Wildlife.

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

Persons Signed In To Testify But Not Testifying (General Government Appropriations & Oversight): None.