CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2779

Chapter 191, Laws of 2008

60th Legislature
2008 Regular Session

WILD HUCKLEBERRIES--SALE

EFFECTIVE DATE: 06/12/08

Passed by the House March 8, 2008
Yeas 93  Nays 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate March 5, 2008
Yeas 46  Nays 1

BRAD OWEN
President of the Senate

Approved March 27, 2008, 3:52 p.m.

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is SUBSTITUTE HOUSE BILL 2779 as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER
Chief Clerk

FILED
March 28, 2008

CHRISTINE GREGOIRE
Governor of the State of Washington

SECRETARY OF STATE
State of Washington
1 AN ACT Relating to the sale of wild huckleberries; amending RCW
2 76.48.050, 76.48.060, 76.48.085, 76.48.086, 76.48.110, 76.48.120,
3 76.48.200, and 76.48.020; and adding a new section to chapter 76.48
4 RCW.

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

6 NEW SECTION. Sec. 1. A new section is added to chapter 76.48 RCW
7 to read as follows:
8 (1) Except as otherwise provided in this section, no person may
9 sell, or attempt to sell, any amount of raw or unprocessed
10 huckleberries without first obtaining a specialized forest products
11 permit as provided in RCW 76.48.060, regardless if the huckleberries
12 were harvested with the consent of the landowner.
13 (2) If the possessor of the huckleberries being offered for sale is
14 able to show that the huckleberries originated on land owned by the
15 United States forest service, then the requirements of this section may
16 be satisfied with the display of a valid permit from the United States
17 forest service that lawfully entitles the possessor to harvest the
18 huckleberries in question.
(3) Nothing in this section creates a requirement that a specialized forest products permit is required for an individual to harvest, possess, or transport huckleberries.

(4) Compliance with this section allows an individual to sell, or offer for sale, raw or unprocessed huckleberries. Possession of a specialized forest products permit does not create a right or privilege to harvest huckleberries. Huckleberries may be harvested only with the permission of the landowner and under the terms and conditions established between the landowner and the harvester.

Sec. 2. RCW 76.48.050 and 2005 c 401 s 2 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, specialized forest products permits shall consist of properly completed permit forms validated by the sheriff of the county in which the specialized forest products are to be harvested. Each permit shall be separately numbered and the issuance of the permits shall be by consecutive numbers. All specialized forest products permits shall expire at the end of the calendar year in which issued, or sooner, at the discretion of the permitter.

(2) A properly completed specialized forest products permit form shall include:

((a)) (a) The date of its execution and expiration;
((b)) (b) The name, address, telephone number, if any, and signature of the permitter;
((c)) (c) The name, address, telephone number, if any, and signature of the permittee;
((d)) (d) The type of specialized forest products to be harvested or transported;
((e)) (e) The approximate amount or volume of specialized forest products to be harvested or transported;
((f)) (f) The legal description of the property from which the specialized forest products are to be harvested or transported, including the name of the county, or the state or province if outside the state of Washington;
((g)) (g) A description by local landmarks of where the harvesting is to occur, or from where the specialized forest products are to be transported;
For cedar products, cedar salvage, and specialty wood, a copy of a map or aerial photograph, with defined permitted boundaries, included as an attachment to the permit;

A copy of a valid picture identification; and

Any other condition or limitation which the permitter may specify.

(3) For permits intended to satisfy the requirements of section 1 of this act relating only to the sale of huckleberries, the specialized forest products permit:

(a) May be obtained from the department of natural resources or the sheriff of any county in the state;

(b) Must, in addition to the requirements of subsection (2) of this section, also contain information relating to where the huckleberries were, or plan to be, harvested, and the approximate amount of huckleberries that are going to be offered for sale; and

(c) Must include a statement designed to inform the possessor that permission from the landowner is still required prior to the harvesting of huckleberries.

(4) Except for the harvesting of Christmas trees, the permit or true copy thereof must be carried by the permittee and the permittee's agents and be available for inspection at all times. For the harvesting of Christmas trees only a single permit or true copy thereof is necessary to be available at the harvest site.

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

(1) A specialized forest products permit validated by the county sheriff shall be obtained by a person prior to:

(a) Harvesting from any lands, including his or her own, more than five Christmas trees, more than five native ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage, any cedar products, cedar salvage, processed cedar products, or more than five pounds of Cascara bark, or more than five United States gallons of a single species of wild edible mushroom; or

(b) Selling, or offering for sale, any amount of raw or unprocessed huckleberries.

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

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

(4) Upon validation, the form shall become the specialized forest products permit authorizing the harvesting, possession, or transportation of specialized forest products and the sale of huckleberries, subject to any other conditions or limitations which the (permitter) may specify. Two copies of the permit shall be given or mailed to the (permitter) or one copy shall be given or mailed to the (permitter) and the other copy given or mailed to the permittee. The original permit shall be retained in the office of the county sheriff validating the permit.

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

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

Sec. 4. RCW 76.48.085 and 2005 c 401 s 6 are each amended to read as follows:

(1) Buyers who purchase specialized forest products or huckleberries are required to record:

((1))) (a) The permit number;

((2))) (b) The type of forest product purchased, and whether huckleberries were purchased;
((4)) (c) The permit holder's name; and

((4)) (d) The amount of forest product or huckleberries purchased.

(2) The buyer or processor shall keep a record of this information for a period of one year from the date of purchase and must make the records available for inspection upon demand by authorized enforcement officials.

(3) The buyer of specialized forest products must record the license plate number of the vehicle transporting the forest products or huckleberries on the bill of sale, as well as the seller's permit number on the bill of sale. This section shall not apply to transactions involving Christmas trees.

(4) This section shall not apply to buyers of specialized forest products at the retail sales level.

Sec. 5. RCW 76.48.086 and 1995 c 366 s 16 are each amended to read as follows:

Records of buyers of specialized forest products and huckleberries collected under the requirements of RCW 76.48.085 may be made available to colleges and universities for the purpose of research.

Sec. 6. RCW 76.48.110 and 2005 c 401 s 11 are each amended to read as follows:

(1) Whenever any law enforcement officer has probable cause to believe that a person is harvesting or is in possession of or transporting specialized forest products, or selling or attempting to sell huckleberries, in violation of the provisions of this chapter, he or she may, at the time of making an arrest, seize and take possession of any specialized forest products or huckleberries found. If the specialized forest product is a cedar product, cedar salvage, or specialty wood, at the time of making an arrest the law enforcement officer may seize and take possession of any equipment, vehicles, tools, or paperwork. The law enforcement officer shall provide reasonable protection for the equipment, vehicles, tools, paperwork, or specialized forest products involved during the period of litigation or he or she shall dispose of the equipment, vehicles, tools, paperwork, or specialized forest products at the discretion or order of the court before which the arrested person is ordered to appear.
Upon any disposition of the case by the court, the court shall make a reasonable effort to return the equipment, vehicles, tools, paperwork, huckleberries, or specialized forest products to its rightful owner or pay the proceeds of any sale of specialized forest products or huckleberries less any reasonable expenses of the sale to the rightful owner. If for any reason, the proceeds of the sale cannot be disposed of to the rightful owner, the proceeds, less the reasonable expenses of the sale, shall be paid to the treasurer of the county in which the violation occurred. The county treasurer shall deposit the same in the county general fund. The return of the equipment, vehicles, tools, paperwork, or specialized forest products or the payment of the proceeds of any sale of products seized to the owner shall not preclude the court from imposing any fine or penalty upon the violator for the violation of the provisions of this chapter.

Sec. 7. RCW 76.48.120 and 2003 c 53 s 373 are each amended to read as follows:

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

(2) Any person who knowingly or intentionally violates this section is guilty of a class C felony punishable by imprisonment in a state correctional institution for a maximum term fixed by the court of not more than five years or by a fine of not more than five thousand dollars, or by both imprisonment and fine.

(3) Whenever any law enforcement officer reasonably suspects that a specialized forest products permit or true copy thereof, authorization, sales invoice, or bill of lading is forged, fraudulent, or stolen, it may be retained by the officer until its authenticity can be verified.
Sec. 8. RCW 76.48.200 and 1995 c 366 s 17 are each amended to read as follows:

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

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

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

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

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

Sec. 9. RCW 76.48.020 and 2007 c 392 s 3 are each amended to read as follows:

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

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

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

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

(4) "Cedar processor" means any person who purchases, takes, or retains possession of cedar products or cedar salvage for later sale in the same or modified form following removal and delivery from the land where harvested.
(5) "Cedar products" means cedar shakeboards, shake and shingle bolts, and rounds one to three feet in length.

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

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

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

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

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

(11) "Huckleberry" means the following species of edible berries, if they are not nursery grown: Vaccinium membranaceum, Vaccinium deliciosum, Vaccinium ovatum, Vaccinium parvifolium, Vaccinium globulare, Vaccinium ovalifolium, Vaccinium alaskaense, Vaccinium caespitosum, Vaccinium occidentale, Vaccinium uliginosum, Vaccinium myrtillus, and Vaccinium scoparium.

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

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

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

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

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

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

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

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

(20) "Specialty wood" means wood that is:

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

(b) One or more of the following:

(i) Of the species western red cedar, Englemann spruce, Sitka spruce, big leaf maple, or western red alder;
(ii) Without knots in a portion of the surface area at least twenty-one inches long and seven and a quarter inches wide when measured from the outer surface toward the center; or

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

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

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

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

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

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

Passed by the House March 8, 2008.
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