
SUBSTITUTE HOUSE BILL 2749

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives B. Sullivan, McCoy, Upthegrove, Chase, P. Sullivan, Appleton, Eickmeyer, Newhouse, Miloscia, Dunshee, Conway and Buck)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to specialized forest products; and amending RCW
2 76.48.020, 76.48.060, 76.48.070, 76.48.110, and 76.48.030.

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

4 **Sec. 1.** RCW 76.48.020 and 2005 c 401 s 1 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Authorization" means a properly completed preprinted form
9 authorizing the transportation or possession of Christmas trees which
10 contains the information required by RCW 76.48.080, a sample of which
11 is filed before the harvesting occurs with the sheriff of the county in
12 which the harvesting is to occur.

13 (2) "Bill of lading" means a written or printed itemized list or
14 statement of particulars pertinent to the transportation or possession
15 of a specialized forest product.

16 (3) "Cascara bark" means the bark of a Cascara tree.

17 (4) "Cedar processor" means any person who purchases, takes, or
18 retains possession of cedar products or cedar salvage for later sale in

1 the same or modified form following removal and delivery from the land
2 where harvested.

3 (5) "Cedar products" means cedar shakeboards, shake and shingle
4 bolts, and rounds one to three feet in length.

5 (6) "Cedar salvage" means cedar chunks, slabs, stumps, and logs
6 having a volume greater than one cubic foot and being harvested or
7 transported from areas not associated with the concurrent logging of
8 timber stands (a) under a forest practices application approved or
9 notification received by the department of natural resources, or (b)
10 under a contract or permit issued by an agency of the United States
11 government.

12 (7) "Christmas trees" means any evergreen trees or the top thereof,
13 commonly known as Christmas trees, with limbs and branches, with or
14 without roots, including fir, pine, spruce, cedar, and other coniferous
15 species.

16 (8) "Cut or picked evergreen foliage," commonly known as brush,
17 means evergreen boughs, huckleberry foliage, salal, fern, Oregon grape,
18 rhododendron, mosses, bear grass, scotch broom (*Cytisus scoparius*), and
19 other cut or picked evergreen products. "Cut or picked evergreen
20 foliage" does not mean cones, berries, any foliage that does not remain
21 green year-round, or seeds.

22 (9) "Harvest" means to separate, by cutting, prying, picking,
23 peeling, breaking, pulling, splitting, or otherwise removing, a
24 specialized forest product (a) from its physical connection or contact
25 with the land or vegetation upon which it is or was growing or (b) from
26 the position in which it is lying upon the land.

27 (10) "Harvest site" means each location where one or more persons
28 are engaged in harvesting specialized forest products close enough to
29 each other that communication can be conducted with an investigating
30 law enforcement officer in a normal conversational tone.

31 (11) "Huckleberry" means the edible berries of all species of
32 *Vaccinium* that have not been nursery grown.

33 (12) "Landowner" means, with regard to real property, the private
34 owner, the state of Washington or any political subdivision, the
35 federal government, or a person who by deed, contract, or lease has
36 authority to harvest and sell forest products of the property.
37 "Landowner" does not include the purchaser or successful high bidder at
38 a public or private timber sale.

1 (~~(12)~~) (13) "Native ornamental trees and shrubs" means any trees
2 or shrubs which are not nursery grown and which have been removed from
3 the ground with the roots intact.

4 (~~(13)~~) (14) "Permit area" means a designated tract of land that
5 may contain single or multiple harvest sites.

6 (~~(14)~~) (15) "Person" includes the plural and all corporations,
7 foreign or domestic, copartnerships, firms, and associations of
8 persons.

9 (~~(15)~~) (16) "Processed cedar products" means cedar shakes,
10 shingles, fence posts, hop poles, pickets, stakes, rails, or rounds
11 less than one foot in length.

12 (~~(16)~~) (17) "Sheriff" means, for the purpose of validating
13 specialized forest products permits, the county sheriff, deputy
14 sheriff, or an authorized employee of the sheriff's office or an agent
15 of the office.

16 (~~(17)~~) (18) "Specialized forest products" means Christmas trees,
17 native ornamental trees and shrubs, cut or picked evergreen foliage,
18 huckleberries, cedar products, cedar salvage, processed cedar products,
19 specialty wood, wild edible mushrooms, and Cascara bark.

20 (~~(18)~~) (19) "Specialized forest products permit" means a printed
21 document in a form printed by the department of natural resources, or
22 true copy thereof, that is signed by a landowner or his or her
23 authorized agent or representative, referred to in this chapter as
24 "permitters" and validated by the county sheriff and authorizes a
25 designated person, referred to in this chapter as "permittee," who has
26 also signed the permit, to harvest and transport a designated
27 specialized forest product from land owned or controlled and specified
28 by the permittor and that is located in the county where the permit is
29 issued.

30 (~~(19)~~) (20) "Specialty wood" means wood that is:

31 (a) In logs less than eight feet in length, chunks, slabs, stumps,
32 or burls; and

33 (b) One or more of the following:

34 (i) Of the species western red cedar, Englemann spruce, Sitka
35 spruce, big leaf maple, or western red alder;

36 (ii) Without knots in a portion of the surface area at least
37 twenty-one inches long and seven and a quarter inches wide when
38 measured from the outer surface toward the center; or

1 (iii) Suitable for the purposes of making musical instruments or
2 ornamental boxes.

3 ~~((+20))~~ (21) "Specialty wood buyer" means the first person that
4 receives any specialty wood product after it leaves the harvest site.

5 ~~((+21))~~ (22) "Specialty wood processor" means any person who
6 purchases, takes, or retains possession of specialty wood products or
7 specialty wood salvage for later sale in the same or modified form
8 following removal and delivery from the land where harvested.

9 ~~((+22))~~ (23) "Transportation" means the physical conveyance of
10 specialized forest products outside or off of a harvest site by any
11 means.

12 ~~((+23))~~ (24) "True copy" means a replica of a validated
13 specialized forest products permit as reproduced by a copy machine
14 capable of effectively reproducing the information contained on the
15 permittee's copy of the specialized forest products permit. A copy is
16 made true by the permittee or the permittee and permittor signing in
17 the space provided on the face of the copy. A true copy will be
18 effective until the expiration date of the specialized forest products
19 permit unless the permittee or the permittee and permittor specify an
20 earlier date. A permittor may require the actual signatures of both
21 the permittee and permittor for execution of a true copy by so
22 indicating in the space provided on the original copy of the
23 specialized forest products permit. A permittee, or, if so indicated,
24 the permittee and permittor, may condition the use of the true copy to
25 harvesting only, transportation only, possession only, or any
26 combination thereof.

27 ~~((+24))~~ (25) "Wild edible mushrooms" means edible mushrooms not
28 cultivated or propagated by artificial means.

29 **Sec. 2.** RCW 76.48.060 and 2005 c 401 s 3 are each amended to read
30 as follows:

31 (1) A specialized forest products permit validated by the county
32 sheriff shall be obtained by a person prior to harvesting from any
33 lands, including his or her own, any of the following: More than five
34 Christmas trees~~((τ))~~i; more than five native ornamental trees or
35 shrubs~~((τ))~~i; more than five pounds of cut or picked evergreen
36 foliage~~((τ))~~i; any cedar products, cedar salvage, or processed cedar

1 products(~~(, or)~~); more than five pounds of Cascara bark(~~(, or)~~); more
2 than five United States gallons of a single species of wild edible
3 mushroom; or more than three United States gallons of huckleberries.

4 (2) Specialized forest products permit forms shall be provided by
5 the department of natural resources, and shall be made available
6 through the office of the county sheriff to permittees or permitors in
7 reasonable quantities. A permit form shall be completed in triplicate
8 for each permittor's property on which a permittee harvests specialized
9 forest products. A properly completed permit form shall be mailed or
10 presented for validation to the sheriff of the county in which the
11 specialized forest products are to be harvested.

12 (3) Before a permit form is validated by the sheriff, sufficient
13 personal identification may be required to reasonably identify the
14 person mailing or presenting the permit form and the sheriff may
15 conduct other investigations as deemed necessary to determine the
16 validity of the information alleged on the form. When the sheriff is
17 reasonably satisfied as to the truth of the information, the form shall
18 be validated with the sheriff's validation stamp.

19 (4) Upon validation, the form shall become the specialized forest
20 products permit authorizing the harvesting, possession, or
21 transportation of specialized forest products, subject to any other
22 conditions or limitations which the permittor may specify. Two copies
23 of the permit shall be given or mailed to the permittor, or one copy
24 shall be given or mailed to the permittor and the other copy given or
25 mailed to the permittee. The original permit shall be retained in the
26 office of the county sheriff validating the permit.

27 (5) In the event a single land ownership is situated in two or more
28 counties, a specialized forest product permit shall be completed as to
29 the land situated in each county.

30 (6) While engaged in harvesting of specialized forest products,
31 permittees, or their agents or employees, must have readily available
32 at each harvest site a valid permit or true copy of the permit.

33 **Sec. 3.** RCW 76.48.070 and 2005 c 401 s 4 are each amended to read
34 as follows:

35 (1) Except as provided in RCW 76.48.100 and 76.48.075, it is
36 unlawful for any person (a) to possess, (b) to transport, or (c) to
37 possess and transport within the state of Washington, subject to any

1 other conditions or limitations specified in the specialized forest
2 products permit by the permittor, more than five Christmas trees, more
3 than five native ornamental trees or shrubs, more than five pounds of
4 cut or picked evergreen foliage, any processed cedar products, ((~~or~~))
5 more than five pounds of Cascara bark, ((~~or~~)) more than five gallons of
6 a single species of wild edible mushroom, or more than three gallons of
7 huckleberries without having in his or her possession a written
8 authorization, sales invoice, bill of lading, or specialized forest
9 products permit or a true copy thereof evidencing his or her title to
10 or authority to have possession of specialized forest products being so
11 possessed or transported.

12 (2) It is unlawful for any person either (a) to possess, (b) to
13 transport, or (c) to possess and transport within the state of
14 Washington any cedar products, cedar salvage, or specialty wood without
15 having in his or her possession a specialized forest products permit or
16 a true copy thereof evidencing his or her title to or authority to have
17 possession of the materials being so possessed or transported. The
18 specialized forest products permit or true copy are valid to possess,
19 transport, or possess and transport the cedar products, cedar salvage,
20 or specialty wood from the harvest site to the first cedar or specialty
21 wood processor or buyer. For purposes of this subsection, a true copy
22 requires the actual signatures of both the permittee and the permittor
23 for the execution of a true copy.

24 **Sec. 4.** RCW 76.48.110 and 2005 c 401 s 11 are each amended to read
25 as follows:

26 (1) Whenever any law enforcement officer has probable cause to
27 believe that a person is harvesting or is in possession of or
28 transporting specialized forest products in violation of the provisions
29 of this chapter, he or she may, at the time of making an arrest, seize
30 and take possession of any specialized forest products found. If the
31 specialized forest product is a cedar product, cedar salvage, or
32 specialty wood, at the time of making an arrest the law enforcement
33 officer may seize and take possession of any equipment, vehicles,
34 tools, or paperwork. The law enforcement officer shall provide
35 reasonable protection for the equipment, vehicles, tools, paperwork, or
36 specialized forest products involved during the period of litigation or

1 he or she shall dispose of the equipment, vehicles, tools, paperwork,
2 or specialized forest products at the discretion or order of the court
3 before which the arrested person is ordered to appear.

4 (2) Except as provided in subsection (3) of this section, upon any
5 disposition of the case by the court, the court shall make a reasonable
6 effort to return the equipment, vehicles, tools, paperwork, or
7 specialized forest products to its rightful owner or pay the proceeds
8 of any sale of specialized forest products less any reasonable expenses
9 of the sale to the rightful owner. If for any reason, the proceeds of
10 the sale cannot be disposed of to the rightful owner, the proceeds,
11 less the reasonable expenses of the sale, shall be paid to the
12 treasurer of the county in which the violation occurred. The county
13 treasurer shall deposit the same in the county general fund. The
14 return of the equipment, vehicles, tools, paperwork, or specialized
15 forest products or the payment of the proceeds of any sale of products
16 seized to the owner shall not preclude the court from imposing any fine
17 or penalty upon the violator for the violation of the provisions of
18 this chapter.

19 (3) If huckleberries seized under subsection (2) of this section
20 were taken from the ceded areas of a federally recognized American
21 Indian tribe, then the huckleberries shall be turned over to the tribe
22 or its agent, without charge, for ceremonial, educational, or religious
23 uses.

24 **Sec. 5.** RCW 76.48.030 and 1995 c 366 s 2 are each amended to read
25 as follows:

26 It is unlawful for any person to:

27 (1) Harvest specialized forest products as described in RCW
28 76.48.020, in the quantities specified in RCW 76.48.060, without first
29 obtaining a validated specialized forest products permit;

30 (2) Engage in activities or phases of harvesting specialized forest
31 products not authorized by the permit; (~~or~~)

32 (3) Harvest specialized forest products in any lesser quantities
33 than those specified in RCW 76.48.060, as now or hereafter amended,
34 without first obtaining permission from the landowner or his or her
35 duly authorized agent or representative; or

1 (4) Harvest huckleberries in any amount using a rake, mechanical
2 device, or any other method that damages the huckleberry bush.

--- END ---