

SHB 1909 - S AMD 572

By Senators Jacobsen, Morton

ADOPTED AS AMENDED 04/19/2007

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 without first obtaining permission from the landowner or his or her
2 duly authorized agent or representative; or

3 (4) Harvest huckleberries in any amount using a rake, mechanical
4 device, or any other method that damages the huckleberry bush.

5 NEW SECTION. **Sec. 5.** (1) By December 1, 2007, the department of
6 natural resources must review the uses of and demands on the state's
7 wild huckleberry resource, and estimate whether the current consumptive
8 uses of wild huckleberries are sustainable and compatible among the
9 various consumptive users of the resource. Based upon this review, the
10 department of natural resources must deliver recommendations to the
11 appropriate committees of the legislature as to whether a
12 state-permitting requirement to harvest, possess, or transport wild
13 huckleberries would remedy any problems identified during the review,
14 whether the specialized forest products permit would be the most
15 effective permitting program to utilize, and what permit conditions or
16 requirements should be placed on the harvest, possession, or
17 transportation of wild huckleberries.

18 (2) This section expires July 1, 2008."

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19 On page 1, line 1 of the title, after "products;" strike the
20 remainder of the title and insert "amending RCW 76.48.130, 76.48.020,
21 and 76.48.030; creating new sections; and providing expiration dates."

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. Defines the term "huckleberry." Makes unlawful the harvest of huckleberries using a rake, mechanical device, or any other method that damages the huckleberry bush. Directs the department of natural resources to review the status of the state's huckleberry resource and make recommendations on the potential regulation of huckleberry harvest, possession, and transportation.

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