

2 SSB 6566 - S AMD - 000026

3 By Senator Owen

4 ADOPTED 2/11/94

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

7 "Sec. 1. RCW 76.48.020 and 1992 c 184 s 1 are each amended to read
8 as follows:

9 Unless otherwise required by the context, as used in this chapter:

10 (1) "Christmas trees" (~~shall~~) means any evergreen trees or the
11 top thereof, commonly known as Christmas trees, with limbs and
12 branches, with or without roots, including fir, pine, spruce, cedar,
13 and other coniferous species.

14 (2) "Native ornamental trees and shrubs" (~~shall~~) means any trees
15 or shrubs which are not nursery grown and which have been removed from
16 the ground with the roots intact.

17 (3) "Cut or picked evergreen foliage," commonly known as brush,
18 (~~shall~~) means evergreen boughs, huckleberry, salal, fern, Oregon
19 grape, rhododendron, mosses, lichens, legumes, grasses, and other cut
20 or picked evergreen products.

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

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

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

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

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

2 (9) "Wild edible mushrooms" means edible mushrooms not cultivated
3 or propagated by artificial means.

4 (10) "Specialized forest products" (~~shall~~) means Christmas trees,
5 native ornamental trees and shrubs, cut or picked evergreen foliage,
6 cedar products, cedar salvage, processed cedar products, wild edible
7 mushrooms, and Cascara bark.

8 (11) "Person" (~~shall~~) includes the plural and all corporations,
9 foreign or domestic, copartnerships, firms, and associations of
10 persons.

11 (12) "Harvest" (~~shall~~) means to separate, by cutting, prying,
12 picking, peeling, breaking, pulling, splitting, or otherwise removing,
13 a specialized forest product (a) from its physical connection (~~with~~)
14 or contact with the land or vegetation upon which it (~~was or has~~
15 ~~been~~) is or was growing(~~g~~) or (b) from the position in which it
16 (~~has been~~) is lying upon (~~such~~) the land.

17 (13) "Transportation" means the physical conveyance of specialized
18 forest products outside or off of a harvest site(~~, including but not~~
19 ~~limited to conveyance by a motorized vehicle designed for use on~~
20 ~~improved roadways, or by vessel, barge, raft, or other waterborne~~
21 ~~conveyance. "Transportation" also means any conveyance of specialized~~
22 ~~forest products by helicopter~~) by any means.

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

30 (15) "Authorization" means a properly completed preprinted form
31 authorizing the transportation or possession of Christmas trees(~~g~~)
32 which (~~form~~) contains the information required by RCW 76.48.080,
33 (~~and~~) a sample of which is filed before the harvesting occurs with
34 the sheriff of the county in which the harvesting is to occur.

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

39 (17) "Specialized forest products permit" (~~shall~~) means a printed

1 document in a form specified by the department of natural resources, or
2 true copy thereof, that is signed by a landowner or his (~~(duly)~~) or her
3 authorized agent or representative (~~(herein)~~), referred to in this
4 chapter as "permitters"(~~(+)~~) and validated by the county sheriff(~~(+)~~
5 ~~authorizing~~) and authorizes a designated person (~~(herein)~~), referred
6 to in this chapter as "permittee"(~~(+)~~), who (~~(shall)~~) has also (~~(have)~~)
7 signed the permit, to harvest (~~(and/or)~~) and transport a designated
8 specialized forest product from land owned or controlled and specified
9 by the permitter(~~(+)~~) and that is located in the county where (~~(such)~~)
10 the permit is issued.

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

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

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

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

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

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

36 (3) Harvest specialized forest products in any lesser quantities
37 than those specified in RCW 76.48.060, as now or hereafter amended,
38 without first obtaining written permission from the landowner or his or

1 her duly authorized agent or representative.

2 **Sec. 3.** RCW 76.48.040 and 1988 c 36 s 49 are each amended to read
3 as follows:

4 Agencies charged with the enforcement of this chapter shall
5 include, but not be limited to, the Washington state patrol, county
6 sheriffs and their deputies, county or municipal police forces,
7 authorized personnel of the United States forest service, and
8 authorized personnel of the departments of natural resources, and
9 ~~((fisheries,))~~ fish and wildlife. ~~((Primary enforcement responsibility~~
10 ~~lies in the county sheriffs and their deputies.))~~ The provisions of
11 this chapter shall be strictly enforced by the agencies set out under
12 this section.

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

15 Specialized forest products permits shall consist of properly
16 completed permit forms validated by the sheriff of the county in which
17 the specialized forest products are to be harvested. Each permit shall
18 be separately numbered and the permits shall be issued by consecutive
19 numbers. All specialized forest products permits shall expire at the
20 end of the calendar year in which issued, or sooner, at the discretion
21 of the permittor. A properly completed specialized forest products
22 permit form shall include:

- 23 (1) The date of its execution and expiration;
- 24 (2) The name, address, telephone number, if any, and signature of
25 the permittor;
- 26 (3) The name, address, telephone number, if any, and signature of
27 the permittee;
- 28 (4) The type of specialized forest products to be harvested or
29 transported;
- 30 (5) The approximate amount or volume of specialized forest products
31 to be harvested or transported;
- 32 (6) The legal description of the property from which the
33 specialized forest products are to be harvested or transported,
34 including the name of the county, or the state or province if outside
35 the state of Washington;
- 36 (7) A description by local landmarks of where the harvesting is to
37 occur, or from where the specialized forest products are to be

1 transported;

2 (8) The person's driver's license or valid picture identification
3 and social security number. The sheriff's office shall verify the
4 social security number when the permit is validated. Except for the
5 harvesting of Christmas trees, the permit or true copy thereof must be
6 carried by the picker and available for inspection at all times. For
7 the harvesting of Christmas trees only a single permit or true copy
8 thereof is necessary to be available at the harvest site; and

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

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

13 A specialized forest products permit validated by the county
14 sheriff shall be obtained by ((any)) a person prior to harvesting from
15 any lands, including his or her own, more than five Christmas trees,
16 more than five native ornamental trees or shrubs, more than five pounds
17 of cut or picked evergreen foliage, ((any)) a cedar products, cedar
18 salvage, processed cedar products, or more than five pounds of Cascara
19 bark, or more than three United States gallons of a single species of
20 wild edible mushroom and ((not)) more than an aggregate total of nine
21 United States gallons of wild edible mushrooms, plus one wild edible
22 mushroom. Specialized forest products permit forms shall be provided
23 by the department of natural resources, and shall be made available
24 through the office of the county sheriff to permittees or permittors in
25 reasonable quantities. A permit form shall be completed in triplicate
26 for each permittor's property on which a permittee harvests specialized
27 forest products. A properly completed permit form shall be mailed or
28 presented for validation to the sheriff of the county in which the
29 specialized forest products are to be harvested. Before a permit form
30 is validated by the sheriff, sufficient personal identification may be
31 required to reasonably identify the person mailing or presenting the
32 permit form and the sheriff may conduct ((such)) other investigations
33 as deemed necessary to determine the validity of the information
34 alleged on the form. When the sheriff is reasonably satisfied as to
35 the truth of ((such)) the information, the form shall be validated with
36 the sheriff's validation stamp ((provided by the department of natural
37 resources)). Upon validation, the form shall become the specialized
38 forest products permit authorizing the harvesting, possession ((and/

1 ~~or~~), or transportation of specialized forest products, subject to any
2 other conditions or limitations which the permittor may specify. Two
3 copies of the permit shall be given or mailed to the permittor, or one
4 copy shall be given or mailed to the permittor and the other copy given
5 or mailed to the permittee. The original permit shall be retained in
6 the office of the county sheriff validating the permit. In the event
7 a single land ownership is situated in two or more counties, a
8 specialized forest product permit shall be completed as to the land
9 situated in each county. While engaged in harvesting of specialized
10 forest products, permittees, or their agents or employees, must have
11 readily available at each harvest site a valid permit or true copy of
12 the permit.

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

15 (1) Except as provided in RCW 76.48.100 and 76.48.075, it (~~shall~~
16 ~~be~~) is unlawful for any person (a) to possess, (~~and/or~~) (b) to
17 transport, or (c) to possess and transport within the state of
18 Washington, subject to any other conditions or limitations specified in
19 the specialized forest products permit by the permittor, more than five
20 Christmas trees, more than five native ornamental trees or shrubs, more
21 than five pounds of cut or picked evergreen foliage, any processed
22 cedar products, or more than five pounds of Cascara bark, or more than
23 three gallons of a single species of wild edible mushrooms and (~~not~~)
24 more than an aggregate total of nine gallons of wild edible mushrooms,
25 plus one wild edible mushroom without having in his or her possession
26 a written authorization, sales invoice, bill of lading, or specialized
27 forest products permit or a true copy thereof evidencing his or her
28 title to or authority to have possession of specialized forest products
29 being so possessed or transported.

30 (2) It (~~shall be~~) is unlawful for any person either (a) to
31 possess (~~and/or~~), (b) to transport, or (c) to possess and transport
32 within the state of Washington any cedar products or cedar salvage
33 without having in his or her possession a specialized forest products
34 permit or a true copy thereof evidencing his or her title to or
35 authority to have possession of the materials being so possessed or
36 transported.

37 **Sec. 7.** RCW 76.48.075 and 1979 ex.s. c 94 s 15 are each amended to

1 read as follows:

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

10 (2) Any person transporting or causing to be transported
11 specialized forest products into this state from any other state or
12 province shall, upon request of any person to whom the specialized
13 forest products are sold or delivered or upon request of any law
14 enforcement officer, prepare and sign a statement indicating the true
15 origin of the specialized forest products, the date of delivery, and
16 the license number of the vehicle making delivery, and shall leave the
17 statement with the person making the request.

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

21 (4) When any person transporting or causing to be transported into
22 this state specialized forest products elects to acquire a specialized
23 forest products permit, the specialized forest products transported
24 into this state shall be deemed to be harvested in the county of entry,
25 and the sheriff of that county may validate the permit as if the
26 products were so harvested, except that the permit shall also indicate
27 the actual harvest site outside the state.

28 (5) A cedar processor shall comply with RCW 76.48.096 by requiring
29 a person transporting specialized forest products into this state from
30 any other state or province to display a specialized forest products
31 permit, or true copy thereof, or other document indicating the true
32 origin of the specialized forest products as being outside the state.
33 The cedar processor shall make and maintain a record of the purchase,
34 taking possession, or retention of cedar products and cedar salvage in
35 compliance with RCW 76.48.094.

36 (6) If, (~~pursuant to~~) under official inquiry, investigation, or
37 other authorized proceeding regarding specialized forest products not
38 covered by a valid specialized forest products permit or other
39 acceptable document, the inspecting law enforcement officer has

1 probable cause to believe that the specialized forest products were
2 harvested in this state or wrongfully obtained in another state or
3 province, the officer may take into custody and detain, for a
4 reasonable time, the specialized forest products, all supporting
5 documents, invoices, and bills of lading, and the vehicle in which the
6 products were transported until the true origin of the specialized
7 forest products can be determined.

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

10 It (~~shall be~~) is unlawful for any cedar processor to purchase,
11 take possession, or retain cedar products or cedar salvage subsequent
12 to the harvesting and prior to the retail sale of (~~such~~) the
13 products, unless the supplier thereof displays a specialized forest
14 products permit, or true copy thereof (~~which~~) that appears to be
15 valid, or obtains the information (~~pursuant to~~) under RCW
16 76.48.075(5).

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

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

23 Permittees shall sell cedar products or cedar salvage only to cedar
24 processors displaying registration certificates which appear to be
25 valid.

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

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

29 (1) Nursery grown products.

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

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

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

7 Whenever any law enforcement officer has probable cause to believe
8 that a person is harvesting or is in possession of or transporting
9 specialized forest products in violation of the provisions of this
10 chapter, he or she may, at the time of making an arrest, seize and take
11 possession of any (~~such~~) specialized forest products found. The law
12 enforcement officer shall provide reasonable protection for the
13 specialized forest products involved during the period of litigation or
14 he or she shall dispose of (~~such~~) the specialized forest products at
15 the discretion or order of the court before which the arrested person
16 is ordered to appear.

17 Upon any disposition of the case by the court, the court shall make
18 a reasonable effort to return the specialized forest products to
19 (~~their~~) its rightful owner or pay the proceeds of any sale of
20 specialized forest products less any reasonable expenses of (~~such~~)
21 the sale to the rightful owner. If for any reason, the proceeds of
22 (~~such~~) the sale cannot be disposed of to the rightful owner, (~~such~~)
23 the proceeds, less the reasonable expenses of the sale, shall be paid
24 to the treasurer of the county in which the violation occurred. The
25 county treasurer shall deposit the same in the county general fund.
26 The return of the specialized forest products or the payment of the
27 proceeds of any sale of products seized to the owner shall not preclude
28 the court from imposing any fine or penalty upon the violator for the
29 violation of the provisions of this chapter.

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

32 It (~~shall be~~) is unlawful for any person, upon official inquiry,
33 investigation, or other authorized proceedings, to offer as genuine any
34 paper, document, or other instrument in writing purporting to be a
35 specialized forest products permit, or true copy thereof,
36 authorization, sales invoice, or bill of lading, or to make any
37 representation of authority to possess or conduct harvesting or

1 transporting of specialized forest products, knowing the same to be in
2 any manner false, fraudulent, forged, or stolen.

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

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

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

15 (~~Any~~) A person who violates (~~any~~) a provision of this chapter,
16 other than the provisions contained in RCW 76.48.120, as now or
17 hereafter amended, (~~shall be~~) is guilty of a gross misdemeanor and
18 upon conviction thereof shall be punished by a fine of not more than
19 one thousand dollars or by imprisonment in the county jail for not to
20 exceed one year or by both (~~such~~) a fine and imprisonment.

21 NEW SECTION. **Sec. 14.** A new section is added to chapter 76.48 RCW
22 to read as follows:

23 Buyers who purchase specialized forest products are required to
24 record (1) the permit number; (2) the type of forest product purchased;
25 (3) the permit holders name; (4) the amount of forest product
26 purchased; and (5) the purchase price. The buyer shall keep a record
27 of this information for a period of one year from the date of purchase
28 and make the records available for inspection by authorized enforcement
29 officials.

30 The buyer of specialized forest products must record the license
31 plate number of the vehicle transporting the forest products on the
32 bill of sale, as well as the seller's permit number on the bill of
33 sale. This section shall not apply to transactions involving Christmas
34 trees.

35 NEW SECTION. **Sec. 15.** A new section is added to chapter 76.48 RCW
36 to read as follows:

1 County sheriffs may contract with other entities to serve as
2 authorized agents to issue specialized forest product permits. These
3 entities include the United States forest service, the bureau of land
4 management, the department of natural resources, local police
5 departments, and other entities as decided upon by the county sheriffs'
6 departments.

7 NEW SECTION. **Sec. 16.** A new section is added to chapter 76.48 RCW
8 to read as follows:

9 Records collected concerning the forest products harvested or
10 purchased may be made available to colleges and universities for the
11 purpose of research and to authorized enforcement officials from
12 federal, state, and county agencies for the purpose of enforcement.
13 These entities may also access relevant information from persons
14 involved in the forest products transactions.

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

17 Minority groups have long been participants in the specialized
18 forest products industry. The Asian-American affairs commission set out
19 under RCW 43.117.030 and the Hispanic affairs commission set out under
20 RCW 43.115.020, agencies serving minority communities, community-based
21 organizations, refugee centers, social service agencies, and other
22 interested groups shall work cooperatively to accomplish the following
23 goals:

24 (1) Make referrals and provide assistance on translation services,
25 to assist in translating educational materials, laws, and rules that
26 are published in those languages used by a majority of the non-English
27 speaking pickers; and

28 (2) Work with both minority and nonminority pickers in order to (a)
29 help protect resources; (b) provide them with work opportunities; and
30 (c) help provide understanding between minority and nonminority
31 pickers.

32 NEW SECTION. **Sec. 18.** RCW 76.48.092 and 1979 ex.s. c 94 s 8 &
33 1977 ex.s. c 147 s 14 are each repealed.

34 NEW SECTION. **Sec. 19.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected."

3 **SSB 6566** - S AMD
4 By Senator Owen

5 ADOPTED 2/11/94

6 On page 1, line 1 of the title, after "products;" strike the
7 remainder of the title and insert "amending RCW 76.48.020, 76.48.030,
8 76.48.040, 76.48.050, 76.48.060, 76.48.070, 76.48.075, 76.48.096,
9 76.48.098, 76.48.100, 76.48.110, 76.48.120, and 76.48.130; adding new
10 sections to chapter 76.48 RCW; and repealing RCW 76.48.092."

--- END ---