

3.7371 COMPENSATION FOR CROP DAMAGE CAUSED BY ELK.

Subdivision 1. **Authorization.** Notwithstanding section 3.736, subdivision 3, paragraph (e), or any other law, a person who owns an agricultural crop shall be compensated by the commissioner of agriculture for an agricultural crop that is damaged or destroyed by elk as provided in this section.

Subd. 2. **Claim form.** The crop owner must prepare a claim on forms provided by the commissioner and available at the county extension agent's office. The claim form must be filed with the commissioner. A claim form may not be filed for crop damage or destruction that occurs before June 3, 1987.

Subd. 3. **Compensation.** The crop owner is entitled to the target price or the market price, whichever is greater, of the damaged or destroyed crop plus adjustments for yield loss determined according to agricultural stabilization and conservation service programs for individual farms, adjusted annually, as determined by the commissioner, upon recommendation of the county extension agent for the owner's county. The commissioner, upon recommendation of the agent, shall determine whether the crop damage or destruction is caused by elk and, if so, the amount of the crop that is damaged or destroyed. In any fiscal year, a crop owner may not be compensated for a damaged or destroyed crop that is less than \$100 in value and may be compensated up to \$20,000, as determined under this section, if normal harvest procedures for the area are followed. In any fiscal year, the commissioner may provide compensation for claims filed under this section and section 3.737 up to a total of \$100,000 for both programs combined.

Subd. 4. **Insurance deduction.** Payments authorized by this section must be reduced by amounts received by the owner as proceeds from an insurance policy covering crop losses, or from any other source for the same purpose including, but not limited to, a federal program.

Subd. 5. **Decision on claims; opening land to hunting.** If the commissioner finds that the crop owner has shown that the damage or destruction of the owner's crop was caused more probably than not by elk, the commissioner shall pay compensation as provided in this section and the rules of the commissioner. Total compensation to all claimants shall not exceed the amount of funds appropriated for Laws 1987, chapter 373. A crop owner who receives compensation under this section may, by written permission, permit hunting on the land at the landowner's discretion.

Subd. 6. **Denial of claim; appeal.** (a) If the commissioner denies compensation claimed by a crop owner under this section, the commissioner shall issue a written decision based upon the available evidence including a statement of the facts upon which the decision is based and the conclusions on the material issues of the claim. A copy of the decision must be mailed to the crop owner.

(b) A decision denying compensation claimed under this section is not subject to the contested case review procedures of chapter 14, but a crop owner may have the claim reviewed in a trial de novo in a court in the county where the loss occurred. The decision of the court may be appealed as in other civil cases. Review in court may be obtained by filing a petition for review with the administrator of the court within 60 days following receipt of a decision under this section. Upon the filing of a petition, the administrator shall mail a copy to the commissioner and set a time for hearing within 90 days after the filing.

Subd. 7. **Rules.** The commissioner shall adopt rules and may adopt emergency rules and amend rules to carry out this section. The rules must include:

- (1) methods of valuation of crops damaged or destroyed;
- (2) criteria for determination of the cause of the crop damage or destruction;
- (3) notice requirements by the owner of the damaged or destroyed crop; and
- (4) any other matters determined necessary by the commissioner to carry out this section.

History: 1987 c 373 s 2; 1988 c 469 art 1 s 1; 1995 c 33 s 1; 2007 c 45 art 1 s 7