
SUBSTITUTE HOUSE BILL 2394

State of Washington

58th Legislature

2004 Regular Session

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Newhouse, Linville, Clements, Schoesler, McMorris, Orcutt, Holmquist, Delvin, Hinkle and Grant)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to wildlife crop damage; amending RCW 77.36.080,
2 77.36.040, and 28B.30.150; repealing 2001 c 274 s 5 (uncodified); and
3 providing an effective date.

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

5 **Sec. 1.** RCW 77.36.080 and 2001 c 274 s 3 are each amended to read
6 as follows:

7 (1) The department may pay no more than thirty thousand dollars per
8 fiscal year from the general fund for claims under RCW 77.36.040 and
9 for assessment costs and compromise of claims unless the legislature
10 declares an emergency. Such money shall be used to pay animal damage
11 claims only if the claim meets the conditions of RCW 77.36.040 and the
12 damage occurred in a place where the opportunity to hunt was restricted
13 or prohibited by a county, municipality, or other public entity during
14 the season prior to the occurrence of the damage.

15 (2) The legislature may declare an emergency, defined for the
16 purposes of this section as any happening arising from weather, other
17 natural conditions, or fire that causes unusually great damage by deer
18 or elk to commercially raised agricultural or horticultural crops, or
19 rangeland forage on privately owned land used for grazing or browsing

1 of domestic livestock for at least a portion of the year. In an
2 emergency, the department may pay as much as may be subsequently
3 appropriated, in addition to the funds authorized under subsection (1)
4 of this section, for claims under RCW 77.36.040 and for assessment and
5 compromise of claims. Such money shall be used to pay animal damage
6 claims only if the claim meets the conditions of RCW 77.36.040 and the
7 department has expended all funds authorized under RCW 77.36.070 or
8 subsection (1) of this section.

9 (3) Of the total funds available each fiscal year under subsection
10 (1) of this section and RCW 77.36.070, no more than one-third of this
11 total may be used to pay animal damage claims for rangeland forage on
12 privately owned land.

13 (4) Of the total funds available each fiscal year under subsection
14 (1) of this section and RCW 77.36.070 that are estimated by May 1st of
15 each year to remain unspent at the end of the fiscal year, fifty
16 percent shall be utilized as matching grants to enhance habitat for
17 deer and elk on public lands prior to the expiration of the fiscal
18 year.

19 **Sec. 2.** RCW 77.36.040 and 1996 c 54 s 5 are each amended to read
20 as follows:

21 (1) Pursuant to this section, the director or the director's
22 designee may distribute money appropriated to pay claims for damages to
23 crops caused by wild deer or elk in an amount of up to ten thousand
24 dollars per claim. Damages payable under this section are limited to
25 the value of such commercially raised horticultural or agricultural
26 crops, whether growing or harvested, and shall be paid only to the
27 owner of the crop at the time of damage, without assignment. Damages
28 shall not include damage to other real or personal property including
29 other vegetation or animals, damages caused by animals other than wild
30 deer or elk, lost profits, consequential damages, or any other damages
31 whatsoever. These damages shall comprise the exclusive remedy for
32 claims against the state for damages caused by wildlife.

33 (2) The director may adopt rules for the form of affidavits or
34 proof to be provided in claims under this section. The director may
35 adopt rules to specify the time and method of assessing damage. The
36 burden of proving damages shall be on the claimant. Payment of claims

1 shall remain subject to the other conditions and limits of this
2 chapter.

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

6 (a) The claimant did not notify the department within ten days of
7 discovery of the damage. If the claimant intends to take steps that
8 prevent determination of damages, such as harvest of damaged crops,
9 then the claimant shall notify the department as soon as reasonably
10 possible after discovery so that the department has an opportunity to
11 document the damage and take steps to prevent additional damage; or

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

15 (4)(a) For damage to a crop other than rangeland, the ((director or
16 the director's designee)) department may examine and assess the damage
17 upon notice.

18 (b) For damage to rangeland, the department must work with a local
19 rangeland management expert assigned by Washington State University to
20 examine and appraise the damage upon notice to the landowner. The
21 rangeland management expert shall recommend an assessment of the damage
22 to the department. However, that recommendation is not binding on the
23 department.

24 (c) The department and claimant may agree to an assessment of
25 damages by a neutral person or persons knowledgeable in horticultural
26 or agricultural practices. The department and claimant shall share
27 equally in the costs of such third party examination and assessment of
28 damage.

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

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

31 (b) The landowner or claimant failed to use or maintain applicable
32 damage prevention materials or methods furnished by the department, or
33 failed to comply with a wildlife damage prevention agreement under RCW
34 77.12.260;

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

37 (d) The damages are covered by insurance. The claimant shall

1 notify the department at the time of claim of insurance coverage in the
2 manner required by the director. Insurance coverage shall cover all
3 damages prior to any payment under this chapter.

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

7 **Sec. 3.** RCW 28B.30.150 and 1998 c 245 s 19 are each amended to
8 read as follows:

9 The regents of Washington State University, in addition to other
10 duties prescribed by law, shall:

11 (1) Have full control of the university and its property of various
12 kinds, except as otherwise provided by law.

13 (2) Employ the president of the university, his or her assistants,
14 members of the faculty, and employees of the university, who, except as
15 otherwise provided by law, shall hold their positions during the
16 pleasure of said board of regents.

17 (3) Establish entrance requirements for students seeking admission
18 to the university which meet or exceed the standards specified under
19 RCW 28B.80.350(2). Completion of examinations satisfactory to the
20 university may be a prerequisite for entrance by any applicant, at the
21 university's discretion. Evidence of completion of public high schools
22 and other educational institutions whose courses of study meet the
23 approval of the university may be acceptable for entrance.

24 (4) Establish such colleges, schools, or departments necessary to
25 carry out the purpose of the university and not otherwise proscribed by
26 law.

27 (5) Subject to the approval of the higher education coordinating
28 board pursuant to RCW 28B.80.340, offer new degree programs, offer off-
29 campus programs, participate in consortia or centers, contract for off-
30 campus educational programs, and purchase or lease major off-campus
31 facilities.

32 (6) With the assistance of the faculty of the university, prescribe
33 the courses of instruction in the various colleges, schools, and
34 departments of the institution and publish the necessary catalogues
35 thereof.

36 (7) Collect such information as the board deems desirable as to the

1 schemes of technical instruction adopted in other parts of the United
2 States and foreign countries.

3 (8) Provide for holding agricultural institutes including farm
4 marketing forums.

5 (9) Provide that instruction given in the university, as far as
6 practicable, be conveyed by means of laboratory work and provide in
7 connection with the university one or more physical, chemical, and
8 biological laboratories, and suitably furnish and equip the same.

9 (10) Provide training in military tactics for those students
10 electing to participate therein.

11 (11) Establish a department of elementary science and in connection
12 therewith provide instruction in elementary mathematics, including
13 elementary trigonometry, elementary mechanics, elementary and
14 mechanical drawing, and land surveying.

15 (12) Establish a department of agriculture and in connection
16 therewith provide instruction in physics with special application of
17 its principles to agriculture, chemistry with special application of
18 its principles to agriculture, morphology and physiology of plants with
19 special reference to common grown crops and fungus enemies, morphology
20 and physiology of the lower forms of animal life, with special
21 reference to insect pests, morphology and physiology of the higher
22 forms of animal life and in particular of the horse, cow, sheep, and
23 swine, agriculture with special reference to the breeding and feeding
24 of livestock and the best mode of cultivation of farm produce, and
25 mining and metallurgy, appointing demonstrators in each of these
26 subjects to superintend the equipment of a laboratory and to give
27 practical instruction therein.

28 (13) Establish agricultural experiment stations in connection with
29 the department of agriculture, including at least one in the western
30 portion of the state, and appoint the officers and prescribe
31 regulations for their management.

32 (14) Grant to students such certificates or degrees, as recommended
33 for such students by the faculty.

34 (15) Confer honorary degrees upon persons other than graduates of
35 the university in recognition of their learning or devotion to
36 literature, art, or science when recommended thereto by the faculty:
37 PROVIDED, That no degree shall ever be conferred in consideration of
38 the payment of money or the giving of property of whatsoever kind.

1 (16) Adopt plans and specifications for university buildings and
2 facilities or improvements thereto and employ skilled architects and
3 engineers to prepare such plans and specifications and supervise the
4 construction of buildings or facilities which the board is authorized
5 to erect, and fix the compensation for such services. The board shall
6 enter into contracts with one or more contractors for such suitable
7 buildings, facilities, or improvements as the available funds will
8 warrant, upon the most advantageous terms offered at a public
9 competitive letting, pursuant to public notice under rules established
10 by the board. The board shall require of all persons with whom they
11 contract for construction and improvements a good and sufficient bond
12 for the faithful performance of the work and full protection against
13 all liens.

14 (17) Except as otherwise provided by law, direct the disposition of
15 all money appropriated to or belonging to the state university.

16 (18) Receive and expend the money appropriated under the act of
17 congress approved May 8, 1914, entitled "An Act to provide for
18 cooperative agricultural extension work between the agricultural
19 colleges in the several States receiving the benefits of the Act of
20 Congress approved July 2, 1862, and Acts supplemental thereto and the
21 United States Department of Agriculture" and organize and conduct
22 agricultural extension work in connection with the state university in
23 accordance with the terms and conditions expressed in the acts of
24 congress.

25 (19) Except as otherwise provided by law, to enter into such
26 contracts as the regents deem essential to university purposes.

27 (20) Acquire by lease, gift, or otherwise, lands necessary to
28 further the work of the university or for experimental or
29 demonstrational purposes.

30 (21) Establish and maintain at least one agricultural experiment
31 station in an irrigation district to conduct investigational work upon
32 the principles and practices of irrigational agriculture including the
33 utilization of water and its relation to soil types, crops, climatic
34 conditions, ditch and drain construction, fertility investigations,
35 plant disease, insect pests, marketing, farm management, utilization of
36 fruit byproducts, and general development of agriculture under
37 irrigation conditions.

1 (22) Supervise and control the agricultural experiment station at
2 Puyallup.

3 (23) Establish and maintain at Wenatchee an agricultural experiment
4 substation for the purpose of conducting investigational work upon the
5 principles and practices of orchard culture, spraying, fertilization,
6 pollenization, new fruit varieties, fruit diseases and pests,
7 byproducts, marketing, management, and general horticultural problems.

8 (24) Accept such gifts, grants, conveyances, devises, and bequests,
9 whether real or personal property, in trust or otherwise, for the use
10 or benefit of the university, its colleges, schools, or departments;
11 and sell, lease or exchange, invest or expend the same or the proceeds,
12 rents, profits, and income thereof except as limited by the terms of
13 said gifts, grants, conveyances, bequests, and devises; and adopt
14 proper rules to govern and protect the receipt and expenditure of the
15 proceeds of all fees, and the proceeds, rents, profits, and income of
16 all gifts, grants, conveyances, bequests, and devises.

17 (25) Construct when the board so determines a new foundry and a
18 mining, physical, technological building, and fabrication shop at the
19 university, or add to the present foundry and other buildings, in order
20 that both instruction and research be expanded to include permanent
21 molding and die casting with a section for new fabricating techniques,
22 especially for light metals, including magnesium and aluminum; purchase
23 equipment for the shops and laboratories in mechanical, electrical, and
24 civil engineering; establish a pilot plant for the extraction of
25 alumina from native clays and other possible light metal research;
26 purchase equipment for a research laboratory for technological research
27 generally; and purchase equipment for research in electronics,
28 instrumentation, energy sources, plastics, food technology, mechanics
29 of materials, hydraulics, and similar fields.

30 (26) Designate either the cooperative extension department, or any
31 other university department when appropriate, as the lead department
32 within the university to implement the provisions of RCW
33 77.36.040(4)(b). The results of the final decision, any changes to
34 that decision through time, and contact information for the appropriate
35 department or staff should be communicated to the department of fish
36 and wildlife.

37 (27) Make and transmit to the governor and members of the

1 legislature upon request such reports as will be helpful in providing
2 for the institution.

3 NEW SECTION. **Sec. 4.** 2001 c 274 s 5 (uncodified) is repealed.

4 NEW SECTION. **Sec. 5.** This act takes effect June 30, 2004.

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