

SENATE BILL REPORT

SB 5784

As Reported by Senate Committee On:
Agriculture, Water, Natural Resources & Parks, January 18, 2024
Ways & Means, February 5, 2024

Title: An act relating to deer and elk damage to commercial crops.

Brief Description: Concerning deer and elk damage to commercial crops.

Sponsors: Senators Van De Wege, Muzzall, Mullet, Nobles, Wagoner and Warnick; by request of Department of Fish and Wildlife.

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/11/24, 1/18/24 [DPS-WM].
Ways & Means: 2/01/24, 2/05/24 [DP2S, DNP, w/oRec].

Brief Summary of Second Substitute Bill

- Increases the annual compensation limit for commercial crop damage claims caused by deer or elk paid from the State General Fund from \$30,000 to \$300,000.
- Establishes a limit of \$30,000 for an appeal of a decision of the Washington Department of Fish and Wildlife (WDFW) addressing deer or elk damage to commercial crops.
- Increases the limit for an individual damage claim from \$10,000 to \$30,000.
- Creates a three-year pilot program at WDFW to collar and monitor elk in South Central Washington in an effort to prevent crop and property damage.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES &

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

PARKS

Majority Report: That Substitute Senate Bill No. 5784 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Muzzall, Ranking Member; Liias, Shewmake, Short, Stanford, Wagoner and Warnick.

Staff: Jeff Olsen (786-7428)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5784 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Robinson, Chair; Mullet, Vice Chair, Capital; Nguyen, Vice Chair, Operating; Wilson, L., Ranking Member, Operating; Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Warnick, Assistant Ranking Member, Capital; Billig, Boehnke, Braun, Conway, Hunt, Keiser, Muzzall, Pedersen, Randall, Saldaña, Torres, Van De Wege, Wagoner and Wellman.

Minority Report: Do not pass.

Signed by Senator Hasegawa.

Minority Report: That it be referred without recommendation.

Signed by Senator Dhingra.

Staff: Jed Herman (786-7346)

Background: The Washington Department of Fish and Wildlife (WDFW) works with landowners and tenants suffering game damage in order to control the damage without killing the animals when practical and to increase the harvest of damage-causing animals in hunting seasons. The Fish and Wildlife Commission may authorize special hunts to reduce damage from wildlife if there are recurring complaints.

The WDFW may compensate eligible farmers for damage to their commercial crops from deer or elk. The WDFW is restricted to pay no more than \$120,000 per fiscal year from the wildlife fund and no more than \$30,000 per fiscal year from the general fund. The Legislature may declare an emergency under certain circumstances and may appropriate additional monies to the WDFW for damage claims. The maximum payment amount for a claim is \$10,000, except in a case where the outcome of an appeal filed by a claimant determines a higher payment.

Summary of Bill (Second Substitute): The annual compensation limit for commercial crop damage claims caused by deer or elk paid from the State General Fund is increased

from \$30,000 to \$300,000. The maximum payment amount for a claim is increased from \$10,000 to \$30,000. An appeal of a decision of WDFW for deer or elk damage to commercial crops is limited to \$30,000.

A claim awarded, but not paid due to being in excess of funds available in the current fiscal year, is eligible for payment in the next fiscal year. If additional funds are not provided by the Legislature in the next fiscal year, then no further payment may be made on the claim. Payment of a claim is conditional on the availability of specific funding and is not a guarantee of reimbursement. Claims submitted during a fiscal year will be prioritized for payment based upon the highest percentage of loss, calculated by comparing agreed-upon or awarded commercial crop damages to the gross sales or harvested value of commercial crops for the previous tax year.

The WDFW must develop a three-year pilot program to collar elk within herds nearest agricultural lands within the WDFW's South Central Management Region. The pilot program must include elk herds that cause year-round damage or seasonal crop damage. The collaring of elk must include a data sharing agreement between the WDFW, a technology company, and farmers to provide the farmers with knowledge of when elk are in the area or nearing private property when damage may occur to their crops. The intent of the pilot project is to help farmers more efficiently deploy hazing techniques in an effort to prevent crop, fence, and property damage from elk. The WDFW must report back to the appropriate committees of the Legislature by December 1, 2027, regarding the pilot program.

The WDFW must review crop and livestock wildlife damage programs in other states and submit recommendations to the Legislature for any changes to Washington statutes by December 1, 2024.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Adds that legislative intent has never intended to assume responsibility for deer and elk crop damage claims in excess of amounts appropriated for that purpose.
- Specifies additional funding to address claims in excess of amounts appropriated.
- Clarifies that claims awarded or agreed-upon that are unpaid due to being in excess of funds available in the current fiscal year are eligible for payment in the next fiscal year.
- Provides that if additional funds are not appropriated in the subsequent fiscal year for unpaid claims, then no further payment may be made.
- Clarifies that payment of a claim is conditional on the availability of specific funding and is not a guarantee of reimbursement.

EFFECT OF CHANGES MADE BY AGRICULTURE, WATER, NATURAL RESOURCES & PARKS COMMITTEE (First Substitute):

- Prioritizes payment of commercial crop damage claims based upon the highest percent of loss compared to gross sales or harvest value of commercial crops for the previous tax year.
- Establishes a three-year pilot program at WDFW to collar and monitor elk in the south central management region in Washington in an effort to prevent crop and property damage.
- Requires DFW to report to the Legislature regarding the pilot program by December 1, 2027.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Agriculture, Water, Natural Resources & Parks): *The committee recommended a different version of the bill than what was heard.* PRO: The bill will only impact claims prospectively, and provides an incentive for landowners to work with the WDFW to conduct mitigation to get crop damage payments. While the increase in available funds is helpful, the bill still needs more work. Elk can cause significant damage, and more needs to be done to find solutions to mitigate the problem. Focusing on mitigating damage is a better solution than increasing funds for crop damage.

Persons Testifying (Agriculture, Water, Natural Resources & Parks): PRO: Senator Kevin Van De Wege, Prime Sponsor; Tom McBride, WDFW; Mark Charlton, Charlton Farms, Washington Farm Bureau.

Persons Signed In To Testify But Not Testifying (Agriculture, Water, Natural Resources & Parks): No one.

Staff Summary of Public Testimony on Second Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: In a look through the history of the statutes associated with this policy, the cap on claim amounts was removed in 2009. We are asking to balance out the protection of native wildlife and the protection of agricultural crops. We need more protection and compensation for crop damage.

Persons Testifying (Ways & Means): PRO: Tom McBride, WDFW; Caleb Gwerder, Washington Farm Bureau.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.