
SUBSTITUTE HOUSE BILL 1875

State of Washington

66th Legislature

2019 Regular Session

By House Rural Development, Agriculture, & Natural Resources
(originally sponsored by Representatives Eslick and Dent)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to wildlife damage to agricultural crops;
2 amending RCW 77.36.070, 77.36.100, and 77.36.130; reenacting and
3 amending RCW 77.36.010; creating a new section; and repealing RCW
4 77.36.080.

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" includes a horticultural product,
11 agricultural product, or commercial agricultural crop, including the
12 growing or harvested product. For the purposes of this chapter, all
13 parts of horticultural trees are considered an agricultural crop and
14 are 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~~) general fund for claims
18 and assessment costs for damage to (~~commercial~~) agricultural crops
19 and other property caused by wild deer or elk submitted under RCW
20 77.36.100.

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

23 (1)(a) Except as limited by RCW 77.36.070, (~~77.36.080,~~)
24 77.36.170, and 77.36.180, the department shall offer to distribute
25 money appropriated to pay claims to the owner of (~~commercial~~)
26 agricultural crops for damage caused by (~~wild~~) deer or elk or to
27 the owners of livestock that has been killed by bears, wolves, or
28 cougars, or injured by bears, wolves, or cougars to such a degree
29 that the market value of the livestock has been diminished, or to the
30 owner of other property that has been damaged by deer or elk.
31 Payments for claims for damage to livestock are not subject to the
32 limitations of RCW 77.36.070 (~~and 77.36.080~~), but may not, except
33 as provided in RCW 77.36.170 and 77.36.180, exceed the total amount
34 specifically appropriated therefor. "Other property" eligible for
35 compensation under this subsection is limited to irrigation
36 equipment, fencing, and managed pasture. "Managed pasture" means
37 pasture grown using common agricultural methods including one or more
38 of the following: Seeding, planting, fertilizing, or irrigating.

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

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

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

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

10 (c) The commission shall adopt and maintain by rule criteria that
11 clarifies the damage to ~~((commercial))~~ agricultural crops ~~((and))~~,
12 livestock, and other property qualifying for compensation under this
13 subsection. An owner of ~~((a-commercial))~~ an agricultural crop ~~((or))~~,
14 livestock, and other property must satisfy the criteria prior to
15 receiving compensation under this subsection. The criteria for damage
16 adopted under this subsection must include, but not be limited to, a
17 required minimum economic loss to the owner of the ~~((commercial))~~
18 agricultural crop ~~((or))~~, livestock, or other property, which may not
19 be set at a value of less than ~~((five hundred dollars))~~ one thousand
20 dollars for damage to agricultural crops or other property by deer or
21 elk or less than five hundred dollars for damage to livestock caused
22 by bears, wolves, or cougars.

23 (2)(a) Subject to the availability of nonstate funds, nonstate
24 resources other than cash, or amounts appropriated for this specific
25 purpose, the department may offer to provide compensation to offset
26 wildlife interactions to a person who applies to the department for
27 compensation for damage to property other than ~~((commercial))~~
28 agricultural crops or livestock that is the result of a mammalian or
29 avian species of wildlife on a case-specific basis if the conditions
30 of RCW 77.36.110 have been satisfied and if the damage satisfies the
31 criteria for damage established by the commission under (b) of this
32 subsection.

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

38 (3)(a) To prevent or offset wildlife interactions, the department
39 may offer materials or services to a person who applies to the
40 department for assistance in providing mitigating actions designed to

1 reduce wildlife interactions if the actions are designed to address
2 damage that satisfies the criteria for damage established by the
3 commission under this section.

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

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

11 (a) Is denied; or

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

14 (5) The commission shall adopt rules setting limits and
15 conditions for the department's expenditures on claims and
16 assessments for (~~commercial~~) agricultural crops, livestock, other
17 property, and mitigating actions. The charge for the assessment fee
18 must be paid by the state.

19 **Sec. 4.** RCW 77.36.130 and 2013 c 329 s 5 are each amended to
20 read as follows:

21 (1) Except as otherwise provided in this section and as limited
22 by RCW 77.36.100, 77.36.070, (~~77.36.080,~~) 77.36.170, and 77.36.180,
23 the cash compensation portion of each claim by the department under
24 this chapter is limited to the lesser of:

25 (a) The value of the damage to the property by wildlife, reduced
26 by the amount of compensation provided to the claimant by any
27 nonprofit organizations that provide compensation to private property
28 owners due to financial losses caused by wildlife interactions. The
29 value of killed or injured livestock may be no more than the market
30 value of the lost livestock subject to the conditions and criteria
31 established by rule of the commission; (~~or~~)

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

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

36 (2) The department may offer to pay a claim for an amount in
37 excess of (~~ten thousand dollars~~) the maximum amounts described in
38 subsection (1)(b) of this section to the owners of (~~commercial~~)
39 agricultural crops or livestock filing a claim under RCW 77.36.100

1 only if the outcome of an appeal filed by the claimant under RCW
2 77.36.100 determines a payment higher than (~~ten thousand dollars~~)
3 the maximum amounts described in subsection (1)(b) of this section.

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

7 (4) The burden of proving all property damage, including damage
8 to (~~commercial~~) agricultural crops and livestock, belongs to the
9 claimant.

10 NEW SECTION. Sec. 5. This act applies to claims arising on or
11 after September 1, 2019.

12 NEW SECTION. Sec. 6. RCW 77.36.080 (Limit on total claims from
13 general fund per fiscal year—Emergency exceptions) and 2009 c 333 s
14 60, 1996 c 54 s 9, & (2001 c 274 s 3 expired June 30, 2004) are each
15 repealed.

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