

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5011

Chapter 366, Laws of 1995

54th Legislature
1995 Regular Session

SPECIALIZED FOREST PRODUCTS PERMITS

EFFECTIVE DATE: 7/23/95

Passed by the Senate April 23, 1995
YEAS 46 NAYS 0

JOEL PRITCHARD

President of the Senate

Passed by the House April 22, 1995
YEAS 82 NAYS 8

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 16, 1995

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5011** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

May 16, 1995 - 11:16 a.m.

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5011

AS RECOMMENDED BY CONFERENCE COMMITTEE

Passed Legislature - 1995 Regular Session

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, bear grass, scotch broom (Cytisus

1 scoparius) and other cut or picked evergreen products. "Cut or picked
2 evergreen foliage" does not mean cones or seeds.

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

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

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

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

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

20 (9) "Wild edible mushrooms" means edible mushrooms not cultivated
21 or propagated by artificial means.

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

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

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

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

1 conveyance. ~~"Transportation" also means any conveyance of specialized~~
2 ~~forest products by helicopter)) by any means.~~

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

10 (15) "Authorization" means a properly completed preprinted form
11 authorizing the transportation or possession of Christmas trees((~~7~~))
12 which ((~~form~~)) contains the information required by RCW 76.48.080,
13 ((~~and~~)) a sample of which is filed before the harvesting occurs with
14 the sheriff of the county in which the harvesting is to occur.

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

19 (17) "Specialized forest products permit" ((~~shall~~)) means a printed
20 document in a form specified by the department of natural resources, or
21 true copy thereof, that is signed by a landowner or his ((~~duly~~)) or her
22 authorized agent or representative ((~~herein~~)), referred to in this
23 chapter as "permitters"((~~7~~)) and validated by the county sheriff((~~7~~
24 authorizing)) and authorizes a designated person ((~~herein~~)), referred
25 to in this chapter as "permittee"((~~7~~)), who ((~~shall~~)) has also ((~~have~~))
26 signed the permit, to harvest ((~~and/or~~)) and transport a designated
27 specialized forest product from land owned or controlled and specified
28 by the permittor((~~7~~)) and that is located in the county where ((~~such~~))
29 the permit is issued.

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

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

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

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

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

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

13 (1) Harvest specialized forest products as described in RCW
14 76.48.020, in the quantities specified in RCW 76.48.060, without first
15 obtaining a validated specialized forest products permit;

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

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

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

24 Agencies charged with the enforcement of this chapter shall
25 include, but not be limited to, the Washington state patrol, county
26 sheriffs and their deputies, county or municipal police forces,
27 authorized personnel of the United States forest service, and
28 authorized personnel of the departments of natural resources and fish
29 and wildlife. Primary enforcement responsibility lies in the county
30 sheriffs and their deputies. The legislature encourages county
31 sheriffs' offices to enter into interlocal agreements with these other
32 agencies in order to receive additional assistance with their
33 enforcement responsibilities.

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

1 Specialized forest products permits shall consist of properly
2 completed permit forms validated by the sheriff of the county in which
3 the specialized forest products are to be harvested. Each permit shall
4 be separately numbered and the permits shall be issued by consecutive
5 numbers. All specialized forest products permits shall expire at the
6 end of the calendar year in which issued, or sooner, at the discretion
7 of the permittor. A properly completed specialized forest products
8 permit form shall include:

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

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

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

14 (4) The type of specialized forest products to be harvested or
15 transported;

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

18 (6) The legal description of the property from which the
19 specialized forest products are to be harvested or transported,
20 including the name of the county, or the state or province if outside
21 the state of Washington;

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

25 (8) The number from some type of valid picture identification; and

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

28 Except for the harvesting of Christmas trees, the permit or true
29 copy thereof must be carried by the permittee and available for
30 inspection at all times. For the harvesting of Christmas trees only a
31 single permit or true copy thereof is necessary to be available at the
32 harvest site.

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

35 A specialized forest products permit validated by the county
36 sheriff shall be obtained by ((any)) a person prior to harvesting from
37 any lands, including his or her own, more than five Christmas trees,
38 more than five native ornamental trees or shrubs, more than five pounds

1 of cut or picked evergreen foliage, any cedar products, cedar salvage,
2 processed cedar products, or more than five pounds of Cascara bark, or
3 more than three United States gallons of a single species of wild
4 edible mushroom and ~~((not))~~ more than an aggregate total of nine United
5 States gallons of wild edible mushrooms, plus one wild edible mushroom.
6 Specialized forest products permit forms shall be provided by the
7 department of natural resources, and shall be made available through
8 the office of the county sheriff to permittees or permittors in
9 reasonable quantities. A permit form shall be completed in triplicate
10 for each permittor's property on which a permittee harvests specialized
11 forest products. A properly completed permit form shall be mailed or
12 presented for validation to the sheriff of the county in which the
13 specialized forest products are to be harvested. Before a permit form
14 is validated by the sheriff, sufficient personal identification may be
15 required to reasonably identify the person mailing or presenting the
16 permit form and the sheriff may conduct ~~((such))~~ other investigations
17 as deemed necessary to determine the validity of the information
18 alleged on the form. When the sheriff is reasonably satisfied as to
19 the truth of ~~((such))~~ the information, the form shall be validated with
20 the sheriff's validation stamp ~~((provided by the department of natural
21 resources))~~. Upon validation, the form shall become the specialized
22 forest products permit authorizing the harvesting, possession ~~((and/
23 or))~~, or transportation of specialized forest products, subject to any
24 other conditions or limitations which the permittor may specify. Two
25 copies of the permit shall be given or mailed to the permittor, or one
26 copy shall be given or mailed to the permittor and the other copy given
27 or mailed to the permittee. The original permit shall be retained in
28 the office of the county sheriff validating the permit. In the event
29 a single land ownership is situated in two or more counties, a
30 specialized forest product permit shall be completed as to the land
31 situated in each county. While engaged in harvesting of specialized
32 forest products, permittees, or their agents or employees, must have
33 readily available at each harvest site a valid permit or true copy of
34 the permit.

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

37 (1) Except as provided in RCW 76.48.100 and 76.48.075, it ~~((shall
38 be))~~ is unlawful for any person (a) to possess, ~~((and/or))~~ (b) to

1 transport, or (c) to possess and transport within the state of
2 Washington, subject to any other conditions or limitations specified in
3 the specialized forest products permit by the permittor, more than five
4 Christmas trees, more than five native ornamental trees or shrubs, more
5 than five pounds of cut or picked evergreen foliage, any processed
6 cedar products, or more than five pounds of Cascara bark, or more than
7 three gallons of a single species of wild edible mushrooms and ((not))
8 more than an aggregate total of nine gallons of wild edible mushrooms,
9 plus one wild edible mushroom without having in his or her possession
10 a written authorization, sales invoice, bill of lading, or specialized
11 forest products permit or a true copy thereof evidencing his or her
12 title to or authority to have possession of specialized forest products
13 being so possessed or transported.

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

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

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

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

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

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

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

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

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

32 It (~~shall be~~) is unlawful for any cedar processor to purchase,
33 take possession, or retain cedar products or cedar salvage subsequent
34 to the harvesting and prior to the retail sale of (~~such~~) the
35 products, unless the supplier thereof displays a specialized forest
36 products permit, or true copy thereof(~~, which~~) that appears to be
37 valid, or obtains the information (~~pursuant to~~) under RCW
38 76.48.075(5).

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

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

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

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

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

13 (1) Nursery grown products.

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

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

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

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

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

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

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

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

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

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

36 ~~((Any))~~ A person who violates ~~((any))~~ a provision of this chapter,
37 other than the provisions contained in RCW 76.48.120, as now or

1 hereafter amended, (~~shall be~~) is guilty of a gross misdemeanor and
2 upon conviction thereof shall be punished by a fine of not more than
3 one thousand dollars or by imprisonment in the county jail for not to
4 exceed one year or by both (~~such~~) a fine and imprisonment.

5 NEW SECTION. Sec. 14. A new section is added to chapter 76.48 RCW
6 to read as follows:

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

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

18 The section shall not apply to buyers of specialized forest
19 products at the retail sales level.

20 NEW SECTION. Sec. 15. A new section is added to chapter 76.48 RCW
21 to read as follows:

22 County sheriffs may contract with other entities to serve as
23 authorized agents to validate specialized forest product permits.
24 These entities include the United States forest service, the bureau of
25 land management, the department of natural resources, local police
26 departments, and other entities as decided upon by the county sheriffs'
27 departments. An entity that contracts with a county sheriff to serve
28 as an authorized agent to validate specialized forest product permits
29 may make reasonable efforts to verify the information provided on the
30 permit form such as the section, township, and range of the area where
31 harvesting is to occur.

32 NEW SECTION. Sec. 16. A new section is added to chapter 76.48 RCW
33 to read as follows:

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

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

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

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

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

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

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

20 NEW SECTION. **Sec. 18.** RCW 76.48.092 and 1979 ex.s. c 94 s 8 &
21 1977 ex.s. c 147 s 14 are each repealed.

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

Passed the Senate April 23, 1995.

Passed the House April 22, 1995.

Approved by the Governor May 16, 1995.

Filed in Office of Secretary of State May 16, 1995.