

2 SHB 2351 - S COMM AMD
3 By Committee on Natural Resources

4 NOT ADOPTED 3/4/94

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The legislature finds that:

8 (1) Reduced levels of log raft storage and transportation on the
9 waters of this state have resulted in a reduction of commercial log
10 recovery activity and have eliminated the need for a separate licensing
11 program for recovery of stray logs; and

12 (2) While stray logs are a much less common problem today than when
13 log raft transportation was more common, stray logs that are adrift on
14 waters of this state may still pose a threat to navigation, life, and
15 property; and

16 (3) Recovery of submerged or stranded stray logs can result in
17 damage to the environment.

18 Therefore, the legislature finds that an alternative method for
19 encouraging the recovery of adrift stray logs must be established.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 76.40 RCW
21 to read as follows:

22 For the purposes of this chapter, the following terms shall have
23 the following meanings:

24 (1) "Adrift" means floating without control; neither aground,
25 beached, stranded, fully submerged, anchored in place, or secured in
26 any way;

27 (2) "Department" means the Washington state department of natural
28 resources;

29 (3) "Having a merchantable value" means capable of commanding value
30 alone or in combination with other recovered logs;

31 (4) "Person" means an individual, partnership, private corporation,
32 or association of individuals of whatever nature, including public
33 agencies;

34 (5) "Stray logs" means logs, piling, poles, and boom sticks having
35 a merchantable value that have escaped from their owner or the owner's

1 agent during storage or while being transported. The term includes
2 stray logs that are adrift, those that have been adrift and are
3 stranded on beaches, marshes, tidelands, shorelands, or state-owned
4 aquatic lands, and those that are partially or wholly submerged in the
5 waters of the state; and

6 (6) "Waters of the state" means bodies of fresh or salt water
7 including all rivers and lakes and their tributaries, harbors, bays,
8 bayous, and marshes within the state capable of being used for the
9 transportation or storage of forest products.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 76.40 RCW
11 to read as follows:

12 Any person may recover and secure adrift stray logs on waters of
13 this state. Landowners may recover and secure stray logs that have
14 become submerged or stranded on their property as the result of being
15 adrift on waters of this state. A person who chooses to recover and
16 secure stray logs must do so in a manner that does not damage beaches,
17 marshes, tidelands, shorelands, aquatic lands, or other property and
18 that does not diminish the merchantable value of the timber. Within
19 thirty days of recovering stray logs, the person who recovered the logs
20 must notify the owner of the logs that the logs have been recovered.
21 Ownership of logs shall be determined under chapter 76.36 RCW.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 76.40 RCW
23 to read as follows:

24 Within thirty days of receipt of notification that an owner's stray
25 log or logs have been recovered, a log owner, the owner's agent, or the
26 transportation agency of the log may retrieve the stray log or logs
27 from the person who recovered them. The person that recovered the
28 stray log or logs shall be entitled to a reasonable compensation, for
29 the recovery effort and return of stray log or logs to the owner, the
30 owner's agent, or the transportation agency provided compensation shall
31 not exceed two hundred dollars or thirty percent of the value of the
32 log or logs, whichever is less. A person shall not take into
33 possession any stray logs including unbranded logs during the time that
34 the owner, the owner's agent, or the transportation agency is
35 attempting immediate recovery of the stray logs. If the owner, the
36 owner's agent or the transportation agency chooses not to retrieve the
37 stray logs, the person who recovered the logs may sell them or dispose

1 of them as the person sees fit after ninety days, provided the person
2 has made three attempts in writing to notify the owner. Of the written
3 notice to the owner, one of the three must be a certified return
4 receipt mail at the owner's last known address.

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 76.40 RCW
6 to read as follows:

7 Branded and marked logs, boom sticks, and boom chains shall be
8 presumed to be the property of the person in whose name the brand or
9 catch brand thereon is imprinted and is registered with the department
10 of natural resources.

11 NEW SECTION. **Sec. 6.** A new section is added to chapter 76.40 RCW
12 to read as follows:

13 Any person having possession of stray logs, boom sticks, or boom
14 chains, except as provided in this chapter shall be presumed to have
15 and to hold possession of same with intent to deprive and defraud the
16 owner thereof and such possession shall be prima facie evidence to
17 deprive and defraud.

18 NEW SECTION. **Sec. 7.** A new section is added to chapter 76.40 RCW
19 to read as follows:

20 It shall be unlawful to purchase or otherwise acquire stray logs
21 other than from the owner, or from a person who has recovered stray
22 logs according to this chapter or to process or manufacture products
23 from logs acquired in contravention of the provisions of this chapter
24 or to possess such logs for such purpose.

25 NEW SECTION. **Sec. 8.** A new section is added to chapter 76.40 RCW
26 to read as follows:

27 Any violation of this chapter shall be a gross misdemeanor. In
28 addition, the owner who has been deprived of the use, benefit, or
29 possession of any stray logs, booms sticks, or boom chains, in
30 violation of this chapter, shall have a right of civil action to
31 recover damages from any person causing such deprivation, including the
32 purchaser of such stray logs, boom sticks, and boom chains.

33 NEW SECTION. **Sec. 9.** A new section is added to chapter 76.40 RCW
34 to read as follows:

1 The department may close areas under its jurisdiction to log
2 recovery activities if the department determines that log recovery in
3 those areas would pose a threat to public safety or the environment.

4 NEW SECTION. **Sec. 10.** A new section is added to chapter 76.40 RCW
5 to read as follows:

6 The department may enter into agreements with the state of Oregon
7 and its applicable agencies to coordinate log recovery activities where
8 possible.

9 **Sec. 11.** RCW 76.36.110 and 1984 c 60 s 6 are each amended to read
10 as follows:

11 Every person:

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

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

26 (3) Who interferes with, prevents, or obstructs the owner of any
27 registered mark or brand, or his or her duly authorized agent or
28 representative, entering into or upon any tidelands, marshes or beaches
29 of this state or any mill, mill site, mill yard or mill boom or rafting
30 or storage grounds or any forest products or any raft or boom thereof
31 for the purpose of searching for forest products and booming equipment
32 having impressed thereupon a registered mark or brand belonging to him
33 or her or retaking any forest products or booming equipment so found by
34 him or her; or,

35 (4) Who impresses or cuts a catch brand that is not registered
36 under the terms of this chapter upon or into any forest products or
37 booming equipment upon which there is a registered mark or brand as

1 authorized by the terms of this chapter or a catch brand, whether
2 registered or not, upon any forest products or booming equipment that
3 was not purchased or lawfully acquired by him or her from the owner; is
4 guilty of a gross misdemeanor.

5 **Sec. 12.** RCW 76.42.020 and 1973 c 136 s 3 are each amended to read
6 as follows:

7 "Wood debris" as used in this chapter is wood that is adrift on
8 navigable waters or has been adrift thereon and stranded on beaches,
9 marshes, or (~~navigable [tidal]~~) tidal and shorelands and which is not
10 merchantable or economically salvageable under (~~the Log Patrol Act,~~)
11 chapter 76.40 RCW.

12 "Removal" as used in this chapter shall include all activities
13 necessary for the collection and disposal of such wood debris:
14 PROVIDED, That nothing herein provided shall permit removal of wood
15 debris from private property without written consent of the owner.

16 **Sec. 13.** RCW 76.42.030 and 1973 c 136 s 4 are each amended to read
17 as follows:

18 The department of natural resources may by contract, license, or
19 permit, or other arrangements, cause such wood debris to be removed by
20 (~~licensed log patrolmen, other~~) private contractors, department of
21 natural resources employees, or by other public bodies. Nothing
22 contained in this chapter shall prohibit any individual from using any
23 nonmerchantable wood debris for his own personal use.

24 **Sec. 14.** RCW 82.16.010 and 1991 c 272 s 14 are each amended to
25 read as follows:

26 For the purposes of this chapter, unless otherwise required by the
27 context:

28 (1) "Railroad business" means the business of operating any
29 railroad, by whatever power operated, for public use in the conveyance
30 of persons or property for hire. It shall not, however, include any
31 business herein defined as an urban transportation business.

32 (2) "Express business" means the business of carrying property for
33 public hire on the line of any common carrier operated in this state,
34 when such common carrier is not owned or leased by the person engaging
35 in such business.

1 (3) "Railroad car business" means the business of renting, leasing
2 or operating stock cars, furniture cars, refrigerator cars, fruit cars,
3 poultry cars, tank cars, sleeping cars, parlor cars, buffet cars,
4 tourist cars, or any other kinds of cars used for transportation of
5 property or persons upon the line of any railroad operated in this
6 state when such railroad is not owned or leased by the person engaging
7 in such business.

8 (4) "Water distribution business" means the business of operating
9 a plant or system for the distribution of water for hire or sale.

10 (5) "Light and power business" means the business of operating a
11 plant or system for the generation, production or distribution of
12 electrical energy for hire or sale and/or for the wheeling of
13 electricity for others.

14 (6) "Telegraph business" means the business of affording
15 telegraphic communication for hire.

16 (7) "Gas distribution business" means the business of operating a
17 plant or system for the production or distribution for hire or sale of
18 gas, whether manufactured or natural.

19 (8) "Motor transportation business" means the business (except
20 urban transportation business) of operating any motor propelled vehicle
21 by which persons or property of others are conveyed for hire, and
22 includes, but is not limited to, the operation of any motor propelled
23 vehicle as an auto transportation company (except urban transportation
24 business), common carrier or contract carrier as defined by RCW
25 81.68.010 and 81.80.010: PROVIDED, That "motor transportation
26 business" shall not mean or include the transportation of logs or other
27 forest products exclusively upon private roads or private highways.

28 (9) "Urban transportation business" means the business of operating
29 any vehicle for public use in the conveyance of persons or property for
30 hire, insofar as (a) operating entirely within the corporate limits of
31 any city or town, or within five miles of the corporate limits thereof,
32 or (b) operating entirely within and between cities and towns whose
33 corporate limits are not more than five miles apart or within five
34 miles of the corporate limits of either thereof. Included herein, but
35 without limiting the scope hereof, is the business of operating
36 passenger vehicles of every type and also the business of operating
37 cartage, pickup, or delivery services, including in such services the
38 collection and distribution of property arriving from or destined to a
39 point within or without the state, whether or not such collection or

1 distribution be made by the person performing a local or interstate
2 line-haul of such property.

3 (10) "Public service business" means any of the businesses defined
4 in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), and (9) or any
5 business subject to control by the state, or having the powers of
6 eminent domain and the duties incident thereto, or any business
7 hereafter declared by the legislature to be of a public service nature,
8 except telephone business as defined in RCW 82.04.065 and low-level
9 radioactive waste site operating companies as redefined in RCW
10 81.04.010. It includes, among others, without limiting the scope
11 hereof: Airplane transportation, boom, dock, ferry, (~~log patrol,~~)
12 pipe line, toll bridge, toll logging road, water transportation and
13 wharf businesses.

14 (11) "Tugboat business" means the business of operating tugboats,
15 towboats, wharf boats or similar vessels in the towing or pushing of
16 vessels, barges or rafts for hire.

17 (12) "Gross income" means the value proceeding or accruing from the
18 performance of the particular public service or transportation business
19 involved, including operations incidental thereto, but without any
20 deduction on account of the cost of the commodity furnished or sold,
21 the cost of materials used, labor costs, interest, discount, delivery
22 costs, taxes, or any other expense whatsoever paid or accrued and
23 without any deduction on account of losses.

24 (13) The meaning attributed, in chapter 82.04 RCW, to the term "tax
25 year," "person," "value proceeding or accruing," "business," "engaging
26 in business," "in this state," "within this state," "cash discount" and
27 "successor" shall apply equally in the provisions of this chapter.

28 NEW SECTION. **Sec. 15.** REPEALER. The following acts or parts of
29 acts are each repealed:

30 (1) RCW 76.40.010 and 1984 c 60 s 9 & 1957 c 182 s 1;

31 (2) RCW 76.40.012 and 1984 c 60 s 10, 1955 c 108 s 1, & 1953 c 140
32 s 2;

33 (3) RCW 76.40.013 and 1984 c 60 s 11 & 1957 c 182 s 9;

34 (4) RCW 76.40.020 and 1984 c 60 s 12, 1957 c 182 s 2, 1955 c 27 s
35 1, 1953 c 140 s 9, & 1947 c 116 s 1;

36 (5) RCW 76.40.030 and 1984 c 60 s 13, 1979 ex.s. c 67 s 13, 1963 c
37 12 s 1, 1957 c 182 s 3, 1955 c 108 s 3, 1953 c 140 s 10, & 1947 c 116
38 s 3;

- 1 (6) RCW 76.40.040 and 1984 c 60 s 14, 1957 c 182 s 4, & 1947 c 116
2 s 5;
- 3 (7) RCW 76.40.050 and 1984 c 60 s 15, 1957 c 182 s 5, 1953 c 140 s
4 11, & 1947 c 116 s 5;
- 5 (8) RCW 76.40.060 and 1982 c 35 s 199 & 1947 c 116 s 6;
- 6 (9) RCW 76.40.070 and 1984 c 60 s 16, 1957 c 182 s 6, & 1947 c 116
7 s 8;
- 8 (10) RCW 76.40.080 and 1984 c 60 s 17 & 1947 c 116 s 9;
- 9 (11) RCW 76.40.090 and 1947 c 116 s 10;
- 10 (12) RCW 76.40.100 and 1984 c 60 s 18 & 1947 c 116 s 11;
- 11 (13) RCW 76.40.110 and 1957 c 182 s 7, 1953 c 140 s 12, & 1947 c
12 116 s 12;
- 13 (14) RCW 76.40.120 and 1984 c 60 s 19 & 1947 c 116 s 14;
- 14 (15) RCW 76.40.130 and 1947 c 116 s 13;
- 15 (16) RCW 76.40.135 and 1984 c 60 s 20;
- 16 (17) RCW 76.40.140 and 1984 c 60 s 21;
- 17 (18) RCW 76.40.145 and 1984 c 60 s 22;
- 18 (19) RCW 76.40.900 and 1947 c 116 s 15; and
- 19 (20) RCW 76.40.910 and 1947 c 116 s 16.

20 NEW SECTION. **Sec. 16.** 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."

24 **SHB 2351** - S COMM AMD
25 By Committee on Natural Resources

26 NOT ADOPTED 3/4/94

27 On page 1, line 1 of the title, after "logs;" strike the remainder
28 of the title and insert "amending RCW 76.36.110, 76.42.020, 76.42.030,
29 and 82.16.010; adding new sections to chapter 76.40 RCW; creating a new
30 section; repealing RCW 76.40.010, 76.40.012, 76.40.013, 76.40.020,
31 76.40.030, 76.40.040, 76.40.050, 76.40.060, 76.40.070, 76.40.080,
32 76.40.090, 76.40.100, 76.40.110, 76.40.120, 76.40.130, 76.40.135,
33 76.40.140, 76.40.145, 76.40.900, and 76.40.910; and prescribing
34 penalties."

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