

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1909

60th Legislature
2007 Regular Session

Passed by the House April 20, 2007
Yeas 98 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 19, 2007
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1909** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1909

AS AMENDED BY THE SENATE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

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

READ FIRST TIME 02/28/07.

1 AN ACT Relating to specialized forest products; amending RCW
2 76.48.130, 76.48.020, and 76.48.030; creating new sections; and
3 providing expiration dates.

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

5 **Sec. 1.** RCW 76.48.130 and 1995 c 366 s 13 are each amended to read
6 as follows:

7 (1) A person who violates a provision of this chapter, other than
8 the provisions contained in RCW 76.48.120, as now or hereafter amended,
9 is guilty of a gross misdemeanor and upon conviction thereof shall be
10 punished by a fine of not more than one thousand dollars or by
11 imprisonment in the county jail for not to exceed one year or by both
12 a fine and imprisonment.

13 (2) In any prosecution for a violation of this chapter's
14 requirements to obtain or possess a specialized forest products permit
15 or true copy thereof, an authorization, sales invoice, or bill of
16 lading, it is an affirmative defense, if established by the defendant
17 by a preponderance of the evidence, that: (a) The specialized forest
18 products were harvested from the defendant's own land; or (b) the

1 specialized forest products were harvested with the permission of the
2 landowner.

3 NEW SECTION. **Sec. 2.** (1) The specialized forest products work
4 group is established. The work group must consist of appropriate
5 representation from: The department of natural resources; county
6 sheriffs; county prosecutors; industrial and small forest landowners;
7 tribes; recreational and professional wood carvers; cedar and specialty
8 wood processors; and other appropriate persons invited by the
9 commissioner of public lands.

10 (2) The specialized forest products work group must review the
11 current specialized forest products statute, chapter 76.48 RCW, as well
12 as applicable theft laws. The specialized forest products work group
13 must evaluate the statute, as well as its application, and make
14 recommendations, if any, to ensure that the specialized forest products
15 requirements: Provide reasonable tools for law enforcement and
16 reasonably protect landowners from theft; are not unduly burdensome to
17 harvesters, those possessing or transporting specialized forest
18 products, or cedar or specialty wood processors or buyers; are clear
19 and may be readily understood by law enforcement and the public; and
20 are administered and enforced consistently throughout the state.

21 (3) The specialized forest products work group must be staffed by
22 the department of natural resources.

23 (4) The specialized forest products work group must provide a
24 report to the appropriate committees of the legislature containing its
25 recommendations, as well as draft legislation implementing its
26 recommendations, by December 1, 2007.

27 (5) This section expires July 1, 2008.

28 **Sec. 3.** RCW 76.48.020 and 2005 c 401 s 1 are each amended to read
29 as follows:

30 The definitions in this section apply throughout this chapter
31 unless the context clearly requires otherwise.

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

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

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

5 (4) "Cedar processor" means any person who purchases, takes, or
6 retains possession of cedar products or cedar salvage for later sale in
7 the same or modified form following removal and delivery from the land
8 where harvested.

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

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

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

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

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

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

37 (11) "Huckleberry" means the following species of edible berries,
38 if they are not nursery grown: *Vaccinium membranaceum*, *Vaccinium*

1 deliciosum, Vaccinium ovatum, Vaccinium parvifolium, Vaccinium
2 globulare, Vaccinium ovalifolium, Vaccinium alaskaense, Vaccinium
3 caespitosum, Vaccinium occidentale, Vaccinium uliginosum, Vaccinium
4 myrtilus, and Vaccinium scoparium.

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

11 ((12)) (13) "Native ornamental trees and shrubs" means any trees
12 or shrubs which are not nursery grown and which have been removed from
13 the ground with the roots intact.

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

16 ((14)) (15) "Person" includes the plural and all corporations,
17 foreign or domestic, copartnerships, firms, and associations of
18 persons.

19 ((15)) (16) "Processed cedar products" means cedar shakes,
20 shingles, fence posts, hop poles, pickets, stakes, rails, or rounds
21 less than one foot in length.

22 ((16)) (17) "Sheriff" means, for the purpose of validating
23 specialized forest products permits, the county sheriff, deputy
24 sheriff, or an authorized employee of the sheriff's office or an agent
25 of the office.

26 ((17)) (18) "Specialized forest products" means Christmas trees,
27 native ornamental trees and shrubs, cut or picked evergreen foliage,
28 cedar products, cedar salvage, processed cedar products, specialty
29 wood, wild edible mushrooms, and Cascara bark.

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

1 by the permittor and that is located in the county where the permit is
2 issued.

3 ~~((+19+))~~ (20) "Specialty wood" means wood that is:

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

6 (b) One or more of the following:

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

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

12 (iii) Suitable for the purposes of making musical instruments or
13 ornamental boxes.

14 ~~((+20+))~~ (21) "Specialty wood buyer" means the first person that
15 receives any specialty wood product after it leaves the harvest site.

16 ~~((+21+))~~ (22) "Specialty wood processor" means any person who
17 purchases, takes, or retains possession of specialty wood products or
18 specialty wood salvage for later sale in the same or modified form
19 following removal and delivery from the land where harvested.

20 ~~((+22+))~~ (23) "Transportation" means the physical conveyance of
21 specialized forest products outside or off of a harvest site by any
22 means.

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

1 (~~(24)~~) (25) "Wild edible mushrooms" means edible mushrooms not
2 cultivated or propagated by artificial means.

3 **Sec. 4.** RCW 76.48.030 and 1995 c 366 s 2 are each amended to read
4 as follows:

5 It is unlawful for any person to:

6 (1) Harvest specialized forest products as described in RCW
7 76.48.020, in the quantities specified in RCW 76.48.060, without first
8 obtaining a validated specialized forest products permit;

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

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

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

17 NEW SECTION. **Sec. 5.** (1) By December 1, 2007, the department of
18 natural resources must review the uses of and demands on the state's
19 wild huckleberry resource, and estimate whether the current consumptive
20 uses of wild huckleberries are sustainable and compatible among the
21 various consumptive users of the resource. Based upon this review, the
22 department of natural resources must deliver recommendations to the
23 appropriate committees of the legislature as to whether a
24 state-permitting requirement to harvest, possess, or transport wild
25 huckleberries would remedy any problems identified during the review,
26 whether the specialized forest products permit would be the most
27 effective permitting program to utilize, and what permit conditions or
28 requirements should be placed on the harvest, possession, or
29 transportation of wild huckleberries.

30 (2) This section expires July 1, 2008.

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