

DRAFT

SUMMARY

Digest: The Act directs an agency to create a program related to elk damage. The Act establishes a fund for the program. The Act gives moneys to the agency for the program. (Flesch Readability Score: 70.8).

Directs the State Department of Agriculture to establish an elk damage prevention and compensation pilot program.

Establishes the Elk Damage Prevention and Compensation Fund in the State Treasury. Continuously appropriates moneys in the fund to the department for implementing the program.

Sunsets the program and fund on January 2, 2030.

Directs the department and the State Department of Fish and Wildlife to report on the program to committees or interim committees of the Legislative Assembly related to natural resources on or before September 15, 2028.

Appropriates moneys to the State Department of Agriculture for implementing the program.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

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Relating to damage caused by elk; and prescribing an effective date.

Whereas it is in the interest of the State of Oregon to encourage coexistence with Oregon wildlife, including elk populations; and

Whereas elk cause considerable damage and loss to crops, forage and infrastructure in Oregon; and

Whereas farmers and ranchers are economically impacted by damage caused by elk in a wide variety of ways, including suffering directly measurable losses, expending time and labor to prevent, mitigate and address the damage and suffering the opportunity cost of having to forego growing certain high-value crops that are attractive to elk; and

Whereas a program of limited duration to support farmers and ranchers

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 through prevention and compensation is viewed as a meaningful part of a
2 larger elk management conversation that aims to address root causes of
3 human-ungulate conflict in Oregon; and

4 Whereas it is the policy of the State of Oregon that appropriate measures
5 must be taken to assist farmers, ranchers and others in resolving wildlife
6 damage problems, and that federal, state, county and other local governments
7 involved in wildlife damage control should cooperate in their related efforts;
8 now, therefore,

9 **Be It Enacted by the People of the State of Oregon:**

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11 **ELK DAMAGE PREVENTION AND COMPENSATION PILOT PRO-**
12 **GRAM**

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14 **SECTION 1. As used in this section and sections 2 and 3 of this 2024**
15 **Act:**

16 (1) **“Best preventive measures” has the meaning given that term in**
17 **rule by the State Department of Agriculture.**

18 (2) **“Eligible damage”:**

19 (a) **Means elk damage on eligible land to standing or harvested ag-**
20 **ricultural crops, including livestock forage, or to infrastructure, in-**
21 **cluding fences or agricultural equipment, that has not been covered**
22 **by insurance.**

23 (b) **May include the cost of third-party assessment of the damage.**

24 (3) **“Eligible land” means land:**

25 (a) **That is privately owned.**

26 (b) **That is not enrolled in a conservation reserve program.**

27 (c) **That is in a pilot program area, as determined under section 2**
28 **of this 2024 Act.**

29 (d) **For which no fee is charged for hunting on the land.**

30 (4) **“Eligible person” means a person who:**

31 (a) **Lives on, leases or works eligible land.**

1 (b) Derives \$10,000 or more per year, on average, from producing
2 agricultural crops on the eligible land.

3 (c) Owns crops or infrastructure that is damaged by elk.

4 (5) “Eligible preventive measure” means a measure that is reason-
5 ably expected to reduce elk damage on eligible land, including:

6 (a) Repellants.

7 (b) Temporary or permanent barriers around small areas.

8 (c) Permanent barriers, such as fencing, around large areas.

9 (d) Reasonable time spent on nonlethal deterrence activities such
10 as hazing, but not including labor to build barriers.

11 **SECTION 2. (1) The State Department of Agriculture shall establish**
12 **and implement an elk damage prevention and compensation pilot**
13 **program.**

14 (2) Under the pilot program, the department shall use available
15 moneys in the Elk Damage Prevention and Compensation Fund es-
16 tablished under section 4 of this 2024 Act to provide compensation for
17 eligible damages or eligible preventive measures to eligible persons
18 who suffer loss due to elk damage.

19 (3) In consultation with the State Department of Fish and Wildlife,
20 the State Department of Agriculture shall select, as two pilot program
21 areas, one area east of the Cascade Mountains and one area west of
22 the Cascade Mountains after considering, for the areas:

23 (a) The history of elk damage to agriculture.

24 (b) The timing of elk damage, including throughout the year or
25 seasonally.

26 (c) Past actions by agencies and landowners to alleviate elk damage.

27 (d) Elk population sizes and distribution.

28 (e) How diverse agricultural crop types are.

29 (4) Under the pilot program, the department may award compen-
30 sation for eligible damages or eligible preventive measures to an eli-
31 gible person who demonstrates that the eligible person:

1 (a) Has previously used best preventive measures to prevent elk
2 damage on the eligible land.

3 (b) Has not intentionally or unreasonably created circumstances
4 that attract elk to the eligible land or otherwise encourage elk damage
5 on the eligible land.

6 **SECTION 3.** To implement the elk damage and compensation pilot
7 program described in section 2 of this 2024 Act, the State Department
8 of Agriculture shall adopt rules to establish:

9 (1) A process for enrolling in, and periodically renewing enrollment
10 in, the pilot program that includes verification of whether:

11 (a) The person qualifies as an eligible person.

12 (b) The person has implemented best preventive measures on the
13 eligible land.

14 (c) The person has intentionally or unreasonably created circum-
15 stances that attract elk to the eligible land or otherwise encourage elk
16 damage on the eligible land.

17 (2) A process for submitting claims, including evidence of eligible
18 damage that includes a finding by an agent of the department, an
19 agent of the United States Department of Agriculture or a crop
20 adjuster licensed under ORS 744.531 (3) that elk caused or probably
21 caused the eligible damage.

22 (3) A process for assessing claims that describes:

23 (a) How the State Department of Agriculture will assess the cost
24 of eligible damage.

25 (b) The role and selection of professional damage assessors.

26 (c) Whether, or under what circumstances, an eligible person may
27 be reimbursed for the cost of third-party damage assessment as part
28 of compensation for eligible damages.

29 (4) Methods for determining:

30 (a) Compensation amounts for eligible damage, such as a net loss
31 in production at the end of a growing season relative to regional av-

1 erages and anticipated loss rates.

2 (b) Compensation amounts for reasonable time spent on nonlethal
3 elk deterrence activities such as hazing.

4 (c) How to reduce the amount of a claim that has been partially
5 compensated by an insurance company.

6 (d) Maximum amounts for compensation for eligible damages and
7 eligible preventive measures.

8 (5) A process for prioritizing awards of compensation to eligible
9 persons who:

10 (a) Have made significant efforts to prevent or mitigate elk damage.

11 (b) Allow persons licensed by the State Department of Fish and
12 Wildlife to take elk on the property that is affected by the elk damage.

13 (6) A definition of the term “best preventive measures” that lists
14 ways to deter elk damage, including the provision of hunting access,
15 either to the public or to individuals by permission, for lethal take of
16 elk, consistent with applicable laws and rules.

17 (7) The terms for awarding compensation for large area barriers,
18 such as fencing, including requiring:

19 (a) Matching funds from the eligible person.

20 (b) That the eligible person demonstrate previous use of repellants,
21 hazing and temporary barriers and that those measures did not ade-
22 quately prevent elk damage.

23 SECTION 4. (1) The Elk Damage Prevention and Compensation
24 Fund is established in the State Treasury, separate and distinct from
25 the General Fund.

26 (2) The Elk Damage Prevention and Compensation Fund consists
27 of moneys appropriated by the Legislative Assembly for deposit in the
28 fund, grant funds received by the State Department of Agriculture,
29 and other moneys appropriated, allocated, deposited or transferred to
30 the fund by the Legislative Assembly or otherwise.

31 (3) Moneys in the fund are continuously appropriated to the de-

1 **partment for purposes described in section 2 of this 2024 Act.**

2 **SECTION 5. (1) Sections 1 to 4 of this 2024 Act are repealed on**
3 **January 2, 2030.**

4 **(2) Any moneys remaining in the Elk Damage Prevention and**
5 **Compensation Fund established under section 4 of this 2024 Act that**
6 **are unexpended and unobligated on the date specified in subsection (1)**
7 **of this section shall revert to the General Fund.**

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REPORTS

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11 **SECTION 6. As soon as there is sufficient data and no later than**
12 **September 15, 2028:**

13 **(1) The State Department of Agriculture shall report, in the manner**
14 **prescribed in ORS 192.245, to committees or interim committees of the**
15 **Legislative Assembly related to natural resources on the elk damage**
16 **prevention and compensation pilot program described in section 2 of**
17 **this 2024 Act. The report must include:**

18 **(a) A summary of pilot program descriptive statistics, including but**
19 **not limited to:**

20 **(A) The number of persons participating in the pilot program.**

21 **(B) The types and quantities of damage reported under the pilot**
22 **program.**

23 **(C) The amounts awarded under the pilot program.**

24 **(b) An evaluation of successes and challenges in administering the**
25 **pilot program.**

26 **(c) A proposal for a permanent elk damage and compensation pro-**
27 **gram.**

28 **(d) An evaluation of the benefits and drawbacks of transitioning to**
29 **a program that is partially administered by counties.**

30 **(2) The State Department of Fish and Wildlife shall report, in the**
31 **manner prescribed in ORS 192.245, to committees or interim commit-**

1 **tees of the Legislative Assembly related to natural resources on the**
2 **pilot program. The report must:**

3 **(a) Compare the occurrence of elk damage inside and outside, and**
4 **over time within, the pilot program areas.**

5 **(b) Analyze changes to elk hunting opportunities within the pilot**
6 **program areas.**

7 **(c) Summarize information on elk population sizes throughout this**
8 **state.**

9 **(d) Summarize any available information on elk distribution**
10 **throughout this state.**

11 **(e) Describe the types of data that would assist with better under-**
12 **standing elk distribution throughout this state and how the data**
13 **might be obtained.**

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APPROPRIATION

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17 **SECTION 7. In addition to and not in lieu of any other appropri-**
18 **ation, there is appropriated to the State Department of Agriculture,**
19 **for the biennium ending June 30, 2025, out of the General Fund, the**
20 **amount of \$____, for deposit in the Elk Damage Prevention and**
21 **Compensation Fund established by section 4 of this 2024 Act, to be**
22 **expended as described in section 4 of this 2024 Act.**

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CAPTIONS

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26 **SECTION 8. The unit captions used in this 2024 Act are provided**
27 **only for the convenience of the reader and do not become part of the**
28 **statutory law of this state or express any legislative intent in the**
29 **enactment of this 2024 Act.**

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EFFECTIVE DATE

