
HOUSE BILL 2351

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Taylor, Pearson, and McCune

Read first time 01/12/12. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to compensation for wildlife damage; amending RCW
2 77.36.100 and 77.36.120; reenacting and amending RCW 77.36.010; and
3 repealing RCW 77.36.070, 77.36.080, 77.36.130, and 77.36.150.

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

5 **Sec. 1.** RCW 77.36.010 and 2009 c 521 s 184 and 2009 c 333 s 54 are
6 each reenacted and amended to read as follows:

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

9 (1) "Agriculture or wildlife professional" means a person who is,
10 by virtue of academic or professional training, able to identify
11 wildlife interactions and identify the loss of value to commercial
12 crops or commercial livestock due to wildlife interactions.

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

15 ((+2)) (3) "Commercial crop" means a horticultural or agricultural
16 product, including the growing or harvested product. For the purposes
17 of this chapter all parts of horticultural trees shall be considered a
18 commercial crop and shall be eligible for claims.

1 ~~((3))~~ (4) "Commercial livestock" means cattle, sheep, and horses
2 held or raised by a person for sale.

3 ~~((4))~~ (5) "Compensation" means a cash payment, materials, or
4 service.

5 ~~((5))~~ (6) "Damage" means economic losses caused by wildlife
6 interactions.

7 ~~((6))~~ (7) "Immediate family member" means spouse, state
8 registered domestic partner, brother, sister, grandparent, parent,
9 child, or grandchild.

10 ~~((7))~~ (8) "Owner" means a person who has a legal right to
11 commercial crops, commercial livestock, or other property that was
12 damaged during a wildlife interaction.

13 ~~((8))~~ (9) "Wildlife interaction" means the negative interaction
14 and the resultant damage between wildlife and commercial crops,
15 commercial livestock, or other property.

16 **Sec. 2.** RCW 77.36.100 and 2009 c 333 s 55 are each amended to read
17 as follows:

18 (1)(a) ~~((Except as limited by RCW 77.36.070 and 77.36.080,))~~ The
19 department shall ~~((offer to))~~ distribute money ~~((appropriated))~~ to pay
20 claims to the owner of commercial crops for damage caused by wild deer
21 or elk or to the owners of commercial livestock that has been killed by
22 bears, wolves, or cougars, or injured by bears, wolves, or cougars to
23 such a degree that the market value of the commercial livestock has
24 been diminished. ~~((Payments for claims for damage to commercial
25 livestock are not subject to the limitations of RCW 77.36.070 and
26 77.36.080, but may not exceed the total amount specifically
27 appropriated therefor.))~~ The department shall pay all valid claims made
28 by owners without the ability to deny or condition the claim and
29 without requiring documentation beyond the claim filed by the owner.
30 However, all claims valued by the owner at greater than one thousand
31 dollars must be accompanied by a third-party damage assessment produced
32 and attested to by an agriculture or wildlife professional hired by the
33 owner.

34 (b) Owners of commercial crops or commercial livestock are only
35 eligible for a claim under this subsection if ~~((+~~

36 ~~(+))~~ the owner satisfies the definition of "eligible farmer" in
37 RCW 82.08.855 ~~((+~~

1 ~~(ii))~~ and the conditions of RCW 77.36.110 have been satisfied(~~(+~~
2 and

3 ~~(iii) The damage caused to the commercial crop or commercial~~
4 ~~livestock satisfies the criteria for damage established by the~~
5 ~~commission under this subsection.~~

6 ~~(c) The commission shall adopt and maintain by rule criteria that~~
7 ~~clarifies the damage to commercial crops and commercial livestock~~
8 ~~qualifying for compensation under this subsection. An owner of a~~
9 ~~commercial crop or commercial livestock must satisfy the criteria prior~~
10 ~~to receiving compensation under this subsection. The criteria for~~
11 ~~damage adopted under this subsection must include, but not be limited~~
12 ~~to, a required minimum economic loss to the owner of the commercial~~
13 ~~crop or commercial livestock, which may not be set at a value of less~~
14 ~~than five hundred dollars)).~~

15 (2)(a) The department may offer to provide noncash compensation
16 only to offset wildlife interactions to a person who applies to the
17 department for compensation for damage to property other than
18 commercial crops or commercial livestock that is the result of a
19 mammalian or avian species of wildlife on a case-specific basis if the
20 conditions of RCW 77.36.110 have been satisfied and if the damage
21 satisfies the criteria for damage established by the commission under
22 this subsection.

23 (b) The commission shall adopt and maintain by rule criteria for
24 damage to property other than a commercial crop or commercial livestock
25 that is damaged by wildlife and may be eligible for compensation under
26 this subsection, including criteria for filing a claim for compensation
27 under this subsection.

28 (3)(a) To prevent or offset wildlife interactions, the department
29 may offer materials or services to a person who applies to the
30 department for assistance in providing mitigating actions designed to
31 reduce wildlife interactions if the actions are designed to address
32 damage that satisfies the criteria for damage established by the
33 commission under this subsection.

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

1 ~~((4) An owner who files a claim under this section may appeal the~~
2 ~~decision of the department pursuant to rules adopted by the commission~~
3 ~~if the claim:~~

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

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

7 **Sec. 3.** RCW 77.36.120 and 2009 c 333 s 57 are each amended to read
8 as follows:

9 The department shall establish:

10 (1) ~~The form ((of affidavits or proof required to accompany all))~~
11 for claims under this chapter, which must be made available for
12 download on the department internet web site;

13 (2) ~~((The process, time, and methods used to identify and assess~~
14 ~~damage, including the anticipated timeline for the initiation and~~
15 ~~conclusion of department action;~~

16 ~~(3))~~ How claims will be prioritized when available funds for
17 reimbursement are limited; and

18 ~~((4))~~ (3) Timelines after the discovery of damage by which an
19 owner must file a claim or notify the department(~~(+~~

20 ~~(5) Protocols for an owner to follow if the owner wishes to~~
21 ~~undertake activities that would complicate the determination of~~
22 ~~damages, such as harvesting damaged crops;~~

23 ~~(6) The process for determining damage assessments, including the~~
24 ~~role and selection of professional damage assessors and the~~
25 ~~responsibility for reimbursing third party assessors for their~~
26 ~~services;~~

27 ~~(7) Timelines for a claimant to accept, reject, or appeal a~~
28 ~~determination made by the department;~~

29 ~~(8) The identification of instances when an owner would be~~
30 ~~ineligible for compensation;~~

31 ~~(9) An appeals process for an owner eligible for compensation under~~
32 ~~RCW 77.36.100 who is denied a claim or feels the compensation is~~
33 ~~insufficient; and~~

34 ~~(10) Other policies necessary for administering this chapter)).~~

35 NEW SECTION. **Sec. 4.** The following acts or parts of acts are each
36 repealed:

- 1 (1) RCW 77.36.070 (Limit on total claims from wildlife account per
2 fiscal year) and 2009 c 333 s 59 & 1996 c 54 s 8;
- 3 (2) RCW 77.36.080 (Limit on total claims from general fund per
4 fiscal year--Emergency exceptions) and 2009 c 333 s 60 & 1996 c 54 s 9;
- 5 (3) RCW 77.36.130 (Limit on cash compensation--Burden of proof) and
6 2009 c 333 s 58; and
- 7 (4) RCW 77.36.150 (Review of rules and policies) and 2009 c 333 s
8 64.

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