

SHB 2452 - S AMD
By Senator

1 On page 5, after line 30, insert the following:

2 "Sec. 7. RCW 77.36.005 and 1996 c 54 s 1 are each amended to read
3 as follows:

4 The legislature finds that:

5 (1) As the number of people in the state grows, wildlife management
6 techniques change, and wildlife habitat is altered, people will
7 encounter wildlife more frequently. As a result, conflicts between
8 humans and wildlife will also increase. Wildlife is a public resource
9 of significant value to the people of the state and the responsibility
10 to minimize and resolve these conflicts is shared by all citizens of
11 the state.

12 (2) In particular, the state recognizes the importance of
13 commercial agricultural and horticultural crop production, the state's
14 commercial livestock industry, and the value of healthy ((~~deer and~~
15 ~~elk~~)) wildlife populations, which can damage ((~~such~~)) crops and
16 commercial livestock. The legislature further finds that damage
17 prevention is key to maintaining healthy ((~~deer and elk~~)) wildlife
18 populations, wildlife-related recreational opportunities, ((~~and~~))
19 commercially productive agricultural and horticultural crops, and a
20 thriving commercial livestock industry, and that the state,
21 participants in wildlife recreation, and private landowners and tenants
22 share the responsibility for damage prevention. Toward this end, the
23 legislature encourages landowners and tenants to contribute through
24 their land management practices to healthy wildlife populations and to
25 provide access for related recreation. It is in the best interests of
26 the state for the department ((~~of fish and wildlife~~)) to respond
27 quickly to wildlife damage complaints and to work with these landowners
28 and tenants to minimize and/or prevent damages and conflicts while
29 maintaining ((~~deer and elk~~)) wildlife populations for enjoyment by all
30 citizens of the state.

1 (3) A timely and simplified process for resolving claims for
2 damages caused by ~~((deer and elk))~~ wildlife for commercial agricultural
3 ~~((or))~~, horticultural, or commercial livestock products is beneficial
4 to the claimant and the state.

5 **Sec. 8.** RCW 77.36.010 and 1996 c 54 s 2 are each amended to read
6 as follows:

7 ~~((Unless otherwise specified,))~~ The ~~((following))~~ definitions in
8 this section apply throughout this chapter~~((+))~~ unless the context
9 clearly requires otherwise.

10 (1) "Commercial livestock" means cattle, sheep, and horses held or
11 raised by a person for sale, trade, or barter, and from which the
12 person derives an annual income from the sales of the animals in excess
13 of ten thousand dollars.

14 (2) "Crop" means a commercially raised horticultural and/or
15 agricultural product and includes growing or harvested product but does
16 not include livestock. For the purposes of this chapter all parts of
17 horticultural trees shall be considered a crop and shall be eligible
18 for claims.

19 ~~((+2))~~ (3) "Emergency" means an unforeseen circumstance beyond the
20 control of the landowner or tenant that presents a real and immediate
21 threat to crops, domestic animals, or fowl.

22 ~~((+3))~~ (4) "Immediate family member" means spouse, brother,
23 sister, grandparent, parent, child, or grandchild.

24 (5) "Predatory wildlife" means bears, wolves, and cougars.

25 **Sec. 9.** RCW 77.36.040 and 1996 c 54 s 5 are each amended to read
26 as follows:

27 (1)(a) Pursuant to this section, the director or the director's
28 designee may distribute money appropriated to pay claims for damages to
29 crops caused by wild deer or elk in an amount of up to ten thousand
30 dollars per claim. Damages payable under this section are limited to
31 the value of such commercially raised horticultural or agricultural
32 crops, whether growing or harvested, and shall be paid only to the
33 owner of the crop at the time of damage, without assignment. Damages
34 shall not include damage to other real or personal property including
35 other vegetation or animals, damages caused by animals other than wild

1 deer or elk, lost profits, consequential damages, or any other damages
2 whatsoever. ((These damages))

3 (b) Pursuant to this section, the director or the director's
4 designee may distribute money appropriated to reimburse the owner of
5 commercial livestock that has been killed by predatory wildlife, or
6 injured by predatory wildlife to such a degree that the market value of
7 the commercial livestock has been diminished, if during the current
8 fiscal biennium the department has received appropriations from either
9 the state wildlife account or the general fund above the amounts
10 specified in RCW 77.36.070 and 77.36.080 for the reimbursement of
11 damage to commercial livestock. Each individual animal represents one
12 claim, and each claim must be paid the fair market value of the killed
13 or injured animal up to the following values: Two hundred dollars for
14 sheep, one thousand five hundred dollars for cattle, and one thousand
15 five hundred dollars for horses.

16 (c) Damage claim payments under this section shall comprise the
17 exclusive remedy for claims against the state for damages caused by
18 wildlife.

19 (2) The director may adopt rules for the form of affidavits or
20 proof to be provided in claims under this section(~~(. The director may~~
21 ~~adopt rules))~~ and to specify the time and method of assessing damage.
22 The burden of proving damages shall be on the claimant. Payment of
23 claims shall remain subject to the other conditions and limits of this
24 chapter.

25 (3) If funds are limited, payments of claims shall be prioritized
26 in the order that the claims are received. No claim may be processed
27 if:

28 (a) The claimant did not notify the department within ten days of
29 discovery of ((the)) damage to crops or within seventy-two hours of the
30 discovery of a predatory wildlife attack on commercial livestock. If
31 the claimant intends to take steps that prevent determination of
32 damages, such as harvest of damaged crops, then the claimant shall
33 notify the department as soon as reasonably possible after discovery so
34 that the department has an opportunity to document the damage and take
35 steps to prevent additional damage; or

36 (b) The claimant did not present a complete, written claim within
37 sixty days after the damage, or the last day of damaging if the damage
38 was of a continuing nature.

1 (4)(a) The director or the director's designee may examine and
2 assess the damage upon notice.

3 (b) The department and claimant may agree to an assessment of
4 damages by a neutral person or persons knowledgeable in horticultural
5 ~~((or))~~, agricultural, or commercial livestock practices. The
6 department and claimant shall share equally in the costs of such third
7 party examination and assessment of damage.

8 (5) There shall be no payment for damages if:

9 (a) The crops are on lands leased from any public agency;

10 (b) The landowner or claimant failed to use or maintain applicable
11 damage prevention materials or methods furnished by the department, or
12 failed to comply with a wildlife damage prevention agreement under RCW
13 77.12.260;

14 (c) The director has expended all funds appropriated for payment of
15 such claims for the current fiscal year; ~~((or))~~

16 (d) The damages are covered by insurance. The claimant shall
17 notify the department at the time of claim of insurance coverage in the
18 manner required by the director. Insurance coverage shall cover all
19 damages prior to any payment under this chapter; or

20 (e) The claimant has received compensation for the damages or is
21 eligible for compensation from a nongovernmental organization. The
22 department must provide the claimant with information about applicable
23 compensation programs offered by nongovernmental organizations.
24 However, the claimant is eligible for payment of damages under this
25 section if the claimant is denied compensation by all applicable
26 nongovernmental organizations.

27 (6) When there is a determination of claim by the director or the
28 director's designee pursuant to this section, the claimant has sixty
29 days to accept the claim or it is deemed rejected.

30 (7) The limitation on claim payments established in subsection
31 (5)(a) of this section is limited only to crop damage and does not
32 apply to commercial livestock damaged or killed on land leased by a
33 public agency.

34 **Sec. 10.** RCW 77.36.050 and 1996 c 54 s 6 are each amended to read
35 as follows:

36 If the claimant does not accept the director's decision under RCW
37 77.36.040, or if the claim exceeds ten thousand dollars, then the claim

1 may be filed with the (~~office of~~) risk management division of the
2 office of financial management under RCW 4.92.040(5). The (~~office~~
3 ~~of~~) risk management division shall recommend to the legislature
4 whether the claim should be paid. If the legislature approves the
5 claim, the director shall pay it from moneys appropriated for that
6 purpose. No funds shall be expended for damages under this chapter
7 except as appropriated by the legislature.

8 **Sec. 11.** RCW 77.36.060 and 1996 c 54 s 7 are each amended to read
9 as follows:

10 The director may refuse to consider and pay claims (~~of~~) for
11 damage to crops for persons who have posted the property against
12 hunting or who have not allowed public hunting during the season prior
13 to the occurrence of the damages.

14 **Sec. 12.** RCW 77.36.070 and 1996 c 54 s 8 are each amended to read
15 as follows:

16 (1) The department may pay no more than one hundred twenty thousand
17 dollars per fiscal year from the state wildlife (~~fund~~) account
18 created in RCW 77.12.170 for crop claims under RCW 77.36.040 and for
19 assessment costs and compromise of claims. Such money shall be used to
20 pay animal damage claims only if the claim meets the conditions of RCW
21 77.36.040 and the damage occurred in a place where the opportunity to
22 hunt was not restricted or prohibited by a county, municipality, or
23 other public entity during the season prior to the occurrence of the
24 damage.

25 (2) The department may pay no more than the amount indicated for
26 predatory wildlife damage in the current fiscal biennium's
27 appropriation to the department from the state wildlife account for
28 claims under RCW 77.36.040 and for assessment costs and compromise of
29 predatory wildlife claims. The money must be used to pay animal damage
30 claims only if the claim meets the conditions of RCW 77.36.040.

31 **Sec. 13.** RCW 77.36.080 and 1996 c 54 s 9 are each amended to read
32 as follows:

33 (1) The department may pay no more than thirty thousand dollars per
34 fiscal year from the general fund for claims under RCW 77.36.040 and
35 for assessment costs and compromise of crop claims unless the

1 legislature declares an emergency. Such money shall be used to pay
2 animal damage claims only if the claim meets the conditions of RCW
3 77.36.040 and the damage occurred in a place where the opportunity to
4 hunt was restricted or prohibited by a county, municipality, or other
5 public entity during the season prior to the occurrence of the damage.

6 (2) The department may pay no more than the amount indicated for
7 predatory wildlife damage in the current fiscal biennium's
8 appropriation to the department from the general fund for claims under
9 RCW 77.36.040 and for assessment costs and compromise of predatory
10 wildlife claims. The money must be used to pay animal damage claims
11 only if the claim meets the conditions of RCW 77.36.040.

12 (3) The legislature may declare an emergency, defined for the
13 purposes of this section as any happening arising from weather, fire,
14 or other natural conditions(~~(, or fire)~~) that causes unusually great
15 damage to (~~commercially raised~~) commercial livestock by predatory
16 wildlife or to agricultural or horticultural crops by deer or elk. In
17 an emergency, the department may pay as much as may be subsequently
18 appropriated, in addition to the funds authorized under subsection (1)
19 of this section, for claims under RCW 77.36.040 and for assessment and
20 compromise of claims. Such money shall be used to pay animal damage
21 claims only if the claim meets the conditions of RCW 77.36.040 and the
22 department has expended all funds authorized under RCW 77.36.070 or
23 subsection (1) of this section.

24 NEW SECTION. Sec. 14. A new section is added to chapter 77.36 RCW
25 to read as follows:

26 The department must obtain specific statutory authority prior to
27 implementing or approving any conservation, management, recovery, or
28 other plan that allows for the movement of a wolf within the state by
29 any person unless the movement is for the immediate preservation of
30 life or property."

1 On page 1, line 1 of the title, after "rehabilitation;" strike the
2 remainder of the title and insert "amending RCW 77.12.467, 77.12.469,
3 90.56.110, 77.36.005, 77.36.010, 77.36.040, 77.36.050, 77.36.060,
4 77.36.070, and 77.36.080; adding a new section to chapter 77.12 RCW;
5 adding a new section to chapter 77.36 RCW; and creating new sections."

EFFECT: In addition to crop damage compensation, the department of fish and wildlife may distribute money to reimburse the owner of commercial livestock for certain livestock killed or injured by predatory wildlife, which includes bears, wolves, and cougars. Owners may file a claim for each animal killed or injured, with compensation based on the fair market value of the killed or injured animal, up to \$200 for sheep and \$1,500 for cattle and horses. Owners must notify the department of fish and wildlife of damage caused by predatory wildlife within 72 hours of discovering the attack. Owners cannot receive compensation for damages or be eligible for compensation for damages under this program if the owner has received compensation for damages or is eligible for compensation for damages from a nongovernmental organization. The funding limitations, exclusive remedy provisions, and other administrative functions of the crop damage compensation program also apply to claims for livestock loss. Reimbursement for livestock losses is only available in bienniums during which funding is specifically made available for livestock damage reimbursement.

The department of fish and wildlife must obtain statutory authority before implementing or approving any conservation and management plan or a recovery plan that allows for the movement of wolves within the state unless the movement is for the immediate preservation of life or property.

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