

SENATE BILL REPORT

SHB 1909

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, March 28, 2007

Title: An act relating to specialized forest products.

Brief Description: Protecting from the theft of specialized forest products.

Sponsors: House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Orcutt, B. Sullivan, Roach, Blake, Takko, Pearson, Kristiansen and Hinkle).

Brief History: Passed House: 3/14/07, 96-0.

Committee Activity: Natural Resources, Ocean & Recreation: 3/26/07, 3/28/07 [DPA].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: Do pass as amended.

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 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 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.

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.

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 a fine of not more than \$1,000 or no more than one year in the county jail, or both.

Summary of Substitute Bill: The bill modifies the definition of specialty wood; removes specialty wood and processed cedar products from many of the existing permitting, documentation, and recordkeeping requirements for specialized forest products; and makes numerous other changes to the specialized forest products statute.

Definition of specialty wood: Specialty wood means (1) cedar, Engelmann spruce, Sitka spruce, or maple 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 eight feet or less in length used for carving. 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 from the Department of Revenue 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.

Other statutory changes: Numerous other changes are made to the specialized forest products statute, including:

- allowing the property description on a permit form by reference to the street address, legal description, or description of a property by local landmark;
- removing the option to mail in a permit form for validation by a sheriff;
- specifying that a permit or true copy thereof is only required to transport or possess cedar products or cedar salvage from the harvest site to the first processor or buyer;
- removing the authority of law enforcement to seize equipment, vehicles, or tools upon making an arrest for a specialized forest products violation;
- requiring the transporter of the stolen products or wood, under certain circumstances, to pay the rightful owner three times the appraised market value of such products or wood;
- specifying the activities subject to the landowner maintenance exemption to the specialized forest products requirements;
- removing scotch broom from the specialized forest products regulations;

- specifying that those who produce carvings or artistic products are not subject to the heightened requirements that apply to processors;
- allowing persons to validate permits through the sheriff of either the county where the permittee lives or from which wood is harvested or transported;
- modifying numerous definitions within the specialized forest products statute; and
- making technical changes.

Intent: Intent language expresses the Legislature's desire to streamline the specialized forest products permitting system, while maintaining protections for forest landowners. Law enforcement and prosecutors are also urged to focus their efforts on individuals involved in the theft of large quantities of products, and to exercise discretion where warranted

EFFECT OF CHANGES MADE BY RECOMMENDED AMENDMENT(S) AS PASSED COMMITTEE (Natural Resources, Ocean & Recreation): The substance of the underlying bill is removed in its entirety and replaced with new language. 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, within the Department of Natural Resources, and consists of representatives from specified interests 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 the Legislature by December 1, 2007.

Huckleberries, in quantities exceeding three gallons, are added to the list of materials whose harvest, transportation, and possession is regulated under the specialized forest products laws. Persons may, however, harvest huckleberries from their own land without a permit. Persons may also store up to ten gallons of huckleberries on their property for non-commercial use without meeting the general documentation requirements for specialized forest product possession. Additionally, the use of huckleberry harvest techniques that damage the huckleberry bush is made unlawful.

Appropriation: None.

Fiscal Note: Not requested.

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: This bill is necessary to address strict provisions that have turned well meaning wood carvers into criminals, and to allow woodturners to continue to do business and recreate in Washington. Current law regarding cedar and specialty wood is so stringent and confusing that compliance is difficult. The broad seizure authority in current law should be loosened. As a regulated noxious weed, scotch broom should not be protected as a specialized forest product. Along with the protections in

this bill, a study of the entire law would be very valuable. The law and law enforcement should focus on major wood theft.

OTHER: The intent of this bill is very valid and action needs to be taken. This bill is very complicated and not easily understood. A study of the law, discussion among the interest groups, and providing defendants with an affirmative defense is the best way to move forward for now. Wood theft is a major problems for forest landowners, causing monetary and environmental loss.

Persons Testifying: PRO: Richard Curran, Wood Worker Guild; Bob Sweazey, Evergreen Woodworkers Guild; James Cotter, South Puget Sound Turner; Lawrence Bonn, South Puget Sound Turner; Dennis VanParys, disabled veteran; John Swanson, Seattle Woodturner; Larry Miller, Woodturners of Olympia; Gerald Wheeler, Evergreen Woodworkers Guild; Donna Quezada, Creative Wood Sculptures; Steve McGonigal, Washington State Noxious Weed Control Board; Joaquin Quezada, Creative Wood Sculptures.

OTHER: Bruce Mackey, Department of Natural Resources; Debora Munguia, Washington Forest Protection Association; Chris Lunde, Port Blakely Tree Farms; Kate Tate, Weyerhaeuser; Dan Coyne, Green Diamond.