

---

HOUSE BILL 1875

---

State of Washington

66th Legislature

2019 Regular Session

By Representatives Eslick and Dent

Read first time 02/04/19. Referred to Committee on Rural Development, Agriculture, & Natural Resources.

1 AN ACT Relating to wildlife damage to agricultural crops;  
2 amending RCW 77.36.070, 77.36.080, 77.36.100, and 77.36.130;  
3 reenacting and amending RCW 77.36.010; and creating a new section.

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

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

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

9 (1) "Agricultural crop" includes a horticultural product,  
10 agricultural product, or commercial agricultural crop, including the  
11 growing or harvested product. For the purposes of this chapter, all  
12 parts of horticultural trees are considered an agricultural crop and  
13 are eligible for claims.

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

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

20 (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~~) general fund for claims  
18 and assessment costs for damage to (~~commercial~~) agricultural crops  
19 caused by wild 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  
7 the 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, or to the  
10 owner of other property that has been damaged by deer or elk.  
11 Payments for claims for damage to livestock are not subject to the  
12 limitations of RCW 77.36.070 and 77.36.080, but may not, except as  
13 provided in RCW 77.36.170 and 77.36.180, exceed the total amount  
14 specifically appropriated therefor. "Other property" eligible for  
15 compensation under this subsection includes irrigation equipment and  
16 managed pasture.

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

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

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

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

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

39       (2)(a) Subject to the availability of nonstate funds, nonstate  
40 resources other than cash, or amounts appropriated for this specific

1 purpose, the department may offer to provide compensation to offset  
2 wildlife interactions to a person who applies to the department for  
3 compensation for damage to property other than (~~commercial~~)  
4 agricultural crops or livestock that is the result of a mammalian or  
5 avian species of wildlife on a case-specific basis if the conditions  
6 of RCW 77.36.110 have been satisfied and if the damage satisfies the  
7 criteria for damage established by the commission under (b) of this  
8 subsection.

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

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

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

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

27 (a) Is denied; or

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

30 (5) The commission shall adopt rules setting limits and  
31 conditions for the department's expenditures on claims and  
32 assessments for (~~commercial~~) agricultural crops, livestock, other  
33 property, and mitigating actions. The charge for the assessment fee  
34 must be paid by the state.

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

37 (1) Except as otherwise provided in this section and as limited  
38 by RCW 77.36.100, 77.36.070, 77.36.080, 77.36.170, and 77.36.180, the

1 cash compensation portion of each claim by the department under this  
2 chapter is limited to the lesser of:

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

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

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

14 (2) The department may offer to pay a claim for an amount in  
15 excess of (~~ten thousand dollars~~) the maximum amounts described in  
16 subsection (1)(b) of this section to the owners of (~~commercial~~)  
17 agricultural crops or livestock filing a claim under RCW 77.36.100  
18 only if the outcome of an appeal filed by the claimant under RCW  
19 77.36.100 determines a payment higher than (~~ten thousand dollars~~)  
20 the maximum amounts described in subsection (1)(b) of this section.

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

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

27 NEW SECTION. Sec. 6. This act applies to claims arising on or  
28 after September 1, 2019.

--- END ---