



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-0270/1
EHS:skw&amn

2023 ASSEMBLY BILL 1038

February 1, 2024 - Introduced by Representative EDMING, cosponsored by Senator STAFSHOLT. Referred to Committee on Sporting Heritage.

AN ACT *to repeal* 29.889 (2) (c), 29.889 (2) (d), 29.889 (3), 29.889 (4) (a), 29.889 (6) (a), 29.889 (7) (bm) and 29.89 (3) (a); *to renumber* 29.889 (5) (c) and 29.889 (6) (em); *to renumber and amend* 29.889 (6) (f); *to amend* 20.370 (5) (fq), 29.885 (5) (a), 29.889 (1) (intro.), 29.889 (2) (a), 29.889 (4) (b), 29.889 (4) (c), 29.889 (5) (a), 29.889 (5) (b), 29.889 (5) (bm), 29.889 (5) (bs), 29.889 (6) (d), 29.889 (7) (a), 29.889 (7) (b) (intro.), 29.889 (7) (b) 2., 29.889 (7) (b) 3., 29.889 (7) (b) 4., 29.889 (7) (d) 2., 29.889 (7m) (a), 29.889 (7m) (ae) 1., 29.889 (7m) (ae) 4. (intro.), 29.889 (8g), 29.889 (8r) (a), (b) and (c) and 29.89 (5) (b) 2. c.; and *to create* 29.885 (3) (bm), 29.889 (5) (c) 2., 29.889 (5) (d), 29.889 (6) (em) 2., 29.889 (6) (f) 2. and 3., 29.889 (7m) (au) and 29.889 (7m) (av) of the statutes; **relating to:** the wildlife damage abatement program and the wildlife damage claim program.

ASSEMBLY BILL 1038***Analysis by the Legislative Reference Bureau***

This bill makes changes to the wildlife damage abatement program and the wildlife damage claim program.

WILD ANIMAL REMOVAL

Under current law, the Department of Natural Resources may remove or authorize the removal of a wild animal that is causing damage, including damage to commercial agricultural crops. This bill prohibits DNR from issuing to a person a bear carcass tag for the purpose of shooting a bear that is causing damage to commercial agricultural crops.

WILDLIFE DAMAGE CLAIM PROGRAM AND WILDLIFE DAMAGE ABATEMENT PROGRAM

Current law authorizes a person who owns, leases, or controls land on which certain wild animals cause damage to crops or livestock (wildlife damage) to apply to the county for wildlife damage claim payments and for wildlife damage abatement assistance (wildlife damage payments). Wildlife damage for which a person is eligible to receive wildlife damage payments includes damage caused by deer, bears, geese, and cougars, as well as elk and sandhill cranes if hunting those animals is authorized. Current law requires that, to be eligible for wildlife damage payments, the location must be in a county that participates in the administration of these programs. A county must apply to DNR to administer these programs, including in its application a plan of administration that meets certain requirements. Once approved, DNR provides funding to the county for the costs incurred in administering these programs.

Under current law and DNR rule, a county pays 75 percent of the actual costs of providing wildlife damage abatement assistance, for which it is reimbursed by DNR, and the person receiving the assistance pays 25 percent of the costs. DNR pays wildlife damage claims directly.

DNR administration

Effective January 1, 2025, the bill removes counties from the administration of the wildlife damage abatement program and the wildlife damage claim program and requires DNR to administer the programs instead. The bill specifies that, if DNR provides wildlife damage abatement assistance to a person, DNR must determine the actual cost of providing that assistance and pay 75 percent of that cost, leaving the remaining 25 percent as the responsibility of the recipient.

The bill also eliminates the requirement under current law that a county participate in the administration of these programs in order to be eligible for reimbursement by DNR for the costs that the county incurs in processing and donating venison from certain deer carcasses and in processing and donating meat from certain wild turkey carcasses.

Wildlife damage claims

The bill increases from \$10,000 to \$25,000 the limit under current law on the

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total amount that may be paid to a claimant for each wildlife damage claim. The bill maintains the current law requirement that DNR pay wildlife damage claimants on a prorated basis if there is not a sufficient amount appropriated to pay all claims.

Under current law, if the amount of a wildlife damage claim exceeds \$500 but does not exceed \$5,250, the claimant is paid 100 percent of the amount, and if the amount of the claim exceeds \$5,250, the claimant is paid that amount plus 80 percent of the amount that exceeds \$5,250. The bill increases this threshold amount from \$5,250 to \$5,500.

Interaction with crop insurance payments

Under the bill, generally, a person may not receive payment of a crop insurance claim for wildlife damage and payment for a wildlife damage claim arising from the same growing season. However, the bill provides that, with respect to crop damage caused by a bear, a person is not eligible for a wildlife damage claim payment unless the person has crop insurance that covers wildlife damage. Under the bill, the amount of a wildlife damage claim payment for crop damage caused by a bear may not be determined until an insurance claim for the damage is filed and settled. However, under the bill, such a person is not required to submit a crop insurance claim for crop damage caused by a bear before receiving a wildlife damage claim payment for that damage if the cumulative crop damage is not sufficient to warrant a crop insurance claim. Under the bill, if a person receives a payment of a crop insurance claim for damage caused by a bear, the person is also eligible for a payment for a wildlife damage claim arising from the same growing season for up to the amount of the damage that was not covered by the insurance payment and subject to the overall \$25,000 cap.

Type of damage

Under current law, the type of wildlife damage that is eligible for wildlife damage claim payments is limited to damage to commercial seedings or crops growing on agricultural land, damage to crops that have been harvested for sale or further use but that have not been removed from the agricultural land, damage to orchard trees or nursery stock, and damage to apiaries or livestock. The bill adds that damage to commercial seedings or crops growing on agricultural land caused by operating a vehicle in a field in order to place a live bear trap under the wildlife damage abatement program is eligible for a wildlife damage claim payment.

Hunting requirements

Under current law, with certain exceptions, a person may receive wildlife damage payments only if the person opens the land for hunting the type of animal that caused the wildlife damage. Under this bill, this hunting requirement does not apply to a person who receives wildlife damage abatement assistance to acquire a live bear trap for land the person leases.

Under the bill, when land is open to bear hunting because the landowner received wildlife damage payments related to damage caused by a bear, the bill

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requires DNR to establish and administer, without input by the landowner, an Internet-based registration system under which, beginning at midnight, hunters may register to hunt bear on a particular parcel of land that day. Under the bill, a landowner may only deny a hunter access to land if the hunter has not registered using DNR's registration system for that day, appears to be intoxicated or unruly, causes property damage, or brings a motor vehicle onto the land without permission.

Bear traps

Under the bill, effective June 30, 2024, DNR must require all live bear traps acquired with wildlife damage abatement assistance to be equipped with remote monitors, including traps placed under the program prior to the effective date of the bill.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.370 (5) (fq) of the statutes is amended to read:

20.370 (5) (fq) *Wildlife damage claims and abatement.* All moneys received under ss. 29.181, 29.559 (1r), and 29.563 (13) and not appropriated under par. (fr) and subs. (1) (hs), (hx), and (Ls) and (5) (fs) ~~to provide state aid~~ for the wildlife damage abatement program under s. 29.889 (5) (c) and the wildlife damage claim program under s. 29.889 (7) (d), for ~~county~~ administration costs under s. 29.889 (2) ~~(d)~~, and for payments under s. 29.89.

SECTION 2. 29.885 (3) (bm) of the statutes is created to read:

29.885 (3) (bm) Notwithstanding par. (b), the department may not issue to a complainant under par. (a) a bear carcass tag for the purpose of shooting a bear that is causing damage to commercial agricultural crops.

SECTION 3. 29.885 (5) (a) of the statutes is amended to read:

29.885 (5) (a) The department may refuse to investigate under sub. (3) (a) if

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the person making the complaint refuses to participate in any available wildlife damage abatement program administered under s. 29.889 or refuses to follow reasonable abatement measures recommended by the department ~~or by the county in which the property is located if the county participates in a wildlife damage abatement program.~~

SECTION 4. 29.889 (1) (intro.) of the statutes is amended to read:

29.889 (1) DEFINITION. (intro.) In this section, ~~“wildlife;~~

(b) “Wildlife damage” means damage caused by any of the following wild animals that are not subject to regulation under ch. 169:

SECTION 5. 29.889 (2) (a) of the statutes is amended to read:

29.889 (2) (a) *Assistance Administration.* The department shall ~~assist counties in developing~~ develop and ~~administering~~ administer the wildlife damage abatement and wildlife damage claim programs. ~~The department shall provide this assistance through technical aid, program guidance, research, demonstration, funding, plan review, audit, and evaluation services.~~

SECTION 6. 29.889 (2) (c) of the statutes is repealed.

SECTION 7. 29.889 (2) (d) of the statutes is repealed.

SECTION 8. 29.889 (3) of the statutes is repealed.

SECTION 9. 29.889 (4) (a) of the statutes is repealed.

SECTION 10. 29.889 (4) (b) of the statutes is amended to read:

29.889 (4) (b) *Filing of application.* In order to be eligible for wildlife damage abatement assistance, a person is required to file an application with the ~~participating county~~ department in a form acceptable to the ~~county~~ department.

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An owner or lessee of land, a person who controls land or an owner of an apiary or livestock may file an application.

SECTION 11. 29.889 (4) (c) of the statutes is amended to read:

29.889 (4) (c) *Other eligibility requirements.* In order to be eligible for wildlife damage abatement assistance, a person is required to comply with eligibility requirements adopted by the department under sub. (2) (b) ~~and with eligibility requirements specified in the plan administration under sub. (3) (e).~~

SECTION 12. 29.889 (5) (a) of the statutes is amended to read:

29.889 (5) (a) *Review.* ~~A participating county~~ The department shall review each application for wildlife damage abatement assistance to determine if wildlife damage is occurring or likely to occur.

SECTION 13. 29.889 (5) (b) of the statutes is amended to read:

29.889 (5) (b) *Assistance.* ~~A participating county~~ The department may provide wildlife damage assistance ~~where~~ for the reimbursement of costs associated with wildlife damage abatement measures if the department determines that wildlife damage is occurring or is likely to occur for the reimbursement of costs associated with wildlife damage abatement measures if the measures are authorized in the plan of administration under sub. (3) (e) 2. and the wildlife damage abatement measures are authorized in the rules adopted by the department under sub. (2) (b) and are carried out in full compliance with the direction of the department.

SECTION 14. 29.889 (5) (bm) of the statutes is amended to read:

29.889 (5) (bm) *Cost-effectiveness of abatement.* ~~A participating county~~ The

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department may recommend only those wildlife damage abatement measures that are cost-effective in relation to the wildlife damage claim payments that would be paid if the wildlife damage abatement measures are not implemented.

SECTION 15. 29.889 (5) (bs) of the statutes is amended to read:

29.889 (5) (bs) Notwithstanding par. (bm), for damage caused by elk to crops or grasses grown for use by a bird hunting preserve licensed under ch. 169, ~~a participating county~~ the department may recommend fencing the affected property as a damage abatement measure.

SECTION 16. 29.889 (5) (c) of the statutes is renumbered 29.889 (5) (c) 1.

SECTION 17. 29.889 (5) (c) 2. of the statutes is created to read:

29.889 (5) (c) 2. If the department provides wildlife damage abatement assistance to a person, the department shall determine the actual cost of providing that wildlife damage abatement assistance. The department shall pay 75 percent of the actual cost of providing wildlife damage abatement assistance and shall require the recipient to be responsible for the remaining 25 percent of that cost.

SECTION 18. 29.889 (5) (d) of the statutes is created to read:

29.889 (5) (d) *Bear traps.* The department shall require that any live bear trap acquired with wildlife damage abatement assistance be equipped with a remote monitor.

SECTION 19. 29.889 (6) (a) of the statutes is repealed.

SECTION 20. 29.889 (6) (d) of the statutes is amended to read:

29.889 (6) (d) *Compliance with wildlife damage abatement measures.* In order to be eligible for wildlife damage claim payments for an occurrence of wildlife

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damage, a person seeking wildlife damage claim payments shall have complied with any wildlife damage abatement measures to abate that wildlife damage that were recommended by the ~~county~~ department.

SECTION 21. 29.889 (6) (em) of the statutes is renumbered 29.889 (6) (em) 1.

SECTION 22. 29.889 (6) (em) 2. of the statutes is created to read:

29.889 (6) (em) 2. Damage to commercial seedings or crops growing on agricultural land caused by operating a vehicle in a field in order to place a live bear trap pursuant to the wildlife damage abatement program is eligible for wildlife damage claim payment.

SECTION 23. 29.889 (6) (f) of the statutes is renumbered 29.889 (6) (f) (intro.) and amended to read:

29.889 (6) (f) *Other eligibility requirements.* (intro.) In order to be eligible for wildlife damage claim payments, ~~a~~ all of the following apply:

1. A person is required to comply with eligibility requirements adopted by the department under sub. (2) (b) and with eligibility requirements specified in the plan of administration under sub. (3) (c).

SECTION 24. 29.889 (6) (f) 2. and 3. of the statutes are created to read:

29.889 (6) (f) 2. Except as provided in subd. 3., a person may not receive both a payment of a crop insurance claim for wildlife damage and a payment for a wildlife damage claim that arose from the same growing season.

3. a. A person is not eligible for a wildlife damage claim payment for crop damage cause by a bear unless the person has crop insurance that covers wildlife damage. Except as provided in subd. 3. b., the amount of a wildlife damage claim

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payment for crop damage caused by a bear may not be determined until an insurance claim for the damage is filed and settled. A person who receives a payment of a crop insurance claim for damage caused by a bear may receive a payment for a wildlife damage claim that arose from the same growing season for up to the amount of the damage that was not covered by the insurance payment, subject to sub. (7) (b) 4.

b. A person under subd. 3. a. is not required to submit a crop insurance claim for crop damage caused by a bear before receiving a wildlife damage claim payment for that damage if the cumulative crop damage is not sufficient to warrant a crop insurance claim.

SECTION 25. 29.889 (7) (a) of the statutes is amended to read:

29.889 (7) (a) *Investigation.* ~~A participating county~~ The department shall investigate each statement of claim and determine the total amount of the wildlife damage that occurred, regardless of the amount that may be eligible for payment under par. (b).

SECTION 26. 29.889 (7) (b) (intro.) of the statutes is amended to read:

29.889 (7) (b) *Calculating amount of payment.* (intro.) In calculating the amount of the wildlife damage claim payment to be paid for a claim under par. (a), the ~~participating county~~ department shall determine the amount as follows:

SECTION 27. 29.889 (7) (b) 2. of the statutes is amended to read:

29.889 (7) (b) 2. If the amount of claim is more than \$500 but not more than ~~\$5,250~~ \$5,500, the claimant will be paid 100 percent of the amount of the claim that exceeds \$500.

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SECTION 28. 29.889 (7) (b) 3. of the statutes is amended to read:

29.889 (7) (b) 3. If the amount of the claim is more than ~~\$5,250~~ \$5,500, the claimant will be paid the amount calculated under subd. 2., plus 80 percent of the amount of the claim that exceeds ~~\$5,250, subject to subd. 4.~~ \$5,500.

SECTION 29. 29.889 (7) (b) 4. of the statutes is amended to read:

29.889 (7) (b) 4. The total amount paid to a claimant under this paragraph may not exceed ~~\$10,000~~ \$25,000 for each claim.

SECTION 30. 29.889 (7) (bm) of the statutes is repealed.

SECTION 31. 29.889 (7) (d) 2. of the statutes is amended to read:

29.889 (7) (d) 2. The department shall pay claimants under subd. 1. from the appropriation under s. 20.370 (5) (fq) after first deducting from s. 20.370 (5) (fq) ~~payments made for county~~ administrative costs ~~under sub. (2) (d)~~ and payments made for wildlife damage abatement assistance under sub. (5) (c). If the amount remaining after these deductions from the appropriation under s. 20.370 (5) (fq) are not sufficient to pay the full amount required under subd. 1., the department shall pay claimants on a prorated basis.

SECTION 32. 29.889 (7m) (a) of the statutes is amended to read:

29.889 (7m) (a) *Requirements.* A person who receives wildlife damage abatement assistance or wildlife damage claim payments and any other person who owns, leases, or controls the land where the wildlife damage occurred shall permit hunting of the type of wild animals causing the wildlife damage on that land and on contiguous land under the same ownership, lease or control, subject to par. (ae). In order to satisfy the requirement to permit hunting under this subsection, the land

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shall be open to hunting during the appropriate open season. ~~The county, with the assistance of the~~ department, shall determine the acreage of land suitable for hunting.

SECTION 33. 29.889 (7m) (ae) 1. of the statutes is amended to read:

29.889 **(7m)** (ae) 1. ~~A~~ Except as provided under par. (au), a hunter may hunt on land covered by par. (a) only if the hunter notifies the landowner of his or her intent to hunt on the land.

SECTION 34. 29.889 (7m) (ae) 4. (intro.) of the statutes is amended to read:

29.889 **(7m)** (ae) 4. (intro.) ~~A~~ Except as provided under par. (au), a landowner may deny a hunter access to land covered by par. (a) for reasonable cause, including any of the following:

SECTION 35. 29.889 (7m) (au) of the statutes is created to read:

29.889 **(7m)** (au) *Registration system for bear hunting.* When land is open to bear hunting under this subsection, the department shall establish and administer, without input by the landowner, an Internet-based registration system under which, beginning at midnight, hunters may register to hunt bear on a particular parcel of land that day. A landowner may deny a hunter access to land under this paragraph only if the hunter has not registered using the department's registration system for that day, if the hunter brings a motor vehicle onto the land without the landowner's permission, or for the reasons under par. (ae) 4. b. and c.

SECTION 36. 29.889 (7m) (av) of the statutes is created to read:

29.889 **(7m)** (av) *Exemption; damage caused by bears on leased land.* The requirement under par. (a) does not apply to a person who acquires a live bear trap

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with wildlife damage abatement assistance as an abatement measure for damage caused by bears on land that the person leases.

SECTION 37. 29.889 (8g) of the statutes is amended to read:

29.889 (8g) REVIEW. ~~—A participating county's~~ The department's determination of the amount of wildlife damage, the amount of a wildlife damage claim, or the amount of wildlife damage abatement assistance shall be treated as a final ~~decisions~~ decision for purposes of review.

SECTION 38. 29.889 (8r) (a), (b) and (c) of the statutes are amended to read:

29.889 (8r) (a) *Records.* A person receiving wildlife damage abatement assistance or wildlife damage claim payments shall retain all records as required by the ~~participating county or the~~ department and make them available to the ~~participating county or the~~ department for inspection at reasonable times.

(b) *Entry to land.* The department ~~or a participating county~~ may enter and inspect, at reasonable times, any land for which a wildlife damage claim has been filed or for which wildlife damage abatement measures have been implemented.

(c) *Responsibilities.* No person may refuse entry or access to or withhold records from the department ~~or the participating county~~ under this subsection. No person may obstruct or interfere with an inspection by the department ~~or a participating county~~ under this subsection. The department ~~or participating county~~, if requested, shall furnish to the person a report setting forth all of the factual findings by the department ~~or participating county~~ that relate to the inspection.

SECTION 39. 29.89 (3) (a) of the statutes is repealed.

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SECTION 40. 29.89 (5) (b) 2. c. of the statutes is amended to read:

29.89 (5) (b) 2. c. Moneys are available under s. 20.370 (5) (fq) after first deducting from s. 20.370 (5) (fq) ~~payments made for county~~ administrative costs, payments made for wildlife damage abatement assistance, and wildlife damage claim payments under s. 29.889.

SECTION 41. Nonstatutory provisions.

(1) INTERNET-BASED BEAR HUNTER REGISTRATION SYSTEM. The department of natural resources shall request from the joint committee on finance under s. 13.10 an amount from the balance of the appropriation account under s. 20.370 (5) (fq) to be used for the purpose of establishing the Internet-based hunter registration system under s. 29.889 (7m) (au).

SECTION 42. Initial applicability.

(1) REMOTE MONITORING OF LIVE BEAR TRAPS. The treatment of s. 29.889 (5) (d) first applies to a live bear trap acquired with wildlife damage abatement assistance on July 2, 1983.

(2) CAP ON CLAIM PAYMENTS. The treatment of s. 29.889 (7) (b) 4. first applies to a statement of wildlife damage claim submitted on January 1, 2024.

SECTION 43. Effective dates. This act takes effect on January 1, 2025, except as follows:

(1) REMOTE MONITORING OF LIVE BEAR TRAPS. The treatment of s. 29.889 (5) (d) and SECTION 42 (1) of this act take effect on June 30, 2024.

(2) TYPES OF ELIGIBLE DAMAGE AND HUNTING LAND EXEMPTION. The

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treatment of s. 29.889 (7m) (av), the renumbering of s. 29.889 (6) (em), and the creation of s. 29.889 (6) (em) 2. take effect on the day after publication.

(END)