
SENATE BILL 6385

State of Washington

56th Legislature

2000 Regular Session

By Senators Hargrove and Rasmussen

Read first time 01/14/2000. Referred to Committee on Natural Resources, Parks & Recreation.

1 AN ACT Relating to specialized forest products; amending RCW
2 76.48.085; adding new sections to chapter 76.48 RCW; and repealing RCW
3 76.48.080.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 76.48.085 and 1995 c 366 s 14 are each amended to read
6 as follows:

7 (1) The department of natural resources is authorized to adopt by
8 rule a single form containing at least the following information:

9 (a) Information concerning sellers of specialized forest products.
10 The authorization, sales invoice, or bill of lading required by RCW
11 76.48.070 that shall specify (i) the date of its execution; (ii) the
12 number and type of products sold or being transported; (iii) the name
13 and address of the owner, vendor, or donor of the specialized forest
14 products; (iv) the name and address of the vendee, donee, or receiver
15 of the specialized forest products; and (v) the location of origin of
16 the specialized forest products.

17 (b) Information concerning buyers who purchase specialized forest
18 products (~~are required to~~)). At a minimum, the form must require the
19 buyer to record (~~(1)~~) (i) the permit number; (~~(2)~~) (ii) the type of

1 forest product purchased; ~~((+3))~~ (iii) the permit holder's name; ~~((and~~
2 ~~(+4))~~ (iv) the amount of forest product purchased; and (v) the date of
3 purchase.

4 (2) The buyer shall keep a record of ~~((this))~~ the information
5 required under subsection (1)(a) and (b) of this section for a period
6 of one year from the date of purchase and make the records available
7 for inspection by authorized enforcement officials.

8 (3) The buyer of specialized forest products must record the
9 license plate number of the vehicle transporting the forest products on
10 the bill of sale, the amount paid for the specialized forest products
11 on the bill of sale, as well as the seller's permit number on the bill
12 of sale. This section shall not apply to transactions involving
13 Christmas trees.

14 ~~((The—[This]))~~ (4) This section shall not apply to buyers of
15 specialized forest products at the retail sales level.

16 NEW SECTION. Sec. 2. A new section is added to chapter 76.48 RCW
17 to read as follows:

18 (1) All law enforcement officers may seize without warrant boats,
19 airplanes, vehicles, gear, appliances, or other articles they have
20 probable cause to believe have been used in violation of this chapter.
21 However, law enforcement officers may not seize any item or article,
22 other than for evidence, if under the circumstances, it is reasonable
23 to conclude that the violation was inadvertent. The property seized is
24 subject to forfeiture to the state under this section regardless of
25 ownership. Property seized may be recovered by its owner by depositing
26 into court a cash bond equal to the value of the seized property but
27 not more than twenty-five thousand dollars. Such cash bond is subject
28 to forfeiture in lieu of the property. Forfeiture of property seized
29 under this section is a civil forfeiture against property intended to
30 be a remedial civil sanction.

31 (2) In the event of a seizure of property under this section,
32 jurisdiction to begin the forfeiture proceedings shall commence upon
33 seizure. Within fifteen days following the seizure, the seizing
34 authority shall serve a written notice of intent to forfeit property on
35 the owner of the property seized and on any person having any known
36 right or interest in the property seized. Notice may be served by any
37 method authorized by law or court rule, including service by certified

1 mail with return receipt requested. Service by mail is deemed complete
2 upon mailing within the fifteen-day period following the seizure.

3 (3) Persons claiming a right of ownership or right to possession of
4 property are entitled to a hearing to contest forfeiture. Such a claim
5 shall specify the claim of ownership or possession and shall be made in
6 writing and served on the administrative head of the agency that seized
7 the property within forty-five days of the seizure. If the seizing
8 authority has complied with notice requirements and there is no claim
9 made within forty-five days, then the property shall be forfeited to
10 the state.

11 (4) If any person timely serves the administrative head of the
12 agency that seized the property with a claim to the property, the
13 person shall be afforded an opportunity to be heard as to the person's
14 claim or right. The hearing shall be before an administrative law
15 judge appointed under chapter 34.12 RCW, except that a person asserting
16 a claim or right may remove the matter to a court of competent
17 jurisdiction if the aggregate value of the property seized is more than
18 five thousand dollars.

19 (5) The hearing to contest forfeiture and any subsequent appeal
20 shall be as provided for in Title 34 RCW. The seizing authority has
21 the burden to demonstrate that it had reason to believe the property
22 was held with intent to violate or was used in violation of this
23 chapter or rule adopted under this chapter. The person contesting
24 forfeiture has the burden of production and proof by a preponderance of
25 evidence that the person owns or has a right to possess the property
26 and:

27 (a) That the property was not held with intent to violate or used
28 in violation of this chapter; or

29 (b) If the property is a boat, airplane, or vehicle, that the
30 illegal use or planned illegal use of the boat, airplane, or vehicle
31 occurred without the owner's knowledge or consent, and that the owner
32 acted reasonably to prevent illegal uses of such boat, airplane, or
33 vehicle.

34 (6) A forfeiture of a conveyance encumbered by a perfected security
35 interest is subject to the interest of the secured party if the secured
36 party neither had knowledge of nor consented to the act or omission.
37 No security interest in seized property may be perfected after seizure.

38 (7) If seized property is forfeited under this section, the agency
39 that seized the property may retain it for official use unless the

1 property is required to be destroyed, or upon application by any law
2 enforcement agency of the state, release such property to the agency
3 for the use of enforcing criminal laws, or sell the property, and
4 retain the net proceeds for the benefit of the seizing agency. Money
5 retained under this section may not be used to supplant preexisting
6 funding sources.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 76.48 RCW
8 to read as follows:

9 A person who harvests, or causes to be harvested, any specialized
10 forest products in violation of this chapter is liable to the property
11 owner for treble the value of the specialized forest products, plus
12 attorneys' fees. The treble damages may be recovered in a civil
13 action, and the person forfeits to the property owner all interest in
14 the specialized forest products.

15 NEW SECTION. **Sec. 4.** RCW 76.48.080 (Contents of authorization,
16 sales invoice, or bill of lading) and 1979 ex.s. c 94 s 7 & 1967 ex.s.
17 c 47 s 9 are each repealed.

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