
SENATE BILL 5011

State of Washington

54th Legislature

1995 Regular Session

By Senator Owen

Read first time 01/09/95. Referred to Committee on Natural Resources.

1 AN ACT Relating to forest products; amending RCW 76.48.020,
2 76.48.030, 76.48.040, 76.48.050, 76.48.060, 76.48.070, 76.48.075,
3 76.48.096, 76.48.098, 76.48.100, 76.48.110, 76.48.120, and 76.48.130;
4 adding new sections to chapter 76.48 RCW; and repealing RCW 76.48.092.

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

6 **Sec. 1.** RCW 76.48.020 and 1992 c 184 s 1 are each amended to read
7 as follows:

8 Unless otherwise required by the context, as used in this chapter:

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

13 (2) "Native ornamental trees and shrubs" (~~shall~~) means any trees
14 or shrubs which are not nursery grown and which have been removed from
15 the ground with the roots intact.

16 (3) "Cut or picked evergreen foliage," commonly known as brush,
17 (~~shall~~) means evergreen boughs, huckleberry, salal, fern, Oregon
18 grape, rhododendron, mosses, lichens, legumes, grasses, and other cut
19 or picked evergreen products.

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

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

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

13 (7) "Cedar processor" (~~shall~~) means any person who purchases
14 (~~and/or~~), takes, or retains possession of cedar products or cedar
15 salvage(~~+~~) for later sale in the same or modified form(~~+~~) following
16 (~~their~~) removal and delivery from the land where harvested.

17 (8) "Cascara bark" (~~shall~~) means the bark of a Cascara tree.

18 (9) "Wild edible mushrooms" means edible mushrooms not cultivated
19 or propagated by artificial means.

20 (10) "Specialized forest products" (~~shall~~) means Christmas trees,
21 native ornamental trees and shrubs, cut or picked evergreen foliage,
22 cedar products, cedar salvage, processed cedar products, wild edible
23 mushrooms, and Cascara bark.

24 (11) "Person" (~~shall~~) includes the plural and all corporations,
25 foreign or domestic, copartnerships, firms, and associations of
26 persons.

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

33 (13) "Transportation" means the physical conveyance of specialized
34 forest products outside or off of a harvest site(~~+~~ ~~including but not~~
35 ~~limited to conveyance by a motorized vehicle designed for use on~~
36 ~~improved roadways, or by vessel, barge, raft, or other waterborne~~
37 ~~conveyance. "Transportation" also means any conveyance of specialized~~
38 ~~forest products by helicopter~~) by any means.

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

8 (15) "Authorization" means a properly completed preprinted form
9 authorizing the transportation or possession of Christmas trees(~~)~~
10 which (~~form~~) contains the information required by RCW 76.48.080,
11 (~~and~~) a sample of which is filed before the harvesting occurs with
12 the sheriff of the county in which the harvesting is to occur.

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

17 (17) "Specialized forest products permit" (~~shall~~) means a printed
18 document in a form specified by the department of natural resources, or
19 true copy thereof, that is signed by a landowner or his (~~duly~~) or her
20 authorized agent or representative (~~herein~~), referred to in this
21 chapter as "permitters"(~~)~~) and validated by the county sheriff(~~)~~
22 authorizing) and authorizes a designated person (~~herein~~), referred
23 to in this chapter as "permittee"(~~)~~), who (~~shall~~) has also (~~have~~)
24 signed the permit, to harvest (~~and/or~~) and transport a designated
25 specialized forest product from land owned or controlled and specified
26 by the permittor(~~)~~) and that is located in the county where (~~such~~)
27 the permit is issued.

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

31 (19) "True copy" means a replica of a validated specialized forest
32 products permit as reproduced by a copy machine capable of effectively
33 reproducing the information contained on the permittee's copy of the
34 specialized forest products permit. A copy is made true by the
35 permittee or the permittee and permittor signing in the space provided
36 on the face of the copy. A true copy will be effective until the
37 expiration date of the specialized forest products permit unless the
38 permittee or the permittee and permittor specify an earlier date. A
39 permittor may require the actual signatures of both the permittee and

1 permittor for execution of a true copy by so indicating in the space
2 provided on the original copy of the specialized forest products
3 permit. A permittee, or, if so indicated, the permittee and permittor,
4 may condition the use of the true copy to harvesting only,
5 transportation only, possession only, or any combination thereof.

6 **Sec. 2.** RCW 76.48.030 and 1979 ex.s. c 94 s 2 are each amended to
7 read as follows:

8 It (~~shall be~~) is unlawful for any person to:

9 (1) Harvest specialized forest products as described in RCW
10 76.48.020, in the quantities specified in RCW 76.48.060, without first
11 obtaining a validated specialized forest products permit;

12 (2) Engage in activities or phases of harvesting specialized forest
13 products not authorized by the permit; or

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

18 **Sec. 3.** RCW 76.48.040 and 1994 c 264 s 51 are each amended to read
19 as follows:

20 Agencies charged with the enforcement of this chapter shall
21 include, but not be limited to, the Washington state patrol, county
22 sheriffs and their deputies, county or municipal police forces,
23 authorized personnel of the United States forest service, and
24 authorized personnel of the departments of natural resources and fish
25 and wildlife. (~~Primary enforcement responsibility lies in the county
26 sheriffs and their deputies.~~) The provisions of this chapter shall be
27 strictly enforced by the agencies set out under this section.

28 **Sec. 4.** RCW 76.48.050 and 1979 ex.s. c 94 s 4 are each amended to
29 read as follows:

30 Specialized forest products permits shall consist of properly
31 completed permit forms validated by the sheriff of the county in which
32 the specialized forest products are to be harvested. Each permit shall
33 be separately numbered and the permits shall be issued by consecutive
34 numbers. All specialized forest products permits shall expire at the
35 end of the calendar year in which issued, or sooner, at the discretion

1 of the permittor. A properly completed specialized forest products
2 permit form shall include:

3 (1) The date of its execution and expiration;

4 (2) The name, address, telephone number, if any, and signature of
5 the permittor;

6 (3) The name, address, telephone number, if any, and signature of
7 the permittee;

8 (4) The type of specialized forest products to be harvested or
9 transported;

10 (5) The approximate amount or volume of specialized forest products
11 to be harvested or transported;

12 (6) The legal description of the property from which the
13 specialized forest products are to be harvested or transported,
14 including the name of the county, or the state or province if outside
15 the state of Washington;

16 (7) A description by local landmarks of where the harvesting is to
17 occur, or from where the specialized forest products are to be
18 transported;

19 (8) The person's driver's license or valid picture identification
20 and, if not prohibited by federal law, the person's social security
21 number. The sheriff's office shall verify the social security number
22 when the permit is validated. Except for the harvesting of Christmas
23 trees, the permit or true copy thereof must be carried by the picker
24 and available for inspection at all times. For the harvesting of
25 Christmas trees only a single permit or true copy thereof is necessary
26 to be available at the harvest site; and

27 (9) Any other condition or limitation which the permittor may
28 specify.

29 **Sec. 5.** RCW 76.48.060 and 1992 c 184 s 2 are each amended to read
30 as follows:

31 A specialized forest products permit validated by the county
32 sheriff shall be obtained by ((any)) a person prior to harvesting from
33 any lands, including his or her own, more than five Christmas trees,
34 more than five native ornamental trees or shrubs, more than five pounds
35 of cut or picked evergreen foliage, any cedar products, cedar salvage,
36 processed cedar products, or more than five pounds of Cascara bark, or
37 more than three United States gallons of a single species of wild
38 edible mushroom and ((not)) more than an aggregate total of nine United

1 States gallons of wild edible mushrooms, plus one wild edible mushroom.
2 Specialized forest products permit forms shall be provided by the
3 department of natural resources, and shall be made available through
4 the office of the county sheriff to permittees or permittors in
5 reasonable quantities. A permit form shall be completed in triplicate
6 for each permittor's property on which a permittee harvests specialized
7 forest products. A properly completed permit form shall be mailed or
8 presented for validation to the sheriff of the county in which the
9 specialized forest products are to be harvested. Before a permit form
10 is validated by the sheriff, sufficient personal identification may be
11 required to reasonably identify the person mailing or presenting the
12 permit form and the sheriff may conduct ~~((such))~~ other investigations
13 as deemed necessary to determine the validity of the information
14 alleged on the form. When the sheriff is reasonably satisfied as to
15 the truth of ~~((such))~~ the information, the form shall be validated with
16 the sheriff's validation stamp ~~((provided by the department of natural
17 resources))~~. Upon validation, the form shall become the specialized
18 forest products permit authorizing the harvesting, possession ~~((and/
19 or))~~, or transportation of specialized forest products, subject to any
20 other conditions or limitations which the permittor may specify. Two
21 copies of the permit shall be given or mailed to the permittor, or one
22 copy shall be given or mailed to the permittor and the other copy given
23 or mailed to the permittee. The original permit shall be retained in
24 the office of the county sheriff validating the permit. In the event
25 a single land ownership is situated in two or more counties, a
26 specialized forest product permit shall be completed as to the land
27 situated in each county. While engaged in harvesting of specialized
28 forest products, permittees, or their agents or employees, must have
29 readily available at each harvest site a valid permit or true copy of
30 the permit.

31 **Sec. 6.** RCW 76.48.070 and 1992 c 184 s 3 are each amended to read
32 as follows:

33 (1) Except as provided in RCW 76.48.100 and 76.48.075, it ~~((shall
34 be))~~ is unlawful for any person (a) to possess, ~~((and/or))~~ (b) to
35 transport, or (c) to possess and transport within the state of
36 Washington, subject to any other conditions or limitations specified in
37 the specialized forest products permit by the permittor, more than five
38 Christmas trees, more than five native ornamental trees or shrubs, more

1 than five pounds of cut or picked evergreen foliage, any processed
2 cedar products, or more than five pounds of Cascara bark, or more than
3 three gallons of a single species of wild edible mushrooms and ((not))
4 more than an aggregate total of nine gallons of wild edible mushrooms,
5 plus one wild edible mushroom without having in his or her possession
6 a written authorization, sales invoice, bill of lading, or specialized
7 forest products permit or a true copy thereof evidencing his or her
8 title to or authority to have possession of specialized forest products
9 being so possessed or transported.

10 (2) It ((shall be)) is unlawful for any person either (a) to
11 possess ((and/or)), (b) to transport, or (c) to possess and transport
12 within the state of Washington any cedar products or cedar salvage
13 without having in his or her possession a specialized forest products
14 permit or a true copy thereof evidencing his or her title to or
15 authority to have possession of the materials being so possessed or
16 transported.

17 **Sec. 7.** RCW 76.48.075 and 1979 ex.s. c 94 s 15 are each amended to
18 read as follows:

19 (1) It is unlawful for any person to transport or cause to be
20 transported into this state from any other state or province
21 specialized forest products, except those harvested from that person's
22 own property, without: (a) First acquiring and having readily
23 available for inspection a document indicating the true origin of the
24 specialized forest products as being outside the state, or (b) without
25 acquiring a specialized forest products permit as provided in
26 subsection (4) of this section.

27 (2) Any person transporting or causing to be transported
28 specialized forest products into this state from any other state or
29 province shall, upon request of any person to whom the specialized
30 forest products are sold or delivered or upon request of any law
31 enforcement officer, prepare and sign a statement indicating the true
32 origin of the specialized forest products, the date of delivery, and
33 the license number of the vehicle making delivery, and shall leave the
34 statement with the person making the request.

35 (3) It is unlawful for any person to possess specialized forest
36 products, transported into this state, with knowledge that the products
37 were introduced into this state in violation of this chapter.

1 (4) When any person transporting or causing to be transported into
2 this state specialized forest products elects to acquire a specialized
3 forest products permit, the specialized forest products transported
4 into this state shall be deemed to be harvested in the county of entry,
5 and the sheriff of that county may validate the permit as if the
6 products were so harvested, except that the permit shall also indicate
7 the actual harvest site outside the state.

8 (5) A cedar processor shall comply with RCW 76.48.096 by requiring
9 a person transporting specialized forest products into this state from
10 any other state or province to display a specialized forest products
11 permit, or true copy thereof, or other document indicating the true
12 origin of the specialized forest products as being outside the state.
13 The cedar processor shall make and maintain a record of the purchase,
14 taking possession, or retention of cedar products and cedar salvage in
15 compliance with RCW 76.48.094.

16 (6) If, (~~pursuant to~~) under official inquiry, investigation, or
17 other authorized proceeding regarding specialized forest products not
18 covered by a valid specialized forest products permit or other
19 acceptable document, the inspecting law enforcement officer has
20 probable cause to believe that the specialized forest products were
21 harvested in this state or wrongfully obtained in another state or
22 province, the officer may take into custody and detain, for a
23 reasonable time, the specialized forest products, all supporting
24 documents, invoices, and bills of lading, and the vehicle in which the
25 products were transported until the true origin of the specialized
26 forest products can be determined.

27 **Sec. 8.** RCW 76.48.096 and 1979 ex.s. c 94 s 10 are each amended to
28 read as follows:

29 It (~~shall be~~) is unlawful for any cedar processor to purchase,
30 take possession, or retain cedar products or cedar salvage subsequent
31 to the harvesting and prior to the retail sale of (~~such~~) the
32 products, unless the supplier thereof displays a specialized forest
33 products permit, or true copy thereof(~~, which~~) that appears to be
34 valid, or obtains the information (~~pursuant to~~) under RCW
35 76.48.075(5).

36 **Sec. 9.** RCW 76.48.098 and 1979 ex.s. c 94 s 11 are each amended to
37 read as follows:

1 Every cedar processor shall prominently display a valid
2 registration certificate, or copy thereof, obtained from the department
3 of revenue (~~(pursuant to)~~) under RCW 82.32.030 at each location where
4 (~~(such)~~) the processor receives cedar products or cedar salvage.

5 Permittees shall sell cedar products or cedar salvage only to cedar
6 processors displaying registration certificates which appear to be
7 valid.

8 **Sec. 10.** RCW 76.48.100 and 1979 ex.s. c 94 s 12 are each amended
9 to read as follows:

10 The provisions of this chapter (~~(shall)~~) do not apply to:

11 (1) Nursery grown products.

12 (2) Logs (except as included in the definition of "cedar salvage"
13 under RCW 76.48.020), poles, pilings, or other major forest products
14 from which substantially all of the limbs and branches have been
15 removed, and cedar salvage when harvested concurrently with timber
16 stands (a) under an approved forest practices application or
17 notification, or (b) under a contract or permit issued by an agency of
18 the United States government.

19 (3) The activities of a landowner, his or her agent, or
20 representative, or of a lessee of land in carrying on noncommercial
21 property management, maintenance, or improvements on or in connection
22 with the land of (~~(such)~~) the landowner or lessee.

23 **Sec. 11.** RCW 76.48.110 and 1979 ex.s. c 94 s 13 are each amended
24 to read as follows:

25 Whenever any law enforcement officer has probable cause to believe
26 that a person is harvesting or is in possession of or transporting
27 specialized forest products in violation of the provisions of this
28 chapter, he or she may, at the time of making an arrest, seize and take
29 possession of any (~~(such)~~) specialized forest products found. The law
30 enforcement officer shall provide reasonable protection for the
31 specialized forest products involved during the period of litigation or
32 he or she shall dispose of (~~(such)~~) the specialized forest products at
33 the discretion or order of the court before which the arrested person
34 is ordered to appear.

35 Upon any disposition of the case by the court, the court shall make
36 a reasonable effort to return the specialized forest products to
37 (~~(their)~~) its rightful owner or pay the proceeds of any sale of

1 specialized forest products less any reasonable expenses of ((such))
2 the sale to the rightful owner. If for any reason, the proceeds of
3 ((such)) the sale cannot be disposed of to the rightful owner, ((such))
4 the proceeds, less the reasonable expenses of the sale, shall be paid
5 to the treasurer of the county in which the violation occurred. The
6 county treasurer shall deposit the same in the county general fund.
7 The return of the specialized forest products or the payment of the
8 proceeds of any sale of products seized to the owner shall not preclude
9 the court from imposing any fine or penalty upon the violator for the
10 violation of the provisions of this chapter.

11 **Sec. 12.** RCW 76.48.120 and 1979 ex.s. c 94 s 14 are each amended
12 to read as follows:

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

21 Any person who knowingly or intentionally violates this section
22 ((shall be)) is guilty of forgery, and shall be punished as a class C
23 felony providing for imprisonment in a state correctional institution
24 for a maximum term fixed by the court of not more than five years or by
25 a fine of not more than five thousand dollars, or by both ((such))
26 imprisonment and fine.

27 Whenever any law enforcement officer reasonably suspects that a
28 specialized forest products permit or true copy thereof, authorization,
29 sales invoice, or bill of lading is forged, fraudulent, or stolen, it
30 may be retained by the officer until its authenticity can be verified.

31 **Sec. 13.** RCW 76.48.130 and 1977 ex.s. c 147 s 10 are each amended
32 to read as follows:

33 ((Any)) A person who violates ((any)) a provision of this chapter,
34 other than the provisions contained in RCW 76.48.120, as now or
35 hereafter amended, ((shall be)) is guilty of a gross misdemeanor and
36 upon conviction thereof shall be punished by a fine of not more than

1 one thousand dollars or by imprisonment in the county jail for not to
2 exceed one year or by both ((such)) a fine and imprisonment.

3 NEW SECTION. **Sec. 14.** A new section is added to chapter 76.48 RCW
4 to read as follows:

5 Buyers who purchase specialized forest products are required to
6 record (1) the permit number; (2) the type of forest product purchased;
7 (3) the permit holder's name; (4) the amount of forest product
8 purchased; and (5) the purchase price. The buyer shall keep a record
9 of this information for a period of one year from the date of purchase
10 and make the records available for inspection by authorized enforcement
11 officials.

12 The buyer of specialized forest products must record the license
13 plate number of the vehicle transporting the forest products on the
14 bill of sale, as well as the seller's permit number on the bill of
15 sale. This section shall not apply to transactions involving Christmas
16 trees.

17 NEW SECTION. **Sec. 15.** A new section is added to chapter 76.48 RCW
18 to read as follows:

19 County sheriffs may contract with other entities to serve as
20 authorized agents to validate specialized forest product permits.
21 These entities include the United States forest service, the bureau of
22 land management, the department of natural resources, local police
23 departments, and other entities as decided upon by the county sheriffs'
24 departments. An entity that contracts with a county sheriff to serve
25 as an authorized agent to validate specialized forest product permits
26 may conduct other investigations as deemed necessary to reasonably
27 determine the validity of the information alleged on the permit form.

28 NEW SECTION. **Sec. 16.** A new section is added to chapter 76.48 RCW
29 to read as follows:

30 Records of buyers of specialized forest products collected under
31 the requirements of section 14 of this act may be made available to
32 colleges and universities for the purpose of research.

33 NEW SECTION. **Sec. 17.** A new section is added to chapter 76.48 RCW
34 to read as follows:

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

7 (1) To provide assistance and make referrals on translation
8 services and to assist in translating educational materials, laws, and
9 rules regarding specialized forest products;

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

11 (3) To work with both minority and nonminority pickers in order to
12 protect resources and foster understanding between minority and
13 nonminority pickers.

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

18 NEW SECTION. **Sec. 18.** RCW 76.48.092 and 1979 ex.s. c 94 s 8 &
19 1977 ex.s. c 147 s 14 are each repealed.

20 NEW SECTION. **Sec. 19.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

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