CERTIFICATION OF ENROLLMENT

**SECOND SUBSTITUTE SENATE BILL 5784**

Chapter 264, Laws of 2024

(partial veto)

68th Legislature

2024 Regular Session

DEER AND ELK DAMAGE TO COMMERCIAL CROPS—PAYMENT OF CLAIMS

EFFECTIVE DATE: June 6, 2024

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| Passed by the Senate March 5, 2024Yeas 45 Nays 3DENNY HECK**President of the Senate**Passed by the House March 1, 2024Yeas 91 Nays 5LAURIE JINKINS**Speaker of the House of Representatives** | CERTIFICATEI, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5784** as passed by the Senate and the House of Representatives on the dates hereon set forth.SARAH BANNISTERSecretary |
| Approved March 26, 2024 9:31 AM with the exception of section 6, which is vetoed. | March 27, 2024 |
| JAY INSLEE**Governor of the State of Washington** | **Secretary of State** **State of Washington** |

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**SECOND SUBSTITUTE SENATE BILL 5784**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2024 Regular Session

**State of Washington 68th Legislature 2024 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Van De Wege, Muzzall, Mullet, Nobles, Wagoner, and Warnick; by request of Department of Fish and Wildlife)

AN ACT Relating to deer and elk damage to commercial crops; amending RCW 77.36.080, 77.36.100, and 77.36.130; adding a new section to chapter 77.36 RCW; creating new sections; and providing an expiration date.

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

NEW SECTION. **Sec.**  The legislature has historically appropriated $30,000 per fiscal year from the state general fund and $120,000 per fiscal year from the fish, wildlife, and conservation account for the payment of claims for crop damage and tasked the department of fish and wildlife with prioritizing those claims within amounts appropriated. The legislature has never intended to assume responsibility for claims in excess of amounts appropriated in any fiscal year.

Claims awarded or agreed upon prior to the effective date of this section are in excess of amounts appropriated. The legislature intends to appropriate an additional $184,000 for those claims. No further amounts will be appropriated for payment on those claims. Going forward, the legislature intends to prioritize claims in a more equitable manner that compensates claimants according to the percentage of their loss.

**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~~)) $300,000 per fiscal year from the general fund for claims and assessment costs for damage to commercial 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 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 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. 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.

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

(i) The commercial 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 crop or livestock 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 crops and livestock qualifying for compensation under this subsection. An owner of a commercial crop or livestock 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 crop or livestock, which may not be set at a value of less than ((~~five hundred dollars~~)) $500.

(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 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 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)(a) 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)~~)) (i) Is denied; or

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

(b) An appeal of a decision of the department addressing deer or elk damage to commercial crops is limited to $30,000.

(5) ((~~The~~)) (a) Consistent with this section, the commission shall adopt rules setting limits and conditions for the department's expenditures on claims and assessments for commercial crops, livestock, other property, and mitigating actions.

(b) Claims awarded or agreed upon that are unpaid due to being in excess of available funds in the current fiscal year are eligible for payment in the next state fiscal year.

(c) If additional funds are not appropriated by the legislature in the subsequent fiscal year specifically for unpaid claims, then no further payment may be made on the claim.

(d) Claims awarded or agreed upon during a fiscal year must 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.

(e) The payment of a claim under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.

**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) ((~~Ten thousand dollars~~)) $30,000.

(2) ((~~The department may offer to pay a claim for an amount in excess of ten thousand dollars to the owners of commercial 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.~~

~~(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)~~)) (3) The burden of proving all property damage, including damage to commercial crops and livestock, belongs to the claimant.

NEW SECTION. **Sec.**  By December 1, 2024, the department of fish and wildlife shall review crop and livestock wildlife damage programs in other states and submit to the legislature a list of recommendations for changes to Washington statutes.

NEW SECTION. **Sec.**  A new section is added to chapter 77.36 RCW to read as follows:

(1) The department, in coordination, decision making, and stewardship with tribal comanagers, shall develop a three-year pilot program to collar elk within herds nearest agricultural lands within the department'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 may include a data sharing agreement between the department, 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 use of the data agreement and the intent of the pilot project is to help farmers in training and education as a means to more effectively deploy hazing techniques in an effort to prevent crop, fence, and property damage from elk. Other tools may include damage permits issued to tribal and nontribal hunters to reduce the local population on private lands, as long as an agreement is signed by the landowner, tribal member, and the department.

(2) Subject to amounts appropriated for this specific purpose, the department shall make funding available to the Yakama nation wildlife staff to participate in the pilot project established in this section, including for collaring and monitoring the elk population. The department shall share GPS collar data with the Yakama nation wildlife resource management program to assist in management goals and objectives and to provide best management practices.

(3) The department must report back to the appropriate committees of the legislature by December 1, 2027, regarding the pilot program created in this section.

(4) This section expires July 1, 2028.

**--- END ---**

Passed by the Senate March 5, 2024.

Passed by the House March 1, 2024.

Approved by the Governor March 26, 2024, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 27, 2024.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 6, Second Substitute Senate Bill No. 5784 entitled:

"AN ACT Relating to deer and elk damage to commercial crops."

Although I support the three-year pilot study of elk herd damages to agricultural lands within Department of Fish and Wildlife's South Central Management Region, I am vetoing Section 6 because undertaking this study through statute is not the appropriate approach. I respectfully request the Department of Fish and Wildlife and the Yakama Nation to complete this pilot study by entering into a cooperative agreement to collar, monitor and haze elk that are depredating agricultural crops.

For these reasons I have vetoed Section 6 of Second Substitute Senate Bill No. 5784.

With the exception of Section 6, Second Substitute Senate Bill No. 5784 is approved."