

SENATE BILL REPORT

SB 5844

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, February 26, 2007

Title: An act relating to specialized forest products and specialty wood.

Brief Description: Concerning specialized forest products and specialty wood.

Sponsors: Senators Roach, Jacobsen, Rockefeller, Rasmussen and Sheldon.

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation: 2/12/07, 2/26/07 [DPS].

Brief Summary of Bill

- Modifies the definition of specialty wood under the specialized forest products statutes.
- Creates new requirements which apply specifically to the harvest, possession, and transfer of specialty wood. Persons harvesting, possessing, and transporting specialty wood need not obtain documentation validated by the county sheriff.
- Modifies existing provisions governing the harvest, possession, and transfer of specialized forest products.

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: That Substitute Senate Bill No. 5844 be substituted therefor, and the substitute bill do pass.

Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Poulsen, Spanel, Stevens and Swecker.

Staff: Curt Gavigan (786-7437)

Background: Chapter 76.48 RCW sets out a series of requirements for the harvest, possession, and transportation of specified amounts of forest materials. These materials, known as specialized forest products (products), include specified amounts of cedar, speciality wood, cut or picked evergreen foliage, and other forest products.

Permitting and documentation requirements: A person must obtain a specialized forest products permit (permit), validated by the county sheriff, prior to harvesting specified amount of products. Subsequent to harvest, a person may not possess or transport such products

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

without proper documentation, which varies depending on the specific type of product at issue.

Upon receipt of specialized forest products, buyers, cedar processors, and specialty wood processors must make and maintain records for one year. Current law also states that cedar or specialty wood processors or buyers may not purchase, take possession or retain, certain products unless the supplier displays a permit.

Exceptions: The Legislature has exempted: (1) nursery grown products; (2) products harvested concurrently with timber under a forest practices application; and (3) the activities of landowners conducting non-commercial maintenance activities from the requirements of Chapter 76.48 RCW.

Enforcement: A law enforcement officer may seize and take possession of specialized forest products, and, in some cases, equipment, vehicles, tools, and paperwork, upon making an arrest for violation of a specialized forest products statute. Upon disposition of a case, the court must attempt to return the materials, or the proceeds of their sale, to the rightful owner.

A violation of the specialized forest product statutes is generally punishable by no more than one year in the county jail or a fine of not more than \$1,000, or both.

Summary of Bill: The bill modifies the definition of specialty wood and removes specialty wood from the existing permitting, documentation, and recordkeeping requirements for specialized forest products.

Definition of specialty wood: Specialty wood means: (1) cedar, Engelmann spruce, Sitka spruce, maple, or red alder that is in logs less than eight feet, or is in slabs of a size and character suitable for making musical instruments; (2) cedar or maple burls; (3) cedar stumps; or (4) three or fewer cedar logs, each less than eight feet in length.

Specialty wood does not include certain wood material capable of being processed into cedar products.

Requirements for specialty wood: The new requirements created for specialty wood generally require possession of a bill of sale to harvest specialty wood, to transfer that wood to the point of first sale or transfer, and to transfer specialty wood to specialty wood processors. The buyer and seller of specialty wood fill out the bill of sale, which need not be validated by the county sheriff.

Specialty wood processors must make and maintain, for one year, records upon the receipt of specialty wood. A subsequent bill of sale must accompany specialty wood after the specialty wood processor transfers specialty wood to another.

Specialty wood processors must prominently display a valid registration certificate at locations where processors receive specialty wood. Persons may not process specialty wood, retain processed specialty wood, or sell or dispose of processed specialty wood without meeting the documentation and recordkeeping requirements applicable to specialty wood processors.

Modifications to requirements for specialized forest products: Many changes are made to the existing requirements governing specialized forest products, which include:

- adding Latin names for many specialized forest products, in addition to their common names;
- removing scotch broom from the definition of "cut or picked evergreen foliage," which is regulated as a specialized forest product;
- removing the option to mail specialized forest products permit forms to the county sheriff for validation;
- allowing cedar processors to accept products from out of state so long as the supplier provides a document indicating the true origin of specialized forest products;
- modifying the exemptions to Chapter 76.48 to specify that exempt non-commercial property management activities include the harvest, possession, and transportation of specialized forest products or specialty wood;
- transferring the responsibility for public education on specialized forest product permitting issues from the Department of Natural Resources to the Washington State University Cooperative Extension Service; and
- making technical changes to Chapter 76.48 RCW.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Natural Resources, Ocean & Recreation): All changes to the specialized forest products requirements of Chapter 76.48 made in the underlying bill are removed.

An affirmative defense is made available to those prosecuted for failure to obtain or possess a specialized forest products permit or true copy thereof, an authorization, sales invoice, or bill of lading. The affirmative defense requires that a defendant establish, by a preponderance of the evidence, that the specialized forest products were harvested from the defendant's land or that the specialized forest products were harvested with the permission of the landowner.

The specialized forest products work group is created consisting of appropriate representatives from: the Department of Natural Resources; county sheriffs; county prosecutors; industrial and small forest landowners; tribes; recreational and professional wood carvers; cedar and specialty wood processors; and other appropriate persons invited by the Commissioner of Public Lands. The work group must examine applicable specialized forest products and theft statutes and make recommendations to ensure that the specialized forest products requirements: provide reasonable tools for law enforcement and reasonably protect landowners from theft; are not unduly burdensome to those harvesting or utilizing specialized forest products; are clear and may be readily understood by law enforcement and the public; and are administered and enforced consistently throughout the state. The work group must be staffed by the Department of Natural Resources and must provide a report to the Legislature by December 1, 2007.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The law should not punish law abiding citizens for innocent activities, such as transporting small amounts of wood for recreational carving.

Individuals have had wood confiscated and had to spend huge sums of money on the legal process, all for the failure to have the proper documentation. Wood turning clubs enjoy sharing wood from their land with each other, and this statute makes that criminal. The act was created in the 1960s, primarily to address cedar theft. The current legal setup may not be the best way to deal with tonewood and specialty wood theft today. This bill is an improvement on the current statute, but there is still a ways to go to perfect it.

OTHER: The bill's intent to protect innocent people is a good one, but landowners' rights must be protected from the wood theft that continues. The theft of forest products, and the statutory scheme regulating forest products, is very complex and a study may be warranted here.

Persons Testifying: PRO: Senator Roach, prime sponsor; Jack Wayne, Seattle Woodturners; Bob Sweazey, South Puget Sound Woodturners and Evergreen Woodworking Guild; Pat McCart, South Puget Sound Woodturners; Howard Thronson, Department of Natural Resources; Donna Quezada, Creative Wood Sculptures.

OTHER: Debora Munguia, Washington Forest Protection Association; Kate Tate, Weyerhaeuser.