

**Chapter 76.36 RCW
MARKS AND BRANDS**

Sections

| | |
|-----------|---|
| 76.36.010 | Definitions. |
| 76.36.020 | Forest products to be marked. |
| 76.36.035 | Registration of brands—Assignments—Fee—Rules—Penalty. |
| 76.36.060 | Impression of mark—Presumption. |
| 76.36.070 | Cancellation of registration. |
| 76.36.090 | Catch brands. |
| 76.36.100 | Right of entry to retake branded products. |
| 76.36.110 | Penalty for false branding, etc. |
| 76.36.120 | Forgery of mark, etc.—Penalty. |
| 76.36.130 | Sufficiency of mark. |
| 76.36.140 | Application of chapter to eastern Washington. |
| 76.36.160 | Deposit of fees—Use. |

RCW 76.36.010 Definitions. The words and phrases herein used, unless the same be clearly contrary to or inconsistent with the context of this chapter or the section in which used, shall be construed as follows:

- (1) "Booming equipment" includes boom sticks and boom chains.
- (2) "Brand" means a unique symbol or mark placed on or in forest products for the purpose of identifying ownership.
- (3) "Catch brand" means a mark or brand used by a person as an identifying mark placed upon forest products and booming equipment previously owned by another.
- (4) "Department" means the department of natural resources.
- (5) "Forest products" means logs, spars, piles, and poles, boom sticks, and shingle bolts and every form into which a fallen tree may be cut before it is manufactured into lumber or run through a sawmill, shingle mill, or tie mill, or cut into cord wood, stove wood, or hewn ties.
- (6) "Person" includes the plural and all corporations, foreign and domestic, copartnerships, firms, and associations of persons.
- (7) "Waters of this state" includes any and all bodies of fresh and salt water within the jurisdiction of the state capable of being used for the transportation or storage of forest products, including all rivers and lakes and their tributaries, harbors, bays, bayous, and marshes. [2000 c 11 s 16; 1984 c 60 s 1; 1925 ex.s. c 154 s 1; RRS s 8381-1.]

RCW 76.36.020 Forest products to be marked. Persons who wish to identify any of their forest products which will be stored or transported in or on the waters of the state shall place a registered mark or brand in a conspicuous place on each forest product item. Placement of the registered mark or brand is prima facie evidence of ownership over forest product items which have escaped from storage or transportation. Unbranded or unmarked stray logs or forest products become the property of the state when recovered. [1984 c 60 s 2; 1925 ex.s. c 154 s 2; RRS s 8381-2. Prior: 1890 p 110 s 1.]

RCW 76.36.035 Registration of brands—Assignments—Fee—Rules—Penalty. (1) All applications for brands, catch brands, renewals, and assignments thereof shall be submitted to and approved by the department prior to use. The department may refuse to approve any brand or catch brand which is identical to or closely resembles a registered brand or catch brand, or is in use by any other person or was not selected in good faith for the marking or branding of forest products. If approval is denied the applicant will select another brand.

(2) The registration for all existing brands or catch brands shall expire on December 31, 1984, unless renewed prior to that date. Renewals or new approved applications shall be for five-year periods or portions thereof beginning on January 1, 1985. On or before September 30, 1984, and September 30th immediately preceding the end of each successive five-year period the department shall notify by mail all registered owners of brands or catch brands of the forthcoming expiration of their brands and the requirements for renewal.

(3) A fee of fifteen dollars shall be charged by the department for registration of all brands, catch brands, renewals or assignments prior to January 1, 1985. Thereafter the fee shall be twenty-five dollars.

(4) Abandoned or canceled brands shall not be reissued for a period of at least one year. The department shall determine the right to use brands or catch brands in dispute by applicants.

(5) The department may adopt and enforce rules implementing the provisions of this chapter.

(6) (a) Except as provided in (b) of this subsection, a violation of any rule adopted by the department under this [the] authority of this section is a misdemeanor.

(b) The department may specify by rule, when not inconsistent with applicable statutes, that violation of a specific rule is an infraction under chapter 7.84 RCW. [2003 c 53 s 370; 1987 c 380 s 18; 1984 c 60 s 8.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective date—1987 c 380: See RCW 7.84.900.

RCW 76.36.060 Impression of mark—Presumption. All forest products and booming equipment having impressed thereupon a registered mark or brand are presumed to belong to the person appearing on the records of the department as the owner of such mark or brand. All forest products having impressed thereupon a registered catch brand are presumed to belong to the owner of the registered catch brand, unless there is impressed thereupon more than one registered catch brand, in which event they are presumed to belong to the owner whose registered catch brand was placed thereupon latest in point of time. [1984 c 60 s 3; 1957 c 36 s 4; 1925 ex.s. c 154 s 6; RRS s 8381-6. Prior: 1890 p 111 s 4.]

RCW 76.36.070 Cancellation of registration. The department, upon the petition of the owner of a registered mark or brand, may

cancel the registration in which case the mark or brand shall be open to registration by any person subsequently applying therefor. [1984 c 60 s 4; 1957 c 36 s 5; 1925 ex.s. c 154 s 7; RRS s 8381-7.]

RCW 76.36.090 Catch brands. A person desiring to use a catch brand as an identifying mark upon forest products or booming equipment purchased or lawfully acquired from another, shall before using it, make application for the registration thereof to the department in the manner prescribed for the registration of other marks or brands as herein required. The provisions contained in this chapter in reference to registration, certifications, assignment, and cancellation, and the fees to be paid to the department shall apply equally to catch brands. The certificate of the department shall designate the mark or brand as a catch brand, and the mark or brand selected by the applicant as a catch brand shall be inclosed [enclosed] in the letter C, which shall identify the mark or brand as, and shall be used only in connection with, a catch brand. [1984 c 60 s 5; 1957 c 36 s 6; 1925 ex.s. c 154 s 9; RRS s 8381-9.]

RCW 76.36.100 Right of entry to retake branded products. The owner of any mark or brand registered as herein provided, by himself or herself or his or her duly authorized agent or representative, shall have a lawful right, at any time and in any peaceable manner, to enter into or upon any tidelands, marshes, and beaches of this state and any mill, mill yard, mill boom, rafting, or storage grounds and any forest products or raft or boom thereof, for the purpose of searching for any forest products and booming equipment having impressed thereupon or cut therein a registered mark or brand belonging to him or her and to retake any forest products and booming equipment so found by him or her. [2013 c 23 s 221; 1925 ex.s. c 154 s 10; RRS s 8381-10. Prior: 1901 c 123 s 4.]

RCW 76.36.110 Penalty for false branding, etc. Every person is guilty of a gross misdemeanor:

(1) Except boom companies organized as corporations for the purpose of catching or reclaiming and holding or disposing of forest products for the benefit of the owners, and authorized to do business under the laws of this state, who has or takes in tow or into custody or possession or under control, without the authorization of the owner of a registered mark or brand thereupon, any forest products or booming equipment having thereupon a mark or brand registered as required by the terms of this chapter, or, with or without such authorization, any forest products or booming equipment which may be branded under the terms of this chapter with a registered mark or brand and having no registered mark or brand impressed thereupon or cut therein; or,

(2) Who impresses upon or cut in any forest products or booming equipment a mark or brand that is false, forged or counterfeit; or,

(3) Who interferes with, prevents, or obstructs the owner of any registered mark or brand, or his or her duly authorized agent or representative, entering into or upon any tidelands, marshes or beaches of this state or any mill, mill site, mill yard or mill boom or rafting or storage grounds or any forest products or any raft or boom thereof for the purpose of searching for forest products and

booming equipment having impressed thereupon a registered mark or brand belonging to him or her or retaking any forest products or booming equipment so found by him or her; or,

(4) Who impresses or cuts a catch brand that is not registered under the terms of this chapter upon or into any forest products or booming equipment upon which there is a registered mark or brand as authorized by the terms of this chapter or a catch brand, whether registered or not, upon any forest products or booming equipment that was not purchased or lawfully acquired by him or her from the owner. [2003 c 53 s 371; 1994 c 163 s 1; 1984 c 60 s 6; 1925 ex.s. c 154 s 11; RRS s 8381-11. Prior: 1890 p 112 s 8.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

RCW 76.36.120 Forgery of mark, etc.—Penalty. Every person is guilty of a class B felony punishable according to chapter 9A.20 RCW who, with an intent to injure or defraud the owner:

(1) Shall falsely make, forge or counterfeit a mark or brand registered as herein provided and use it in marking or branding forest products or booming equipment; or,

(2) Shall cut out, destroy, alter, deface, or obliterate any registered mark or brand impressed upon or cut into any forest products or booming equipment; or,

(3) Shall sell, encumber or otherwise dispose of or deal in, or appropriate to his or her own use, any forest products or booming equipment having impressed thereupon a mark or brand registered as required by the terms of this chapter; or

(4) Shall buy or otherwise acquire or deal in any forest products or booming equipment having impressed thereupon a registered mark or brand. [2003 c 53 s 372; 1925 ex.s. c 154 s 12; RRS s 8381-12. Prior: 1890 p 111 ss 6, 7.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

RCW 76.36.130 Sufficiency of mark. A mark or brand cut in boom sticks with an ax or other sharp instrument shall be sufficient for the purposes of this chapter if it substantially conforms to the impression or drawing and written description on file with the department. [1988 c 128 s 47; 1957 c 36 s 7; 1925 ex.s. c 154 s 13; RRS s 8381-13.]

RCW 76.36.140 Application of chapter to eastern Washington. In view of the different conditions existing in the logging industry of this state between the parts of the state lying respectively east and west of the crest of the Cascade mountains, forest products may be put into the water of this state or shipped on common carrier railroads without having thereon a registered mark or brand, as herein required, within that portion of the state lying east of the crest of the Cascade mountains and composed of the following counties to wit: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille,

Spokane, Stevens, Walla Walla, Whitman, and Yakima; and the penalties herein provided for failure to mark or brand such forest products shall not apply: PROVIDED, That any person operating within such east portion of the state may select a mark or brand and cause it to be registered with the department pursuant to the terms of this chapter, and use it for the purpose of marking or branding forest products and booming equipment, and, in the event of the registration of such mark or brand and the use of it in marking or branding forest products or booming equipment, the provisions hereof shall apply as to the forest products and booming equipment so marked or branded. [1988 c 128 s 48; 1957 c 36 s 8; 1925 ex.s. c 154 s 14; RRS s 8381-14.]

RCW 76.36.160 Deposit of fees—Use. The department shall deposit all moneys received under this chapter in the general fund to be used exclusively for the administration of this chapter by the department. [1984 c 60 s 7; 1957 c 36 s 10.]