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SENATE BILL 6232

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State of Washington

60th Legislature

2008 Regular Session

By Senator Jacobsen

Read first time 01/14/08. Referred to Committee on Natural Resources, Ocean & Recreation.

1 AN ACT Relating to the sale of wild huckleberries; amending RCW  
2 76.48.050, 76.48.060, 76.48.085, 76.48.086, 76.48.110, 76.48.120,  
3 76.48.200, and 76.48.020; and adding a new section to chapter 76.48  
4 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 76.48 RCW  
7 to read as follows:

8 (1) Except as otherwise provided in this section, no person may  
9 sell, or attempt to sell, any amount of raw or unprocessed  
10 huckleberries without first obtaining a specialized forest products  
11 permit as provided in RCW 76.48.060, regardless if the huckleberries  
12 were harvested with the consent of the landowner.

13 (2) If the possessor of the huckleberries being offered for sale is  
14 able to show that the huckleberries originated on land owned by the  
15 United States forest service, then the requirements of this section may  
16 be satisfied with the display of a valid permit from the United States  
17 forest service that lawfully entitles the possessor to harvest the  
18 huckleberries in question.

1 (3) Nothing in this section creates a requirement that a  
2 specialized forest products permit is required for an individual to  
3 harvest, possess, or transport huckleberries.

4 (4) Compliance with this section allows an individual to sell, or  
5 offer for sale, raw or unprocessed huckleberries. Possession of a  
6 specialized forest products permit does not create a right or privilege  
7 to harvest huckleberries. Huckleberries may be harvested only with the  
8 permission of the landowner and under the terms and conditions  
9 established between the landowner and the harvester.

10 **Sec. 2.** RCW 76.48.050 and 2005 c 401 s 2 are each amended to read  
11 as follows:

12 (1) Except as otherwise provided in subsection (3) of this section,  
13 specialized forest products permits shall consist of properly completed  
14 permit forms validated by the sheriff of the county in which the  
15 specialized forest products are to be harvested. Each permit shall be  
16 separately numbered and the issuance of the permits shall be by  
17 consecutive numbers. All specialized forest products permits shall  
18 expire at the end of the calendar year in which issued, or sooner, at  
19 the discretion of the ((~~permitter~~ ~~[permitter]~~)) permitter.

20 (2) A properly completed specialized forest products permit form  
21 shall include:

22 ((+1)) (a) The date of its execution and expiration;

23 ((+2)) (b) The name, address, telephone number, if any, and  
24 signature of the ((~~permitter~~ ~~[permitter]~~)) permitter;

25 ((+3)) (c) The name, address, telephone number, if any, and  
26 signature of the permittee;

27 ((+4)) (d) The type of specialized forest products to be harvested  
28 or transported;

29 ((+5)) (e) The approximate amount or volume of specialized forest  
30 products to be harvested or transported;

31 ((+6)) (f) The legal description of the property from which the  
32 specialized forest products are to be harvested or transported,  
33 including the name of the county, or the state or province if outside  
34 the state of Washington;

35 ((+7)) (g) A description by local landmarks of where the  
36 harvesting is to occur, or from where the specialized forest products  
37 are to be transported;

1       ~~((+8+))~~ (h) For cedar products, cedar salvage, and specialty wood,  
2 a copy of a map or aerial photograph, with defined permitted  
3 boundaries, included as an attachment to the permit;

4       ~~((+9+))~~ (i) A copy of a valid picture identification; and

5       ~~((+10+))~~ (j) Any other condition or limitation which the  
6 ~~((permitter-[permitter]))~~ permitter may specify.

7       (3) For permits intended to satisfy the requirements of section 1  
8 of this act relating only to the sale of huckleberries, the specialized  
9 forest practices permit:

10       (a) May be obtained from the department of natural resources or the  
11 sheriff of any county in the state;

12       (b) Must, in addition to the requirements of subsection (2) of this  
13 section, also contain information relating to where the huckleberries  
14 were, or plan to be, harvested, and the approximate amount of  
15 huckleberries that are going to be offered for sale; and

16       (c) Must include a statement designed to inform the possessor that  
17 permission from a landowner is still required prior to the harvesting  
18 of huckleberries.

19       (4) Except for the harvesting of Christmas trees, the permit or  
20 true copy thereof must be carried by the permittee and the permittee's  
21 agents and be available for inspection at all times. For the  
22 harvesting of Christmas trees only a single permit or true copy thereof  
23 is necessary to be available at the harvest site.

24       **Sec. 3.** RCW 76.48.060 and 2005 c 401 s 3 are each amended to read  
25 as follows:

26       (1) A specialized forest products permit validated by the county  
27 sheriff shall be obtained by a person prior to:

28       (a) Harvesting from any lands, including his or her own, more than  
29 five Christmas trees, more than five native ornamental trees or shrubs,  
30 more than five pounds of cut or picked evergreen foliage, any cedar  
31 products, cedar salvage, processed cedar products, or more than five  
32 pounds of Cascara bark, or more than five United States gallons of a  
33 single species of wild edible mushroom; or

34       (b) Selling, or offering for sale, any amount of raw or unprocessed  
35 huckleberries.

36       (2) Specialized forest products permit forms shall be provided by  
37 the department of natural resources, and shall be made available

1 through the office of the county sheriff to permittees or (~~permitters~~  
2 ~~{permitters}~~) permittees in reasonable quantities. A permit form  
3 shall be completed in triplicate for each (~~permittor's {permittor's}~~)  
4 permitter's property on which a permittee harvests specialized forest  
5 products. A properly completed permit form shall be mailed or  
6 presented for validation to the sheriff of the county in which the  
7 specialized forest products are to be harvested.

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

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

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

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

31 **Sec. 4.** RCW 76.48.085 and 2005 c 401 s 6 are each amended to read  
32 as follows:

33 (1) Buyers who purchase specialized forest products or  
34 huckleberries are required to record:

- 35 ((+1)) (a) The permit number;  
36 ((+2)) (b) The type of forest product purchased, and whether  
37 huckleberries were purchased;

1           (~~(3)~~) (c) The permit holder's name; and  
2           (~~(4)~~) (d) The amount of forest product or huckleberries  
3 purchased.

4           (2) The buyer or processor shall keep a record of this information  
5 for a period of one year from the date of purchase and must make the  
6 records available for inspection upon demand by authorized enforcement  
7 officials.

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

13           (4) This section shall not apply to buyers of specialized forest  
14 products at the retail sales level.

15           **Sec. 5.** RCW 76.48.086 and 1995 c 366 s 16 are each amended to read  
16 as follows:

17           Records of buyers of specialized forest products and huckleberries  
18 collected under the requirements of RCW 76.48.085 may be made available  
19 to colleges and universities for the purpose of research.

20           **Sec. 6.** RCW 76.48.110 and 2005 c 401 s 11 are each amended to read  
21 as follows:

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

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

15 **Sec. 7.** RCW 76.48.120 and 2003 c 53 s 373 are each amended to read  
16 as follows:

17 (1) It is unlawful for any person, upon official inquiry,  
18 investigation, or other authorized proceedings, to offer as genuine any  
19 paper, document, or other instrument in writing purporting to be a  
20 specialized forest products permit, or true copy thereof,  
21 authorization, sales invoice, or bill of lading, or to make any  
22 representation of authority to possess or conduct harvesting or  
23 transporting of specialized forest products, or the sale of  
24 huckleberries, knowing the same to be in any manner false, fraudulent,  
25 forged, or stolen.

26 (2) Any person who knowingly or intentionally violates this section  
27 is guilty of a class C felony punishable by imprisonment in a state  
28 correctional institution for a maximum term fixed by the court of not  
29 more than five years or by a fine of not more than five thousand  
30 dollars, or by both imprisonment and fine.

31 (3) Whenever any law enforcement officer reasonably suspects that  
32 a specialized forest products permit or true copy thereof,  
33 authorization, sales invoice, or bill of lading is forged, fraudulent,  
34 or stolen, it may be retained by the officer until its authenticity can  
35 be verified.

1       **Sec. 8.** RCW 76.48.200 and 1995 c 366 s 17 are each amended to read  
2 as follows:

3       Minority groups have long been participants in the specialized  
4 forest products and huckleberry harvesting industry. The legislature  
5 encourages agencies serving minority communities, community-based  
6 organizations, refugee centers, social service agencies, agencies and  
7 organizations with expertise in the specialized forest products and  
8 huckleberry harvesting industry, and other interested groups to work  
9 cooperatively to accomplish the following purposes:

10       (1) To provide assistance and make referrals on translation  
11 services and to assist in translating educational materials, laws, and  
12 rules regarding specialized forest products and huckleberries;

13       (2) To hold clinics to teach techniques for effective picking; and

14       (3) To work with both minority and nonminority permittees in order  
15 to protect resources and foster understanding between minority and  
16 nonminority permittees.

17       To the extent practicable within their existing resources, the  
18 commission on Asian-American affairs, the commission on Hispanic  
19 affairs, and the department of natural resources are encouraged to  
20 coordinate this effort.

21       **Sec. 9.** RCW 76.48.020 and 2007 c 392 s 3 are each amended to read  
22 as follows:

23       The definitions in this section apply throughout this chapter  
24 unless the context clearly requires otherwise.

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

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

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

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

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

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

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

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

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

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

29 (11) "Huckleberry" means the following species of edible berries,  
30 if they are not nursery grown: *Vaccinium membranaceum*, *Vaccinium*  
31 *deliciosum*, *Vaccinium ovatum*, *Vaccinium parvifolium*, *Vaccinium*  
32 *globulare*, *Vaccinium ovalifolium*, *Vaccinium alaskaense*, *Vaccinium*  
33 *caespitosum*, *Vaccinium occidentale*, *Vaccinium uliginosum*, *Vaccinium*  
34 *myrtillus*, and *Vaccinium scoparium*.

35 (12) "Landowner" means, with regard to real property, the private  
36 owner, the state of Washington or any political subdivision, the  
37 federal government, or a person who by deed, contract, or lease has



1 authority to harvest and sell forest products of the property.  
2 "Landowner" does not include the purchaser or successful high bidder at  
3 a public or private timber sale.

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

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

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

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

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

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

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

32 (20) "Specialty wood" means wood that is:

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

35 (b) One or more of the following:

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

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

4 (iii) Suitable for the purposes of making musical instruments or  
5 ornamental boxes.

6 (21) "Specialty wood buyer" means the first person that receives  
7 any specialty wood product after it leaves the harvest site.

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

12 (23) "Transportation" means the physical conveyance of specialized  
13 forest products outside or off of a harvest site by any means.

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

30 (25) "Wild edible mushrooms" means edible mushrooms not cultivated  
31 or propagated by artificial means.

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