
SUBSTITUTE HOUSE BILL 1040

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Agriculture & Natural Resources (originally sponsored by Representative B. Sullivan)

READ FIRST TIME 02/23/07.

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 following species of edible berries,
32 if they are not nursery grown: *Vaccinium membranaceum, Vaccinium*
33 *deliciosum, Vaccinium ovatum, Vaccinium parvifolium, Vaccinium*
34 *globulare, Vaccinium ovalifolium, Vaccinium alaskaense, Vaccinium*
35 *caespitosum, Vaccinium occidentale, Vaccinium uliginosum, Vaccinium*
36 *myrtilus, and Vaccinium scoparium.*

37 (12) "Landowner" means, with regard to real property, the private
38 owner, the state of Washington or any political subdivision, the

1 federal government, or a person who by deed, contract, or lease has
2 authority to harvest and sell forest products of the property.
3 "Landowner" does not include the purchaser or successful high bidder at
4 a public or private timber sale.

5 ((+12+)) (13) "Native ornamental trees and shrubs" means any trees
6 or shrubs which are not nursery grown and which have been removed from
7 the ground with the roots intact.

8 ((+13+)) (14) "Permit area" means a designated tract of land that
9 may contain single or multiple harvest sites.

10 ((+14+)) (15) "Person" includes the plural and all corporations,
11 foreign or domestic, copartnerships, firms, and associations of
12 persons.

13 ((+15+)) (16) "Processed cedar products" means cedar shakes,
14 shingles, fence posts, hop poles, pickets, stakes, rails, or rounds
15 less than one foot in length.

16 ((+16+)) (17) "Sheriff" means, for the purpose of validating
17 specialized forest products permits, the county sheriff, deputy
18 sheriff, or an authorized employee of the sheriff's office or an agent
19 of the office.

20 ((+17+)) (18) "Specialized forest products" means the following,
21 unless harvested, transported, or possessed by an individual under his
22 or her federally recognized tribal rights: Christmas trees, native
23 ornamental trees and shrubs, cut or picked evergreen foliage,
24 huckleberries, cedar products, cedar salvage, processed cedar products,
25 specialty wood, wild edible mushrooms, and Cascara bark.

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

36 ((+19+)) (20) "Specialty wood" means wood that is:
37 (a) In logs less than eight feet in length, chunks, slabs, stumps,
38 or burls; and

1 (b) One or more of the following:

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

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

7 (iii) Suitable for the purposes of making musical instruments or
8 ornamental boxes.

9 ~~((+20))~~ (21) "Specialty wood buyer" means the first person that
10 receives any specialty wood product after it leaves the harvest site.

11 ~~((+21))~~ (22) "Specialty wood processor" means any person who
12 purchases, takes, or retains possession of specialty wood products or
13 specialty wood salvage for later sale in the same or modified form
14 following removal and delivery from the land where harvested.

15 ~~((+22))~~ (23) "Transportation" means the physical conveyance of
16 specialized forest products outside or off of a harvest site by any
17 means.

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

33 ~~((+24))~~ (25) "Wild edible mushrooms" means edible mushrooms not
34 cultivated or propagated by artificial means.

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

37 (1) A specialized forest products permit validated by the county

1 sheriff shall be obtained by a person prior to harvesting from any
2 lands, including his or her own, any of the following: More than five
3 Christmas trees((~~τ~~)); more than five native ornamental trees or
4 shrubs((~~τ~~)); more than five pounds of cut or picked evergreen
5 foliage((~~τ~~)); any cedar products, cedar salvage, or processed cedar
6 products((~~τ-θx~~)); more than five pounds of Cascara bark((~~τ-θx~~)); more
7 than five United States gallons of a single species of wild edible
8 mushroom; or more than three United States gallons of huckleberries.

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

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

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

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

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

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

3 (1) Except as provided in RCW 76.48.100 and 76.48.075, it is
4 unlawful for any person (a) to possess, (b) to transport, or (c) to
5 possess and transport within the state of Washington, subject to any
6 other conditions or limitations specified in the specialized forest
7 products permit by the permittor, more than five Christmas trees, more
8 than five native ornamental trees or shrubs, more than five pounds of
9 cut or picked evergreen foliage, any processed cedar products, (~~(or)~~)
10 more than five pounds of Cascara bark, (~~(or)~~) more than five gallons of
11 a single species of wild edible mushroom, or more than three gallons of
12 huckleberries without having in his or her possession a written
13 authorization, sales invoice, bill of lading, or specialized forest
14 products permit or a true copy thereof evidencing his or her title to
15 or authority to have possession of specialized forest products being so
16 possessed or transported.

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

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

31 (1) Whenever any law enforcement officer has probable cause to
32 believe that a person is harvesting or is in possession of or
33 transporting specialized forest products in violation of the provisions
34 of this chapter, he or she may, at the time of making an arrest, seize
35 and take possession of any specialized forest products found. If the
36 specialized forest product is a cedar product, cedar salvage, or
37 specialty wood, at the time of making an arrest the law enforcement

1 officer may seize and take possession of any equipment, vehicles,
2 tools, or paperwork. The law enforcement officer shall provide
3 reasonable protection for the equipment, vehicles, tools, paperwork, or
4 specialized forest products involved during the period of litigation or
5 he or she shall dispose of the equipment, vehicles, tools, paperwork,
6 or specialized forest products at the discretion or order of the court
7 before which the arrested person is ordered to appear.

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

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

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

- 30 It is unlawful for any person to:
- 31 (1) Harvest specialized forest products as described in RCW
32 76.48.020, in the quantities specified in RCW 76.48.060, without first
33 obtaining a validated specialized forest products permit;
 - 34 (2) Engage in activities or phases of harvesting specialized forest
35 products not authorized by the permit; (~~or~~)
 - 36 (3) Harvest specialized forest products in any lesser quantities

1 than those specified in RCW 76.48.060, as now or hereafter amended,
2 without first obtaining permission from the landowner or his or her
3 duly authorized agent or representative; or
4 (4) Harvest huckleberries in any amount using a rake, mechanical
5 device, or any other method that damages the huckleberry bush.

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