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**SUBSTITUTE HOUSE BILL 1399**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** House Agriculture & Natural Resources (originally sponsored by Representatives Dent, Blake, Irwin, Shea, Dye, Pettigrew, Buys, Koster, and Schmick)

AN ACT Relating to compensation for property damage caused by wild deer or elk; amending RCW 77.36.070, 77.36.080, 77.36.100, and 77.36.130; reenacting and amending RCW 77.36.010; and creating a new section.

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

**Sec.**  RCW 77.36.010 and 2013 c 329 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agricultural crop" means a horticultural or agricultural product, or commercial agricultural crop, including the growing or harvested product. For the purposes of this chapter all parts of horticultural trees shall be considered an agricultural crop and shall be eligible for claims.

(2) "Claim" means an application to the department for compensation under this chapter.

((~~(2) "Commercial crop" means a horticultural or agricultural product, including the growing or harvested product. For the purposes of this chapter all parts of horticultural trees shall be considered a commercial crop and shall be eligible for claims.~~))

(3) "Compensation" means a cash payment, materials, or service.

(4) "Damage" means economic losses caused by wildlife interactions.

(5) "Immediate family member" means spouse, state registered domestic partner, brother, sister, grandparent, parent, child, or grandchild.

(6) "Livestock" means cattle, sheep, and horses.

(7) "Owner" means a person who has a legal right to ((~~commercial~~)) agricultural crops, livestock, or other property that was damaged during a wildlife interaction.

(8) "Wildlife interaction" means the negative interaction and the resultant damage between wildlife and ((~~commercial~~)) agricultural crops, livestock, or other property.

**Sec.**  RCW 77.36.070 and 2009 c 333 s 59 are each amended to read as follows:

The department may pay no more than ((~~one~~)) two hundred ((~~twenty~~)) forty thousand dollars per fiscal year from the state wildlife account created in RCW 77.12.170 for claims and assessment costs for damage to ((~~commercial~~)) agricultural crops caused by wild deer or elk submitted under RCW 77.36.100.

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

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

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

(b) After an emergency declaration, the department may pay as much as may be subsequently appropriated, in addition to the funds authorized under subsection (1) of this section, for claims and assessment costs under RCW 77.36.100. Such money shall be used to pay wildlife interaction claims only if the claim meets the conditions of RCW 77.36.100 and the department has expended all funds authorized under RCW 77.36.070 or subsection (1) of this section.

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

(1)(a) Except as limited by RCW 77.36.070, 77.36.080, 77.36.170, and 77.36.180, the department shall offer to distribute money appropriated to pay claims to the owner of ((~~commercial~~)) agricultural crops for damage caused by wild deer or elk or to the owners of livestock that has been killed by bears, wolves, or cougars, or injured by bears, wolves, or cougars to such a degree that the market value of the livestock has been diminished, or to the owner of other property that has been damaged by wild deer or elk. Payments for claims for damage to livestock are not subject to the limitations of RCW 77.36.070 and 77.36.080, but may not, except as provided in RCW 77.36.170 and 77.36.180, exceed the total amount specifically appropriated therefor. "Other property" eligible for compensation under this subsection includes, but is not limited to, irrigation equipment and fencing.

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

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

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

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

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

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

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

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

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

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

(a) Is denied; or

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

(5) The commission shall adopt rules setting limits and conditions for the department's expenditures on claims and assessments for ((~~commercial~~)) agricultural crops, livestock, other property, and mitigating actions. The maximum amount that the department is authorized to charge for a damage assessment in connection with a claim filed under this chapter shall be limited to the actual costs incurred by the department to conduct the assessment, or two percent of the compensation awarded to the owner, whichever is less.

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

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

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

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

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

(2) The department may offer to pay a claim for an amount in excess of ((~~ten thousand dollars~~)) the maximum amounts described in subsection (1)(b) of this section to the owners of ((~~commercial~~)) agricultural crops or livestock filing a claim under RCW 77.36.100 only if the outcome of an appeal filed by the claimant under RCW 77.36.100 determines a payment higher than ((~~ten thousand dollars~~)) the maximum amounts described in subsection (1)(b) of this section.

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

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

NEW SECTION. **Sec.**  This act applies to claims arising on or after September 1, 2017.

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