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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3809

02/15/2024

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The bill was read for the first time and referred to the Committee on Agriculture Finance and Policy

1.1 A bill for an act
1.2 relating to agriculture; modifying provisions related to elk; amending Minnesota
1.3 Statutes 2022, section 3.7371, subdivisions 2, 3, by adding subdivisions; repealing
1.4 Minnesota Statutes 2022, section 3.7371, subdivision 7; Minnesota Rules, parts
1.5 1506.0010; 1506.0015; 1506.0020; 1506.0025; 1506.0030; 1506.0035; 1506.0040.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2022, section 3.7371, is amended by adding a subdivision
1.8 to read:

1.9 Subd. 1a. **Definitions.** (a) "Approved agent" means a person authorized by the Department
1.10 of Agriculture to determine if crop or fence damage was caused by elk and to assign a
1.11 monetary value to the crop or fence damage.

1.12 (b) "Commissioner" means the commissioner of agriculture or the commissioner's
1.13 authorized representative.

1.14 (c) "Estimated value" means the current value of crops or fencing as determined by an
1.15 approved agent.

1.16 (d) "Owner" means an individual, firm, corporation, co-partnership, or association with
1.17 an interest in crops or fencing damaged by elk.

1.18 Sec. 2. Minnesota Statutes 2022, section 3.7371, subdivision 2, is amended to read:

1.19 Subd. 2. **Claim form and reporting.** (a) The owner must prepare a claim on forms
1.20 provided by the commissioner and available on the Department of Agriculture's website or
1.21 by request from the commissioner. ~~The claim form must be filed with the commissioner.~~

2.1 (b) After discovering crop or fence damage suspected to be caused by elk, an owner
 2.2 must promptly notify an approved agent of the damage. To submit a claim for crop or fence
 2.3 damage caused by elk, an owner must complete the required portions of the claim form
 2.4 provided by the commissioner. An owner who has submitted a claim must provide an
 2.5 approved agent with all information required to investigate the crop or fence damage.

2.6 Sec. 3. Minnesota Statutes 2022, section 3.7371, is amended by adding a subdivision to
 2.7 read:

2.8 Subd. 2a. **Investigation and crop valuation.** (a) Upon receiving notification of crop or
 2.9 fence damage suspected to be caused by elk, an approved agent must promptly investigate
 2.10 the damage in a timely manner. An approved agent must make written findings on the claim
 2.11 form regarding whether the crop was destroyed or damaged by elk. The approved agent's
 2.12 findings must be based on physical and circumstantial evidence, including:

2.13 (1) the condition of the crop or fence;

2.14 (2) the presence of elk tracks;

2.15 (3) the geographic area of the state where the crop or fence damage occurred;

2.16 (4) any sightings of elk in the area; and

2.17 (5) any other circumstances that the approved agent considers to be relevant.

2.18 (b) The absence of affirmative evidence may be grounds for denial of a claim.

2.19 (c) On a claim form, an approved agent must make written findings of the extent of crop
 2.20 or fence damage and, if applicable, the amount of crop destroyed.

2.21 (d) For damage to standing crops, an owner may choose to have the approved agent use
 2.22 the method in clause (1) or clause (2) to complete the claim form and determine the amount
 2.23 of crop loss:

2.24 (1) to submit a claim form to the commissioner at the time that the suspected elk damage
 2.25 is discovered, the approved agent must record on the claim form: (i) the field's potential
 2.26 yield per acre; (ii) the field's average yield per acre that is expected on the damaged acres;
 2.27 (iii) the estimated value of the crop; and (iv) the total amount of loss. Upon completing the
 2.28 claim form, the approved agent must submit the form to the commissioner; or

2.29 (2) to submit a claim form to the commissioner at the time that the crop is harvested,
 2.30 the approved agent must record on the claim form at the time of the investigation: (i) the
 2.31 percent of crop loss from damage; (ii) the actual yield of the damaged field when the crop

3.1 is harvested; (iii) the estimated value of the crop; and (iv) the total amount of loss. Upon
 3.2 completing the claim form, the approved agent must submit the form to the commissioner.

3.3 (e) For damage to stored crops, an approved agent must record on the claim form: (1)
 3.4 the type and volume of destroyed stored crops; (2) the estimated value of the crop; and (3)
 3.5 the total amount of the loss.

3.6 (f) For damage to fencing, an approved agent must record on the claim form: (1) the
 3.7 type of materials damaged; (2) the linear feet of the damage; (3) the value of the materials
 3.8 per unit according to National Resource Conservation Service specifications; and (4) the
 3.9 calculated total damage to the fence.

3.10 Sec. 4. Minnesota Statutes 2022, section 3.7371, is amended by adding a subdivision to
 3.11 read:

3.12 Subd. 2b. **Claim form.** A completed claim form must be signed by the owner and an
 3.13 approved agent. An approved agent must submit the claim form to the commissioner for
 3.14 the commissioner's review and payment. The commissioner must return an incomplete claim
 3.15 form to the approved agent. When returning an incomplete claim form to an approved agent,
 3.16 the commissioner must indicate which information is missing from the claim form.

3.17 Sec. 5. Minnesota Statutes 2022, section 3.7371, subdivision 3, is amended to read:

3.18 ~~Subd. 3. **Compensation.** (a) The crop~~ An owner is entitled to the target price or the
 3.19 ~~market price, whichever is greater,~~ estimated value of the damaged or destroyed crop ~~plus~~
 3.20 ~~adjustments for yield loss determined according to agricultural stabilization and conservation~~
 3.21 ~~service programs for individual farms, adjusted annually, as determined by the commissioner,~~
 3.22 ~~upon recommendation of the commissioner's approved agent for the owner's county or~~
 3.23 fence. Verification of crop or fence damage or destruction by elk may be provided by
 3.24 submitting photographs or other evidence and documentation ~~together with a statement~~
 3.25 ~~from an independent witness~~ using forms prescribed by the commissioner. The commissioner,
 3.26 upon recommendation of the commissioner's approved agent, shall determine whether the
 3.27 crop damage or destruction or damage to or destruction of a fence surrounding a crop or
 3.28 pasture is caused by elk and, if so, the amount of the crop or fence that is damaged or
 3.29 destroyed. In any fiscal year, an owner may not be compensated for a damaged or destroyed
 3.30 crop or fence surrounding a crop or pasture that is less than \$100 in value and may be
 3.31 compensated up to \$20,000, as determined under this section, ~~if normal harvest procedures~~
 3.32 ~~for the area are followed.~~ An owner may not be compensated more than \$1,800 per fiscal
 3.33 year for damage to fencing surrounding a crop or pasture.

4.1 (b) In any fiscal year, the commissioner may provide compensation for claims filed
4.2 under this section up to the amount expressly appropriated for this purpose.

4.3 Sec. 6. **REPEALER.**

4.4 (a) Minnesota Statutes 2022, section 3.7371, subdivision 7, is repealed.

4.5 (b) Minnesota Rules, parts 1506.0010; 1506.0015; 1506.0020; 1506.0025; 1506.0030;
4.6 1506.0035; and 1506.0040, are repealed.

3.7371 COMPENSATION FOR CROP OR FENCE DAMAGE CAUSED BY ELK.

Subd. 7. **Rules.** The commissioner shall adopt rules and may amend rules to carry out this section. The commissioner may use the expedited rulemaking process in section 14.389 to adopt and amend rules authorized in 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;
- (4) compensation rates for fence damage or destruction that must not exceed \$1,800 per claimant per fiscal year; and
- (5) any other matters determined necessary by the commissioner to carry out this section.

1506.0010 AUTHORITY.

Parts 1506.0010 to 1506.0040 are prescribed under Minnesota Statutes, section 3.7371, by the commissioner of agriculture to implement procedures to compensate agricultural crop owners for crops that are damaged or destroyed by elk. The procedures in parts 1506.0010 to 1506.0040 are in addition to those in Minnesota Statutes, section 3.7371.

1506.0015 DEFINITIONS.

Subpart 1. **Applicability.** The definitions in this part apply to parts 1506.0010 to 1506.0040.

Subp. 2. **Claim form.** "Claim form" means a form provided by the commissioner, to be completed by the crop owner and the county extension agent or federal crop adjuster, containing information upon which payment for a loss must be based.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's authorized agent.

Subp. 4. **Crop owner.** "Crop owner" means an individual, firm, corporation, copartnership, or association with an interest in crops damaged or destroyed by elk.

Subp. 5. **County extension agent.** "County extension agent" means the University of Minnesota Agricultural Extension Service's county extension agent for the county in which the crop owner resides.

Subp. 6. **Federal crop adjuster.** "Federal crop adjuster" means a crop insurance adjuster having a contract with the Federal Crop Insurance Corporation.

Subp. 7. **Market price.** "Market price" means the commodity price published daily by the Minneapolis Grain Exchange in the daily record of prices and receipts.

Subp. 8. **Target price.** "Target price" means the federal commodity price available from the Agricultural Stabilization and Conservation Service office.

1506.0020 REPORTING.

The crop owner shall notify either the federal crop adjuster or the county extension agent of suspected crop loss or damage within 24 hours of the discovery of a loss. The crop owner shall also complete the appropriate part of the claim form which must be available at the county extension office. The crop owner shall provide all information required to investigate the loss or damage to the federal crop adjuster or the county extension agent. A telephone call or personal contact constitutes notification.

1506.0025 INVESTIGATION AND CROP VALUATION.

Subpart 1. **Whether damaged by elk.** The federal crop adjuster or the county extension agent shall investigate the loss in a timely manner and shall make a finding in writing on the appropriate part of the claim form regarding whether the crop was destroyed or damaged by elk. The finding must be based on physical and circumstantial evidence including:

- A. the condition of the crop;
- B. elk tracks;
- C. the area of the state where the loss occurred;
- D. sightings of elk in the area; and
- E. any other circumstances considered pertinent by the federal crop adjuster or the county extension agent.

The absence of affirmative evidence may be grounds for denial of a claim.

Subp. 2. **Extent of damage.** The federal crop adjuster or the county extension agent shall make a written finding on the claim form of the extent of damage or the amount of crop destroyed. The crop owner may choose to have the federal crop adjuster or county extension agent use the method in item A or B to complete the claim form and determine the amount of crop loss.

A. To submit the claim form at the time the suspected elk damage is discovered, the federal crop adjuster or county extension agent must determine the potential yield, per acre, for the field and record this information on the form in the column labeled "normal yield" and the average yield, per acre, expected from the damaged acres and record this information on the form in the column labeled "average yield expected from damaged acres."

B. To submit the claim form at the time the crop is harvested:

(1) the crop owner shall report the loss to the federal crop adjuster or county extension agent within 24 hours of discovery, and the loss must be investigated by the federal crop adjuster or county extension agent in a timely manner;

(2) the crop owner and federal crop adjuster or county extension agent shall complete the claim form at the time of the investigation, entering the percent of crop loss from damage in the column labeled "normal yield" and leaving the column labeled "average yield expected from damaged acres" blank; and

(3) when the crop is harvested the federal crop adjuster or county extension agent shall enter the actual yield of the damaged field in the column labeled "average yield expected from damaged acres," enter the date in the same column, and submit the form to the commissioner.

1506.0030 COMPLETION AND SIGNING OF CLAIM FORM.

A completed claim form must be signed by the owner and county extension agent or the federal crop adjuster and submitted by the crop owner to the commissioner for review and payment. The commissioner shall return an incomplete claim form to the crop owner, indicating the information necessary for proper completion.

1506.0035 INSURANCE COVERAGE.

If insurance coverage exists on the crop, the commissioner shall withhold payment under parts 1506.0010 to 1506.0040 until the insurance claim has been paid and evidence of payment has been submitted to the commissioner, at which time that insurance payment must be deducted from the determined value. Payment must not be made for claims of less than \$100 per claim or more than \$20,000 in a calendar year.

1506.0040 PAYMENT.

After procedures in parts 1506.0020 to 1506.0035 are completed, the commissioner shall make payment to the crop owners.