

purpose of paying all or any part of the cost of reducing, minimizing, or eliminating the pollutants from these waters.

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CHAPTER 147

[Substitute House Bill No. 873]

SPECIALIZED FOREST PRODUCTS—CEDAR

AN ACT Relating to specialized forest products; amending section 3, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.020; amending section 4, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.030; amending section 5, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.040; amending section 6, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.050; amending section 7, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.060; amending section 8, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.070; amending section 11, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.100; amending section 12, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.110; amending section 13, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.120; amending section 14, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.130; adding new sections to chapter 47, Laws of 1967 ex. sess. and to chapter 76.48 RCW; defining crimes; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 3, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.020 are each amended to read as follows:

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

(1) "Christmas trees" shall mean 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.

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

(3) "Cut or picked evergreen foliage," commonly known as brush, shall mean evergreen boughs, huckleberry, salal, fern, Oregon grape, (~~scotchbroom~~;) rhododendron, and other cut or picked evergreen products.

(4) "~~((Split))~~ Cedar products" shall mean (~~((shakes,))~~) cedar shakeboards, shake and shingle bolts, (~~((fence posts, hop poles, pickets, or any other split cedar product))~~) and rounds one to three feet in length.

(5) "Cedar salvage" shall mean cedar chunks, slabs, stumps, and logs 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.

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

(7) "Cedar processor" shall mean any person who purchases and/or takes or retains possession of cedar products or cedar salvage following their removal and delivery from the land where harvested.

~~((5))~~ (8) "Cascara bark" shall mean the bark of a Cascara tree.

~~((6))~~ "Huckleberry" shall mean the fruit or foliage of *Vaccinium Ovatum*.

~~(7))~~ (9) "Specialized forest products" shall mean Christmas trees, native ornamental trees and shrubs, cut or picked evergreen foliage, ~~((split))~~ cedar products, cedar salvage, processed cedar products, and Cascara bark~~((, and huckleberry))~~.

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

~~((9) "Operator" shall mean any person who shall engage, on behalf of himself or others, in the harvesting of any specialized forest product from any lands within the state:~~

~~(10))~~ (11) "Harvest" shall mean to separate, by cutting, prying, picking, peeling, breaking, pulling, splitting, or otherwise removing, a specialized forest product (a) from its physical connection with or contact with the land or vegetation upon which it was or has been growing, or (b) from the position in which it has been lying upon such land.

(12) "Harvesting permit" shall mean a document in writing ~~((executed))~~ signed by a landowner, his duly authorized agent or representative, or by a lessee of land (herein referred to as "permittors") ~~((granting permission to)), and validated by the county sheriff, authorizing a designated person (herein referred to as "permittee"), who shall also have signed the permit, to ~~((cut, destroy, mutilate, pry, pick, peel, break, or remove))~~ harvest and/or transport, except while on federal lands, a designated specialized forest product from land owned or controlled ~~((by him))~~ and specified by the permittor, located in the county where such permit is issued.~~

(13) "True copy - harvesting permit" shall be a replica of a validated harvesting permit as reproduced by a copy machine capable of effectively reproducing the information contained on the permittee's copy of the harvesting permit. A copy is made true by the permittee or the permittee and permittor affixing an original signature(s) in the space provided on the face of the copy. A true copy will be effective until the expiration date of the harvesting permit unless the permittee or the permittee and permittor specify an earlier date. A permittor can require the original signature of both the permittee and permittor for executing a true copy by so indicating in the space provided on the original copy of the harvesting permit.

Sec. 2. Section 4, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.030 are each amended to read as follows:

It shall be unlawful for any person to ~~((cut, destroy, mutilate, pry, pick, peel, break, or remove))~~ harvest specialized forest products as described in RCW 76.48.020, in the quantities specified in RCW 76.48.060, without first obtaining a validated harvesting permit ~~((from the permittor))~~.

It shall also be unlawful to harvest specialized forest products in any lesser quantities than those specified in RCW 76.48.060, as now or hereafter amended, without first obtaining permission from the landowner or lessee or his duly authorized agent or representative.

Sec. 3. Section 5, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.040 are each amended to read as follows:

Agencies charged with the enforcement of this chapter shall include, but not be limited to, the Washington state patrol, county sheriffs and their deputies, municipal police forces, ~~((forest wardens and rangers))~~ and authorized personnel of the departments of natural resources and game. Primary enforcement responsibility lies in the county sheriff and his deputies.

Sec. 4. Section 6, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.050 are each amended to read as follows:

~~((A harvesting permit shall be executed by the owner, his agent or representative, or by the lessee of land on which specialized forest products are to be harvested.))~~ Harvesting 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. All harvesting permits shall expire at the end of the calendar year in which issued, or sooner, at the discretion of the permittor. ((The)) A properly completed harvesting permit form shall ((specify)) include:

- (1) The date of its execution and expiration((-));
- (2) The name ((and)), address, telephone number, if any, and signature of the permittor((-));
- (3) The name ((and)), address, telephone number, if any, and signature of the permittee((-));
- (4) The type of specialized forest products to be harvested or transported((-));
- (5) The approximate amount or volume of specialized forest products to be harvested or transported((-));
- (6) The legal description of the property from which the specialized forest products are to be harvested or transported, including the name of the county;
- (7) A description by local landmarks of where the harvesting is to occur, or from where the specialized forest products are to be transported;
- (8) Any other condition or limitation which the permittor may specify.

Sec. 5. Section 7, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.060 are each amended to read as follows:

A harvesting permit ((from the owner, his agent or representative or the lessee of the land concerned)) validated by the county sheriff shall be obtained by ((the permittee)) any person prior to ((cutting, destroying, mutilating, prying, picking, peeling, breaking, or removing)) harvesting from any lands, including his own, more than five Christmas trees, more than five ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage ((or huckleberry, more than five split)), any cedar products, cedar salvage, processed cedar products, or more than five pounds of Cascara bark ((growing upon any land, including his own)). Harvesting 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 permittors in reasonable quantities. A harvesting permit form shall be completed, in triplicate, for each land ownership on which a permittee harvests specialized forest products((-, the original to be retained by)). A properly completed harvesting 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. Before a permit form is validated by the sheriff or the sheriff's representative, sufficient personal identification may be required to reasonably identify the person mailing or presenting the permit form and the sheriff may conduct such other investigations as deemed necessary to determine the validity of the information alleged on the form. When the sheriff or sheriff's representative is reasonably satisfied as to the truth of such information, the form shall be validated with the sheriff's validation stamp provided by the department of natural resources. Upon validation, the form shall become the harvesting permit authorizing the harvesting, possession and/or transportation of

specialized forest products. One copy of the permit shall be given or mailed to the permittee, ~~((the duplicate to))~~ one copy shall be ~~((retained by))~~ given or mailed to the permittor, and the ~~((triplicate to))~~ original permit form shall be filed ~~((by the permittee))~~ in the office of the county sheriff in whose county the land is situated: PROVIDED, That in the event a single land ownership is situated in two or more counties, a harvesting permit shall be completed as to the land situated in each such county. While engaged in harvesting of specialized forest products, permittees or their agents must have in their possession a true copy of the harvesting permit.

Sec. 6. Section 8, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.070 are each amended to read as follows:

(1) Except ~~((that))~~ as provided in RCW 76.48.100 and except while on federal lands, it shall be unlawful for any person (a) to possess, and/or (b) to transport ~~((over the public roads of))~~ within the state of Washington, subject to any additional conditions specified on the harvesting permit by the permittor, more than five Christmas trees, more than five native ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage ~~((or huckleberry, more than five pieces of split)),~~ any processed cedar products, or more than five pounds of Cascara bark which have been ~~((cut, picked, or collected))~~ harvested within the state of Washington without having in his possession a written sales invoice, bill of lading, or harvesting permit or a true copy thereof bearing an original signature of the permittee evidencing his title to or authority to have possession of specialized forest products being so possessed or so transported~~((: PROVIDED, That, with respect to specialized forest products harvested on lands under the ownership or management of an agency of the United States, such specialized forest products may be so transported under the authority of such written permit or other written document as is customarily used by the agency concerned))~~.

(2) Except while on federal lands, it shall be unlawful for any person (a) to possess and/or (b) to transport within the state of Washington any cedar products except processed cedar products, or any cedar salvage without having in his possession a harvesting permit or a true copy thereof evidencing his title to or authority to have possession of the materials being so possessed or so transported.

Sec. 7. Section 11, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.100 are each amended to read as follows:

The provisions of ~~((RCW 76.48.070, 76.48.080, and 76.48.090))~~ this chapter shall not apply to:

(1) ~~((The transportation of))~~ Nursery grown products.

(2) ~~((The transportation of))~~ Logs, poles, pilings, or other major forest products from which substantially all of the limbs and branches have been removed when harvested (a) under an approved forest practices application or notification, or (b) under a contract or permit issued by an agency of the United States government.

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

Sec. 8. Section 12, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.110 are each amended to read as follows:

Whenever any law enforcement officer (~~(believes)~~) has probable cause to believe that a person is harvesting~~((, cutting, destroying, mutilating, prying, picking, peeling, breaking, removing,))~~ or is in possession of or transporting specialized forest products in violation of the provisions of this chapter, he may, at the time of making an arrest, seize and take possession of any such specialized forest products found. The law enforcement officer shall provide reasonable protection for the specialized forest products involved during the period of litigation or he shall ~~((set))~~ dispose of such 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 ~~((net))~~ specialized forest products to their rightful owner or pay the proceeds of any sale of specialized forest products ~~((sold))~~ less any reasonable expenses of such sale to the rightful owner. If for any reason, the proceeds of such sale cannot be disposed of to the rightful owner, such proceeds, less the reasonable expenses of the sale, shall be paid to the treasurer of the county in which the specialized forest products are sold. The county treasurer shall deposit the same in the county general fund. The return of the 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. 9. Section 13, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.120 are each amended to read as follows:

It shall be 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 harvesting permit, or true copy thereof, sales invoice, or bill of lading, ~~((or similar documentary authority issued by an agency of the United States, as required by this chapter,))~~ or to make any representation of authority to conduct harvesting or transporting of specialized forest products, knowing the same to be in any manner false, fraudulent, ~~((or))~~ forged, or stolen.

Any person who violates this section shall be guilty of forgery, and shall be punished as a class C felony providing for 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 such imprisonment and fine.

Sec. 10. Section 14, chapter 47, Laws of 1967 ex. sess. and RCW 76.48.130 are each amended to read as follows:

Any person who violates any provision of this chapter, other than the provisions contained in RCW 76.48.120, as now or hereafter amended, shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not ~~((less than twenty-five dollars nor))~~ more than ~~((two hundred and fifty))~~ one thousand dollars or by imprisonment in the county jail for not to exceed ~~((ninety days))~~ one year or by both such fine and imprisonment.

NEW SECTION. Sec. 11. There is added to chapter 47, Laws of 1967 ex. sess. and to chapter 76.48 RCW a new section to read as follows:

Cedar processors shall maintain a record of the purchase, taking possession, or retention of cedar products and cedar salvage for at least one year after the date of

receipt. The record shall be legible and shall include the date of delivery, the license number of the vehicle delivering the products, and the harvesting permit number.

NEW SECTION. Sec. 12. There is added to chapter 47, Laws of 1967 ex. sess. and to chapter 76.48 RCW a new section to read as follows:

It shall be unlawful for any cedar processor to purchase cedar products subsequent to the harvest and prior to the retail sale of such products, unless the supplier of such products displays either a harvesting permit which appears to be valid or what appears to be a true copy of such a permit bearing an original signature of the permittee.

NEW SECTION. Sec. 13. There is added to chapter 47, Laws of 1967 ex. sess. and to chapter 76.48 RCW a new section to read as follows:

Every cedar processor shall prominently display a valid registration certificate obtained from the department of revenue pursuant to RCW 82.32.030 at each location where such processor receives cedar products.

Permittees shall sell cedar products only to processors displaying registration certificates which appear to be valid.

NEW SECTION. Sec. 14. There is added to chapter 47, Laws of 1967 ex. sess. and to chapter 76.48 RCW a new section to read as follows:

Following the stipulated use of a true copy of a harvesting permit, an agent of a permittee shall surrender said copy to the permittee. A wilful failure to surrender the same to the permittee is a gross misdemeanor and punishable as provided by law.

NEW SECTION. Sec. 15. There is added to chapter 47, Laws of 1967 ex. sess. and to chapter 76.48 RCW a new section to read as follows:

All fines collected for violations of any provision of this 1977 amendatory act shall be paid into the general fund of the county treasury of the county in which the violation occurred.

NEW SECTION. Sec. 16. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the House April 14, 1977.

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CHAPTER 148

[House Bill No. 921]

FORK LIFTS—LICENSES—BRAKES

AN ACT Relating to fork lifts; amending section 46.16.010, chapter 12, Laws of 1961 as last amended by section 2, chapter 17, Laws of 1973 1st ex. sess. and RCW 46.16.010; and amending section 46.37.340, chapter 12, Laws of 1961 as last amended by section 49, chapter 170, Laws of 1965 ex. sess. and RCW 46.37.340.

Be it enacted by the Legislature of the State of Washington: