

1 (d) ~~When agreed upon by the claimant or landowner, the division~~
2 ~~may construct permanent stackyards or orchard fencing in those areas of~~
3 ~~high wildlife damage potential within the limitations of appropriation by~~
4 ~~the general assembly for that purpose.~~

5 (e) ~~If the division does not provide sufficient and appropriate~~
6 ~~damage prevention materials by September 1 when so requested by the~~
7 ~~claimant, the division shall have the sole responsibility to supply and erect~~
8 ~~such damage prevention materials. If the division does not provide such~~
9 ~~damage prevention materials by September 1 of the year in question or if~~
10 ~~the division, having failed to supply such materials by said date, has~~
11 ~~failed to supply and erect sufficient and appropriate damage prevention~~
12 ~~materials subsequent to September 1, when requested by the claimant, the~~
13 ~~division shall not refuse to pay any wildlife damages caused by the lack~~
14 ~~of damage prevention materials.~~

15 (f) ~~When erecting damage prevention materials, the division may~~
16 ~~use division employees, individuals under contract to the division, or~~
17 ~~voluntary workers. If the division uses voluntary workers to assist in~~
18 ~~erecting damage prevention materials as provided in this subsection (2),~~
19 ~~the division shall keep in force workers' compensation insurance as~~
20 ~~necessary to protect the claimant and the landowner from liability~~
21 ~~resulting from injuries or death of said voluntary workers while engaged~~
22 ~~in the erection of such damage prevention materials as provided in this~~
23 ~~subsection (2). If the division uses contract workers to assist in erecting~~
24 ~~damage prevention materials as provided in this subsection (2), the~~
25 ~~division shall require the contractor to provide evidence of workers'~~
26 ~~compensation insurance as necessary to protect the claimant and the~~
27 ~~landowner from liability resulting from injuries or death of said contract~~
28 ~~workers while engaged in the erection of such damage prevention~~
29 ~~materials as provided in this subsection (2).~~

30 (g) ~~The division has the responsibility to supply useable and~~
31 ~~appropriate damage prevention materials to the claimant, and the claimant~~
32 ~~shall keep such materials in good repair throughout their normal life, if~~
33 ~~such materials have not been destroyed or damaged by wildlife.~~

34 **SECTION 2.** Article 3 of title 33, Colorado Revised Statutes, is
35 amended BY THE ADDITION OF A NEW SECTION to read:

36 **33-3-103.5. Game damage prevention materials.** (1) THIS



1 SECTION SHALL BE APPLICABLE IN DETERMINING THE LIABILITY OF THE
2 STATE UNDER PARAGRAPH (e) OF SUBSECTION (2) OF THIS SECTION AND
3 SECTIONS 33-3-103 (1) (d) AND (1) (e).

4 (2) (a) EVERY LANDOWNER SHALL BE ELIGIBLE TO RECEIVE
5 SUFFICIENT AND APPROPRIATE GAME DAMAGE PREVENTION MATERIALS
6 PURSUANT TO THIS SECTION.

7 (b) THE DIVISION HAS THE RESPONSIBILITY TO SUPPLY USEABLE,
8 SUFFICIENT, AND APPROPRIATE GAME DAMAGE PREVENTION MATERIALS TO
9 A REQUESTING LANDOWNER, AND THE LANDOWNER SHALL KEEP SUCH
10 MATERIALS IN GOOD REPAIR THROUGHOUT THEIR NORMAL LIFE, IF SUCH
11 MATERIALS HAVE NOT BEEN DESTROYED OR DAMAGED BY WILDLIFE.

12 (3) (a) THE DIVISION SHALL RESPOND TO A LANDOWNER MAKING
13 AN INQUIRY RELATED TO GAME DAMAGE WITHIN TWO BUSINESS DAYS
14 AFTER RECEIVING THE INQUIRY.

15 (b) (I) WITHIN FIVE BUSINESS DAYS AFTER RECEIVING A REQUEST
16 FOR GAME DAMAGE PREVENTION MATERIALS, THE DIVISION SHALL
17 CONSULT WITH THE LANDOWNER TO DISCUSS THE SUFFICIENT AND
18 APPROPRIATE MATERIALS TO PREVENT OR MITIGATE THE GAME DAMAGE.
19 SUCH MATERIALS SHALL BE DELIVERED TO THE LANDOWNER WITHIN
20 FIFTEEN BUSINESS DAYS AFTER THE CONSULTATION, UNLESS
21 SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) APPLIES, OR UNLESS
22 OTHERWISE AGREED TO BY THE DIVISION AND THE LANDOWNER.

23 (II) IN CASE OF A SEVERE WEATHER EVENT, AS DETERMINED BY
24 THE DIRECTOR, THE DIVISION SHALL PROVIDE A LANDOWNER WITH GAME
25 DAMAGE PREVENTION MATERIALS WITHIN TWENTY DAYS AFTER RECEIVING
26 A REQUEST FOR SUCH MATERIALS. THE DIVISION SHALL MAKE A
27 LANDOWNER IN AN AREA IMPACTED BY THE SEVERE WEATHER EVENT A
28 PRIORITY.

29 (c) THE DIVISION SHALL DELIVER GAME DAMAGE PREVENTION
30 MATERIALS TO THE SPECIFIC SITE AS DIRECTED BY THE LANDOWNER, IF
31 SUCH DELIVERY MAY BE MADE BY TRUCK.

32 (d) WHEN AGREED UPON BY THE LANDOWNER, THE DIVISION MAY
33 CONSTRUCT PERMANENT STACKYARDS OR ORCHARD FENCING IN THOSE
34 AREAS OF HIGH WILDLIFE DAMAGE POTENTIAL WITHIN THE LIMITATIONS OF



1 APPROPRIATION BY THE GENERAL ASSEMBLY FOR THAT PURPOSE.

2 (e) (I) IF THE DIVISION DOES NOT PROVIDE GAME DAMAGE
3 PREVENTION MATERIALS WITHIN THE AMOUNT OF TIME ESTABLISHED BY
4 PARAGRAPH (b) OF THIS SUBSECTION (3), THE DIVISION SHALL HAVE THE
5 SOLE RESPONSIBILITY TO SUPPLY AND ERECT THE DAMAGE PREVENTION
6 MATERIALS, AND THE STATE SHALL BE LIABLE FOR GAME DAMAGES
7 INCURRED ON AND AFTER THE DATE BY WHICH THE DIVISION SHOULD HAVE
8 PROVIDED THE GAME DAMAGE PREVENTION MATERIALS.

9 (II) WHEN ERECTING GAME DAMAGE PREVENTION MATERIALS
10 PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (e), THE DIVISION
11 MAY USE DIVISION EMPLOYEES, INDIVIDUALS UNDER CONTRACT TO THE
12 DIVISION, OR VOLUNTARY WORKERS. IF THE DIVISION USES VOLUNTARY
13 WORKERS TO ASSIST IN ERECTING GAME DAMAGE PREVENTION MATERIALS,
14 THE DIVISION SHALL KEEP IN FORCE WORKERS' COMPENSATION INSURANCE
15 AS NECESSARY TO PROTECT THE LANDOWNER FROM LIABILITY RESULTING
16 FROM INJURIES OR DEATH OF SAID VOLUNTARY WORKERS WHILE ENGAGED
17 IN THE ERECTION OF SUCH GAME DAMAGE PREVENTION MATERIALS. IF THE
18 DIVISION USES CONTRACT WORKERS TO ASSIST IN ERECTING GAME
19 DAMAGE PREVENTION MATERIALS AS PROVIDED IN THIS SECTION, THE
20 DIVISION SHALL REQUIRE THE CONTRACTOR TO PROVIDE EVIDENCE OF
21 WORKERS' COMPENSATION INSURANCE AS NECESSARY TO PROTECT THE
22 LANDOWNER FROM LIABILITY RESULTING FROM INJURIES OR DEATH OF
23 SAID CONTRACT WORKERS WHILE ENGAGED IN THE ERECTION OF SUCH
24 GAME DAMAGE PREVENTION MATERIALS.

25 (4) IF THE GAME DAMAGE PREVENTION MATERIALS THAT THE
26 DIVISION PROVIDES TO A LANDOWNER FAIL TO PREVENT GAME DAMAGE
27 DUE TO INSUFFICIENCY OR INAPPROPRIATENESS OF SUCH MATERIALS, OR
28 IF THE DIVISION'S INSUFFICIENT OR INAPPROPRIATE ERECTION OF SUCH
29 MATERIALS FAIL TO PREVENT GAME DAMAGE, THE STATE SHALL BE LIABLE
30 FOR DAMAGES CAUSED BY SUCH MATERIALS OR ERECTION.

31 **SECTION 3.** The introductory portion to 33-3-104 (1), Colorado
32 Revised Statutes, is amended to read:

33 **33-3-104. State shall be liable - when.** (1) Subject to the
34 limitations contained in ~~section~~ SECTIONS 33-3-103 (1) AND 33-3-103.5,
35 and in part 2 of this article, the state shall be liable only for:



1 **SECTION 4.** 33-3-106 (1), Colorado Revised Statutes, is
2 amended to read:

3 **33-3-106. Excessive damage - permit to take wildlife -**
4 **harassment by dogs.** (1) (a) Where wildlife is causing excessive
5 damage to property, as determined by the division INCONSULTATION WITH
6 THE OWNER OF THE PROPERTY, AND THE NUMBER OF GAME ANIMALS
7 CAUSING THE DAMAGE EXCEEDS THE OBJECTIVE NUMBER SET BY THE
8 DIVISION FOR THE UNIT ON WHICH THE DAMAGE IS OCCURRING, the
9 division ~~is authorized to~~ SHALL issue a permit to the property owner, THE
10 PROPERTY OWNER'S DESIGNEE, or to such other person selected by the
11 division to kill a specified number of the wildlife causing ~~such~~ THE
12 excessive damage.

13 (b) AT ANY TIME WHEN WILDLIFE IS CAUSING DAMAGE TO
14 PROPERTY, THE DIVISION IS AUTHORIZED AND ENCOURAGED TO ISSUE A
15 PERMIT TO THE PROPERTY OWNER, THE PROPERTY OWNER'S DESIGNEE, OR
16 SUCH OTHER PERSON SELECTED BY THE DIVISION TO KILL A SPECIFIED
17 NUMBER OF WILDLIFE CAUSING SUCH DAMAGE.

18 **SECTION 5. Act subject to petition - effective date -**
19 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
20 following the expiration of the ninety-day period after final adjournment
21 of the general assembly that is allowed for submitting a referendum
22 petition pursuant to article V, section 1 (3) of the state constitution,
23 (August 4, 2009, if adjournment sine die is on May 6, 2009); except that,
24 if a referendum petition is filed against this act or an item, section, or part
25 of this act within such period, then the act, item, section, or part, if
26 approved by the people, shall take effect on the date of the official
27 declaration of the vote thereon by proclamation of the governor.

28 (2) The provisions of this act shall apply to inquiries related to
29 game damage and requests for game damage prevention materials
30 received by the division of wildlife on or after the applicable effective
31 date of this act."

** ** ** ** **



