



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

WILDLIFE DAMAGE CLAIMS

House Bill 6249

Sponsor: Rep. Rich Brown

**Committee: Agriculture and Resource
Management**

Complete to 8-14-02

A SUMMARY OF HOUSE BILL 6249 AS INTRODUCED 8-13-02

The bill would add Part 413 to the Natural Resources and Environmental Protection Act (Public Act 451 of 1994) relating to damage to agricultural commodities due to wildlife. In addition, the bill would make several technical amendments relating to the disposition of money from the sale of passbooks and licenses.

Under the bill, the Department of Natural Resources (DNR) would be required to implement a program relating to wildlife damage (defined to mean damage cause by any noncaptive deer, bear, geese, turkey, or sandhill cranes, if sandhill cranes are classified as game under the act). The program would recommend wildlife damage prevention measures to agricultural commodity owners; reimburse owners of the costs of implementing such prevention measures; and compensate owners for any wildlife damage incurred.

An agricultural commodity owner would be permitted to request that the department make recommendations on, and a commitment to provide reimbursement for, wildlife damage prevention measures. After reviewing a request, if the DNR determines that wildlife damage is occurring or is likely to occur and that other requirements set by rule are met, the department would be required to recommend certain wildlife damage prevention measures to the commodity owner. The DNR could make a commitment to the owner to provide reimbursement for those prevention measures if they are implemented. The DNR would only recommend prevention measures that were authorized by rule; appropriate for the type of wildlife damage, agricultural commodity, and other circumstances; and cost-effective.

The bill would permit a commodity owner to file a claim for compensation for wildlife damage within 14 days after first sustaining such damage. Upon receiving a claim, the DNR would investigate the claim and determine the dollar amount of the damage to the agricultural commodity. The DNR would compensate the owner for damage incurred if the owner requested and implemented the prevention measures managed the commodity in a manner consistent with generally accepted agricultural management practices, and if other requirements, as set by rule, were met. However, if the amount of the claim was less than or equal to \$250, the department would not compensate the owner. If the claim was greater than \$250 but less than \$5,250, the DNR would compensate the owner for the full amount of the claim. If the claim was greater than \$5,250, the owner would be compensated \$5,000 plus 80 percent of the amount of the claim that exceeded \$5,250. However, compensation could not exceed \$15,000 for each claim. The compensation would be paid to the owner by June 1 of the year after the claim was submitted.

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In addition, the bill would create the Wildlife Damage Fund, which would be supported by 15 percent of the revenue generated from the sale of all bear hunting licenses, in addition to other money and assets received by the state treasurer for deposit into the fund. Money in the fund would only be expended by the DNR for the costs of administering the wildlife damage program, the costs for reimbursing commodity owners for implementing prevention measures, and the costs for compensating commodity owners for any wildlife damage. However, compensation payments would be made after the administration and reimbursement costs are paid. If there are not sufficient funds to pay the full amounts required for reimbursement and compensation, the DNR would compensate claimants on a prorated basis.

As a condition for receiving reimbursement or compensation payments, a person who receives such payments, or any other person who owns, leases, or controls the land on which the damaged commodity is located, would be required to permit individuals to hunt the type of wildlife that is the focus of the prevention measures or the cause of the wildlife damage during the appropriate season. However, this requirement would not apply if the commodity owner did not have authority to control entry onto the land for hunting purposes. Hunting would be permitted on the land that is subject to the prevention measures or the wildlife damage and contiguous land that is under the same ownership, lease, or control, that the DNR determines is suitable for hunting. However, a hunter would be required to notify the landowner of his or her intent to hunt on the land, and would be prohibited from bringing a motor vehicle on the land or using a hunting stand without the landowner's permission. A landowner would be allowed to deny a hunter access to the land if, among other reasons not explicitly stated, three or more hunters would be present per 40 acres of the hunting area; the hunter appears to be intoxicated or unruly; the hunter causes property damage; the hunter fails to notify the landowner of his or her intent to hunt; or the hunter uses a motor vehicle or hunting stand without obtaining permission.

A person who did not permit hunting to take place would not be eligible for reimbursement or compensation for 10 years after the date of refusal. The person would also be liable to the DNR for the repayment of any reimbursement received for prevention measures, repayment of any compensation received for any wildlife damage incurred, and payment of the costs incurred by department.

A commodity owner who files a request for reimbursement or a claim for compensation would be required to retain all related records as required by the department and make them available to the department for inspection. In addition, the commodity owner would be required to permit representatives of the department to enter and inspect any land that is the subject of the wildlife damage. Furthermore, upon request, the department would be required to furnish to a commodity owner a report stating the factual findings related to any inspection of the records or lands. The bill would also require the DNR to arrange for an annual audit of any reimbursement or compensation payments made to a departmental officer or employee.

A person who made a false statement in a reimbursement request or a compensation claim would be civilly liable for the repayment of any money paid as reimbursement or compensation, and the payments of costs incurred by the DNR. A person who *knowingly* made a false statement in a reimbursement request or a compensation claim would be guilty of a misdemeanor. Upon conviction, the person would be prohibited from receiving a reimbursement

or compensation for 10 years after the date of the false statement. In addition, the person would be punished by a fine equal to twice the total amount of the reimbursement or compensation (or both) received, plus an amount not exceeding \$1,000. In addition, the person would have his or her hunting, fishing, or trapping license revoked (if applicable), and would be prohibited from seeking or possessing a license for at least the remainder of the calendar year in which the person was convicted, and perhaps for up to the following three years as well. In addition, if another person (such as a co-owner) were to make a false statement or representation, the commodity owner would also not be eligible for reimbursement or compensation for 10 years after the date of the statement.

The DNR would be required to promulgate rules regarding the eligibility or funding requirements for reimbursements and compensation to maximize the program's cost-effectiveness; authorized prevention measures; procedures for processing and paying reimbursement requests; procedures for processing and paying compensation claims, including a standard for determining damage amounts and a method for prorating compensation payments; procedures for inspections; and any other matter necessary for enforcement and administration. In addition, the department would be required to issue guidelines to establish standards for tolerable levels of damage caused by noncaptive deer to agricultural crops, including commercial seedings, orchard trees, and nursery stock. These standards would be used to set goals for managing the deer population.

The DNR would be required to submit an annual report, for the 12-month period ending December 31 of the previous year, including information on all wildlife damage to apiaries; compensation claims; prevention measures recommended or implemented; the percentage of compensation claims that are rejected; and the percentage of compensation claims where the amount paid was prorated. The report would be submitted by June 1, 2004 (and by each June 1 for every year thereafter) to the House and Senate standing committees with jurisdiction over agriculture or wildlife conservation.

Analyst: M. Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.