

**SHB 1909** - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

ADOPTED 04/05/2007

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 76.48.130 and 1995 c 366 s 13 are each amended to  
4 read as follows:

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

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

19 NEW SECTION. **Sec. 2.** (1) The specialized forest products work  
20 group is established. The work group must consist of appropriate  
21 representation from: The department of natural resources; county  
22 sheriffs; county prosecutors; industrial and small forest landowners;  
23 tribes; recreational and professional wood carvers; cedar and specialty  
24 wood processors; and other appropriate persons invited by the  
25 commissioner of public lands.

26 (2) The specialized forest products work group must review the  
27 current specialized forest products statute, chapter 76.48 RCW, as well  
28 as applicable theft laws. The specialized forest products work group  
29 must evaluate the statute, as well as its application, and make

1 recommendations, if any, to ensure that the specialized forest products  
2 requirements: Provide reasonable tools for law enforcement and  
3 reasonably protect landowners from theft; are not unduly burdensome to  
4 harvesters, those possessing or transporting specialized forest  
5 products, or cedar or specialty wood processors or buyers; are clear  
6 and may be readily understood by law enforcement and the public; and  
7 are administered and enforced consistently throughout the state.

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

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

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

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

17 The definitions in this section apply throughout this chapter  
18 unless the context clearly requires otherwise.

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

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

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

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

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

34 (6) "Cedar salvage" means cedar chunks, slabs, stumps, and logs  
35 having a volume greater than one cubic foot and being harvested or  
36 transported from areas not associated with the concurrent logging of  
37 timber stands (a) under a forest practices application approved or

1 notification received by the department of natural resources, or (b)  
2 under a contract or permit issued by an agency of the United States  
3 government.

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

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

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

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

23 (11) "Huckleberry" means the following species of edible berries,  
24 if they are not nursery grown: *Vaccinium membranaceum, Vaccinium*  
25 *deliciosum, Vaccinium ovatum, Vaccinium parvifolium, Vaccinium*  
26 *globulare, Vaccinium ovalifolium, Vaccinium alaskaense, Vaccinium*  
27 *caespitosum, Vaccinium occidentale, Vaccinium uliginosum, Vaccinium*  
28 *myrtilus, and Vaccinium scoparium.*

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

35 ((+12+)) (13) "Native ornamental trees and shrubs" means any trees  
36 or shrubs which are not nursery grown and which have been removed from  
37 the ground with the roots intact.

1        (~~(13)~~) (14) "Permit area" means a designated tract of land that  
2 may contain single or multiple harvest sites.

3        (~~(14)~~) (15) "Person" includes the plural and all corporations,  
4 foreign or domestic, copartnerships, firms, and associations of  
5 persons.

6        (~~(15)~~) (16) "Processed cedar products" means cedar shakes,  
7 shingles, fence posts, hop poles, pickets, stakes, rails, or rounds  
8 less than one foot in length.

9        (~~(16)~~) (17) "Sheriff" means, for the purpose of validating  
10 specialized forest products permits, the county sheriff, deputy  
11 sheriff, or an authorized employee of the sheriff's office or an agent  
12 of the office.

13        (~~(17)~~) (18) "Specialized forest products" means Christmas trees,  
14 native ornamental trees and shrubs, cut or picked evergreen foliage,  
15 huckleberries, cedar products, cedar salvage, processed cedar products,  
16 specialty wood, wild edible mushrooms, and Cascara bark.

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

27        (~~(19)~~) (20) "Specialty wood" means wood that is:

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

30        (b) One or more of the following:

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

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

36        (iii) Suitable for the purposes of making musical instruments or  
37 ornamental boxes.

1 ((+20+)) (21) "Specialty wood buyer" means the first person that  
2 receives any specialty wood product after it leaves the harvest site.

3 ((+21+)) (22) "Specialty wood processor" means any person who  
4 purchases, takes, or retains possession of specialty wood products or  
5 specialty wood salvage for later sale in the same or modified form  
6 following removal and delivery from the land where harvested.

7 ((+22+)) (23) "Transportation" means the physical conveyance of  
8 specialized forest products outside or off of a harvest site by any  
9 means.

10 ((+23+)) (24) "True copy" means a replica of a validated  
11 specialized forest products permit as reproduced by a copy machine  
12 capable of effectively reproducing the information contained on the  
13 permittee's copy of the specialized forest products permit. A copy is  
14 made true by the permittee or the permittee and permittor signing in  
15 the space provided on the face of the copy. A true copy will be  
16 effective until the expiration date of the specialized forest products  
17 permit unless the permittee or the permittee and permittor specify an  
18 earlier date. A permittor may require the actual signatures of both  
19 the permittee and permittor for execution of a true copy by so  
20 indicating in the space provided on the original copy of the  
21 specialized forest products permit. A permittee, or, if so indicated,  
22 the permittee and permittor, may condition the use of the true copy to  
23 harvesting only, transportation only, possession only, or any  
24 combination thereof.

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

27 **Sec. 4.** RCW 76.48.060 and 2005 c 401 s 3 are each amended to read  
28 as follows:

29 (1)(a) A specialized forest products permit validated by the county  
30 sheriff shall be obtained by a person prior to harvesting from any  
31 lands, including his or her own, any of the following: More than five  
32 Christmas trees(~~(7)~~); more than five native ornamental trees or  
33 shrubs(~~(7)~~); more than five pounds of cut or picked evergreen  
34 foliage(~~(7)~~); any cedar products, cedar salvage, or processed cedar  
35 products(~~(7-07)~~); more than five pounds of Cascara bark(~~(7)~~); or more  
36 than five United States gallons of a single species of wild edible  
37 mushroom.

1       (b) A specialized forest products permit validated by the county  
2 sheriff must be obtained by a person prior to harvesting from any  
3 lands, except his or her own, more than three United States gallons of  
4 huckleberries in a single day.

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

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

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

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

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

34       **Sec. 5.** RCW 76.48.070 and 2005 c 401 s 4 are each amended to read  
35 as follows:

36       (1) Except as provided in RCW 76.48.100 and 76.48.075, it is  
37 unlawful for any person (a) to possess, (b) to transport, or (c) to

1 possess and transport within the state of Washington, subject to any  
2 other conditions or limitations specified in the specialized forest  
3 products permit by the permittor, more than five Christmas trees, more  
4 than five native ornamental trees or shrubs, more than five pounds of  
5 cut or picked evergreen foliage, any processed cedar products, ((~~or~~))  
6 more than five pounds of Cascara bark, ((~~or~~)) more than five gallons of  
7 a single species of wild edible mushroom, or more than three gallons of  
8 huckleberries without having in his or her possession a written  
9 authorization, sales invoice, bill of lading, or specialized forest  
10 products permit or a true copy thereof evidencing his or her title to  
11 or authority to have possession of specialized forest products being so  
12 possessed or transported. However, a person does not need a written  
13 authorization, sales invoice, bill of lading, or specialized forest  
14 products permit or true copy thereof to store, at that person's  
15 residence or property, ten or fewer gallons of huckleberries for  
16 noncommercial use.

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. 6.** RCW 76.48.030 and 1995 c 366 s 2 are each amended to read  
30 as follows:

31 It is unlawful for any person to:

32 (1) Harvest specialized forest products as described in RCW  
33 76.48.020, in the quantities specified in RCW 76.48.060, without first  
34 obtaining a validated specialized forest products permit;

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

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

**SHB 1909** - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

**ADOPTED 04/05/2007**

7 On page 1, line 1 of the title, after "products;" strike the  
8 remainder of the title and insert "amending RCW 76.48.130, 76.48.020,  
9 76.48.060, 76.48.070, and 76.48.030; creating a new section; and  
10 providing an expiration date."

**EFFECT:** Repeals the provisions of the underlying bill. Provides an affirmative defense to those prosecuted for certain violations of the specialized forest products laws. Directs the department of natural resources to lead a work group to study and provide recommendations for modification of the specialized forest products laws. Adds huckleberries, in quantities exceeding three gallons, to the list of materials regulated under chapter 76.48 RCW. Restricts huckleberry harvest techniques that damage the huckleberry bush. Allows persons to harvest huckleberries from their own land without a permit. Exempts the storage of up to ten gallons of huckleberries on a person's property for noncommercial use from the specialized forest products documentation requirements.

--- END ---