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**SUBSTITUTE SENATE BILL 5784**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Van De Wege, Muzzall, Mullet, Nobles, Wagoner, and Warnick; by request of Department of Fish and Wildlife)

READ FIRST TIME 01/19/24.

1 AN ACT Relating to deer and elk damage to commercial crops;  
2 amending RCW 77.36.080, 77.36.100, and 77.36.130; adding a new  
3 section to chapter 77.36 RCW; creating a new section; and providing  
4 an expiration date.

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

6 **Sec. 1.** RCW 77.36.080 and 2009 c 333 s 60 are each amended to  
7 read as follows:

8 (1) Unless the legislature declares an emergency under this  
9 section, the department may pay no more than (~~thirty thousand~~  
10 ~~dollars~~) \$300,000 per fiscal year from the general fund for claims  
11 and assessment costs for damage to commercial crops caused by wild  
12 deer or elk submitted under RCW 77.36.100.

13 (2)(a) The legislature may declare an emergency if weather, fire,  
14 or other natural events result in deer or elk causing excessive  
15 damage to commercial crops.

16 (b) After an emergency declaration, the department may pay as  
17 much as may be subsequently appropriated, in addition to the funds  
18 authorized under subsection (1) of this section, for claims and  
19 assessment costs under RCW 77.36.100. Such money shall be used to pay  
20 wildlife interaction claims only if the claim meets the conditions of

1 RCW 77.36.100 and the department has expended all funds authorized  
2 under RCW 77.36.070 or subsection (1) of this section.

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

5 (1)(a) Except as limited by RCW 77.36.070, 77.36.080, 77.36.170,  
6 and 77.36.180, the department shall offer to distribute money  
7 appropriated to pay claims to the owner of commercial crops for  
8 damage caused by wild deer or elk or to the owners of livestock that  
9 has been killed by bears, wolves, or cougars, or injured by bears,  
10 wolves, or cougars to such a degree that the market value of the  
11 livestock has been diminished. Payments for claims for damage to  
12 livestock are not subject to the limitations of RCW 77.36.070 and  
13 77.36.080, but may not, except as provided in RCW 77.36.170 and  
14 77.36.180, exceed the total amount specifically appropriated  
15 therefor.

16 (b) Owners of commercial crops or livestock are only eligible for  
17 a claim under this subsection if:

18 (i) The commercial crop owner satisfies the definition of  
19 "eligible farmer" in RCW 82.08.855;

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

21 (iii) The damage caused to the commercial crop or livestock  
22 satisfies the criteria for damage established by the commission under  
23 (c) of this subsection.

24 (c) The commission shall adopt and maintain by rule criteria that  
25 clarifies the damage to commercial crops and livestock qualifying for  
26 compensation under this subsection. An owner of a commercial crop or  
27 livestock must satisfy the criteria prior to receiving compensation  
28 under this subsection. The criteria for damage adopted under this  
29 subsection must include, but not be limited to, a required minimum  
30 economic loss to the owner of the commercial crop or livestock, which  
31 may not be set at a value of less than (~~five hundred dollars~~) \$500.

32 (2)(a) Subject to the availability of nonstate funds, nonstate  
33 resources other than cash, or amounts appropriated for this specific  
34 purpose, the department may offer to provide compensation to offset  
35 wildlife interactions to a person who applies to the department for  
36 compensation for damage to property other than commercial crops or  
37 livestock that is the result of a mammalian or avian species of  
38 wildlife on a case-specific basis if the conditions of RCW 77.36.110

1 have been satisfied and if the damage satisfies the criteria for  
2 damage established by the commission under (b) of this subsection.

3 (b) The commission shall adopt and maintain by rule criteria for  
4 damage to property other than a commercial crop or livestock that is  
5 damaged by wildlife and may be eligible for compensation under this  
6 subsection, including criteria for filing a claim for compensation  
7 under this subsection.

8 (3) (a) To prevent or offset wildlife interactions, the department  
9 may offer materials or services to a person who applies to the  
10 department for assistance in providing mitigating actions designed to  
11 reduce wildlife interactions if the actions are designed to address  
12 damage that satisfies the criteria for damage established by the  
13 commission under this section.

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

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

21 ~~((a))~~ (i) Is denied; or

22 ~~((b))~~ (ii) Is disputed by the owner and the owner disagrees  
23 with the amount of compensation determined by the department.

24 (b) An appeal of a decision of the department addressing deer or  
25 elk damage to commercial crops is limited to \$30,000.

26 (5) The commission shall adopt rules setting limits and  
27 conditions for the department's expenditures on claims and  
28 assessments for commercial crops, livestock, other property, and  
29 mitigating actions. Claims awarded after the effective date of this  
30 section, that are unpaid due to being in excess of available funds in  
31 the current fiscal year, are eligible for payment in the next state  
32 fiscal year. If additional funds are not provided by the legislature  
33 in the subsequent fiscal year, then no further payment may be made on  
34 the claim. Claims submitted during a fiscal year will be prioritized  
35 for payment based upon the highest percentage of loss, calculated by  
36 comparing agreed-upon or awarded commercial crop damages to the gross  
37 sales or harvested value of commercial crops for the previous tax  
38 year.

1       **Sec. 3.** 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) ~~((Ten thousand dollars))~~ \$30,000.

15       (2) ~~((The department may offer to pay a claim for an amount in  
16 excess of ten thousand dollars to the owners of commercial crops or  
17 livestock filing a claim under RCW 77.36.100 only if the outcome of  
18 an appeal filed by the claimant under RCW 77.36.100 determines a  
19 payment higher than ten thousand dollars.~~

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

23       ~~((4))~~ (3) The burden of proving all property damage, including  
24 damage to commercial crops and livestock, belongs to the claimant.

25       NEW SECTION.   **Sec. 4.** By December 1, 2024, the department of  
26 fish and wildlife shall review crop and livestock wildlife damage  
27 programs in other states and submit to the legislature a list of  
28 recommendations for changes to Washington statutes.

29       NEW SECTION.   **Sec. 5.** A new section is added to chapter 77.36  
30 RCW to read as follows:

31       (1) The department shall develop a three-year pilot program to  
32 collar elk within herds nearest agricultural lands within the  
33 department's south central management region. The pilot program must  
34 include elk herds that cause year-round damage or seasonal crop  
35 damage. The collaring of elk must include a data sharing agreement  
36 between the department, a technology company, and farmers to provide  
37 the farmers with knowledge of when elk are in the area or nearing  
38 private property when damage may occur to their crops. The intent of

1 the pilot project is to help farmers more efficiently deploy hazing  
2 techniques in an effort to prevent crop, fence, and property damage  
3 from elk.

4 (2) The department must report back to the appropriate committees  
5 of the legislature by December 1, 2027, regarding the pilot program  
6 created in this section.

7 (3) This section expires July 1, 2028.

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