
HOUSE BILL 1399

State of Washington

65th Legislature

2017 Regular Session

By Representatives Dent, Blake, Irwin, Shea, Dye, Pettigrew, Buys, Koster, and Schmick

Read first time 01/19/17. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to compensation for property damage caused by
2 wild deer or elk; amending RCW 77.36.070, 77.36.080, 77.36.100, and
3 77.36.130; reenacting and amending RCW 77.36.010; and creating a new
4 section.

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

20 **Sec. 3.** RCW 77.36.080 and 2009 c 333 s 60 are each amended to
21 read as follows:

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

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

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

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

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

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

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

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

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

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

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

1 of RCW 77.36.110 have been satisfied and if the damage satisfies the
2 criteria for damage established by the commission under (b) of this
3 subsection.

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

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

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

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

22 (a) Is denied; or

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

25 (5) The commission shall adopt rules setting limits and
26 conditions for the department's expenditures on claims and
27 assessments for (~~commercial~~) agricultural crops, livestock, other
28 property, and mitigating actions.

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

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

35 (a) The value of the damage to the property by wildlife, reduced
36 by the amount of compensation provided to the claimant by any
37 nonprofit organizations that provide compensation to private property
38 owners due to financial losses caused by wildlife interactions. The
39 value of killed or injured livestock may be no more than the market

1 value of the lost livestock subject to the conditions and criteria
2 established by rule of the commission; (~~or~~)

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

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

7 (2) The department may offer to pay a claim for an amount in
8 excess of (~~ten thousand dollars~~) the maximum amounts described in
9 subsection (1)(b) of this section to the owners of (~~commercial~~)
10 agricultural crops or livestock filing a claim under RCW 77.36.100
11 only if the outcome of an appeal filed by the claimant under RCW
12 77.36.100 determines a payment higher than (~~ten thousand dollars~~)
13 the maximum amounts described in subsection (1)(b) of this section.

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

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

20 NEW SECTION. Sec. 6. This act applies to claims arising on or
21 after September 1, 2017.

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