Chapter 532

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Branding of Forest Products and Booming Equipment

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BRANDING

532.010 Definitions for ORS 532.010 to 532.140. For purposes of ORS 532.010 to 532.140, unless the context or subject matter otherwise requires:

(1) "Booming equipment" includes boom sticks.

(2) "Brand" means an identifying mark upon forest products or booming equipment, as provided by rule and regulation of the State Forester; but any brands in use and registered with the Public Utility Commission on October 1, 1951, with the exception of those brands enclosed in the letter "C," the use of which is particularly reserved for catch brands, may be continued in use, subject to the other provisions of ORS 532.010 to 532.140.

(3) "Catch brand" means a mark of brand used by a person as an identifying mark upon forest products and booming equipment previously owned by another.

(4) "Forest products" means any form, including but not limited to logs, poles and piles, into which a fallen tree may be cut before it undergoes manufacturing, but not including peeler cores.

(5) "Highway" means every street, alley, road, highway and thoroughfare in this state, used by the public or dedicated or appropriated to public use.

(6) "Motor vehicle" means any self-propelled or motor driven vehicle or any train or combination of vehicles used upon any highway in this state in transporting forest products.

(7) "Railroad" means any self-propelled vehicle or any train or combination of vehicles operating wholly on fixed rails or tracks.

(8) "Waters of this state" includes all bodies of fresh and salt water within the jurisdiction of the state capable of being used for the transportation of forest products, and all rivers and lakes and their tributaries, harbors, bays, sloughs and marshes. [Amended by 1961 c.253 §1]

532.020 Branding forest products and booming equipment required; rules. (1) Except as provided in ORS 532.030, every person who puts into any of the waters of this state, ships on any motor vehicle or railroad any forest products, or uses any booming equipment as a part of an operation in securing, rafting or floating forest products, shall have a mark or brand previously selected by the person and registered in the manner provided in ORS 532.010 to 532.140 plainly impressed or cut in a conspicuous place on the forest products and booming equipment in a manner as required by the rules and regulations of the State Forester.

(2) The State Forester hereby is authorized to issue rules and regulations to accomplish the purposes of ORS 532.010 to 532.140. [Amended by 1961 c.253 §2]

532.030 Branding optional east of crest of Cascade Mountains. In view of the different conditions obtaining in the logging industry of this state between the parts of the state lying respectively east and west of the crest of the Cascade Mountains, forest products may be put into the waters of this state or shipped on railroads or motor vehicles without having thereon a registered mark or brand as required in ORS 532.010 to 532.140, within that portion of the state lying east of the crest of the Cascade Mountains; and the penalties provided in ORS 532.990 for failure to mark or brand such forest products shall not apply. However, any person operating within the east side portion of the state may select a mark or brand and cause it to be registered in the office of the State Forester pursuant to the terms of ORS 532.010 to 532.140 and use it for the purpose of marking or branding forest products and booming equipment. In the event of the registration of such mark or brand and the use of it in marking or branding forest products or booming equipment, the provisions of ORS 532.010 to 532.140 shall apply to the forest products and booming equipment so marked or branded.

532.040 Ownership of forest products and booming equipment presumed from registered brands or catch brands thereupon. All forest products and booming equipment having impressed thereupon a registered brand as provided in ORS 532.010 to 532.140 are presumed to belong to the person appearing on the records in the office of the State Forester as the owner of the brand. However, all forest products having impressed thereupon also a registered catch brand are presumed to belong to the owner of the registered catch brand, unless there are impressed thereupon more than one registered catch brand, in which event they shall be presumed to belong to the owner whose registered catch brand was placed thereupon latest in point of time.

532.050 Application for registration of brand; registration; rejection. (1) Every person selecting a brand, before using it, shall make application for its registration in the office of the State Forester by depositing therein an impression stamped on a designated form, together with, in duplicate, a written statement duly signed and verified by the person or the agent of the person, containing a description of the brand and declaring that it is not, and at the time of its adoption by the person, was not in use to the knowledge of the person by any other person

and that the person has selected it in good faith for branding forest products to be transported on motor vehicles or railroads, or floated or rafted in the waters of this state, or booming equipment to be used by the person as a part of the operations in securing, rafting or floating forest products.

(2) The State Forester, upon the receipt of the application and the fee provided in ORS 532.110, if the State Forester finds that the brand is not identical with any other brand registered in the office of the State Forester or does not so closely resemble one registered therein as to be confused therewith, shall file in the office of the State Forester the impression or drawing and one copy of the written statement and shall register the brand in a book to be provided by the State Forester and kept for the purpose and known as the Forest Products Brand Register, entering therein the name of the owner, character of the brand, date of registration and such other details as the State Forester may see fit to enter therein. The State Forester shall return to the applicant the other copy of the written statement as evidence that the brand has been duly registered in accordance with the provisions of ORS 532.010 to 532.140 and that the applicant is the registered owner. The State Forester, in the event of refusal to register a brand on account of confliction with or resemblance to one already registered, shall immediately give notice of that fact to the applicant, who may select another brand and apply for its registration in the manner of an original application.

532.060 Application for registration of catch brand. Every person desiring to use a catch brand as an identifying mark upon forest products or booming equipment purchased or lawfully acquired by the person from another shall, before using it, make application for its registration in the office of the State Forester in the manner prescribed for the registration of brands, and the provisions contained in ORS 532.010 to 532.140 in reference to registration, certifications, assignments and cancellation and the fees to be paid to the State Forester shall apply equally to catch brands. However, the certificate of the State Forester shall designate the mark or brand as a catch brand, and the mark selected by the applicant as a catch brand shall be enclosed in the letter "C," which letter "C" shall identify the mark as, and shall be used only in connection with, a catch brand.

532.070 Certified copy of brand registration as evidence of registration and ownership. A copy of brand registration certified by the State Forester or the deputy of the State Forester as a true copy and in good standing shall be received in all the courts of this state as evidence of the due and proper registration of the mark or brand and of its ownership.

532.080 Mark or brand assignable; procedure. Every mark or brand registered under ORS 532.010 to 532.140 shall be assignable in law. The State Forester, upon payment of the fee mentioned in ORS 532.110 and presentation to the State Forester, in duplicate, of an assignment, duly executed and acknowledged by the owner, transferring the mark or brand to a person named therein, shall file one copy of the assignment in the office of the State Forester and make an entry in the Forest Products Brand Register of the fact of the assignment, the date, the name of the assignee and such other details as the State Forester may see fit to enter therein. The State Forester shall return to the assignee the other copy of the assignment, with a certificate attached thereto, signed by the State Forester or the employee of the State Forester, to the effect that the mark or brand has been duly registered in accordance with the provisions of ORS 532.010 to 532.140 and assigned to the assignee and that the assignee is the registered owner. The assignee, upon the due registration of the assignment as herein provided, shall become the owner of the mark or brand with the full right of exclusive use to the same extent as though the assignee had been the original owner.

532.090 Cancellation of registered brand or mark. The State Forester, upon the petition of the owner of a registered mark or brand, may cause the registration thereof to be canceled, and in the event of such cancellation, the mark or brand shall be open to registration by any person subsequently applying therefor.

532.100 Renewal and abandonment of marks or brands; reissue of abandoned or canceled brand. (1) The State Forester shall, each five-year period after October 1, 1951, notify the owners of all log marks or brands then of record in Oregon to renew them. Upon receipt of the fee provided for in ORS 532.110, the State Forester shall give a renewal certificate, which shall give the holder and owner the exclusive right to continue the use of the brand or mark within Oregon. If any owner of a brand or mark which is on record fails or refuses to pay the renewing fee within three months after notification, such brand shall become forfeited and be no longer carried on the records.

(2) On or after January 1, 1952, no person shall claim or own any log mark or brand which has not been renewed in accordance with the provisions of this section, and any failure to renew the log mark or brand as

required by such provisions shall be deemed an abandonment of the same. Any other person shall be at liberty to adopt or use the abandoned mark or brand; but the other person shall not claim or use it until after it has been recorded in the other person's own name, in the manner provided in ORS 532.010 to 532.140. However, no abandoned or canceled brand may be reissued for a period of one year after such abandonment or cancellation, except to the previous owner or the assignee of the previous owner. In case of a dispute as to the right of any person to the use of such mark or brand, the State Forester shall determine which of the applicants is entitled to its use. [Amended by 1957 c.127 §1]

532.110 Fees. The fees to be paid to the State Forester are as follows:

(1) For filing an application to register a mark or brand and registering the same, including the certificate, $20.

(2) For filing an application for an assignment of a registered mark or brand and registering such assignment, including the certificate, $20.

(3) For every other certificate of registration, including a copy of the written statement or assignment, $20.

(4) For each copy of any drawing, the reasonable expense of preparing it.

(5) For renewing brands or marks, $20. [Amended by 1975 c.463 §1; 1989 c.767 §1]

532.120 Disposition of fees. All fees collected by the State Forester under ORS 532.010 to 532.140 shall be paid into the State Treasury, credited to the State Forestry Department Account and available for expenses associated with ORS 532.010 to 532.140. [Amended by 1957 c.459 §5; 1961 c.253 §3; 1967 c.34 §6; 1989 c.767 §2]

532.130 Prohibitions generally. (1) No person, unless permitted to do so under ORS 532.030, shall:

(a) Put into any of the waters of this state or ship on any railroad or motor vehicle any forest products, or use any booming equipment as a part of the operation of the person in securing, rafting or floating forest products, without having plainly impressed or cut in a conspicuous place on each such stick or piece of forest products, and on any piece of booming equipment so used, a mark or brand previously registered as required by the terms of ORS 532.010 to 532.140.

(b) Have or take in tow or into custody or possession or under control of the person, without the authorization of the owner of a registered mark or brand thereon, any forest products or booming equipment having thereupon a mark or brand registered as required by the terms of ORS 532.010 to 532.140 or, with or without such authorization, any forest products or booming equipment required to be branded under the terms of ORS 532.010 to 532.140 with a registered mark or brand and having no registered mark or brand impressed thereupon or cut therein.

(c) Impress upon or cut in any forest products or booming equipment a mark or brand that is false, forged or counterfeit.

(d) Impress or cut a catch brand that has not been registered under the terms of ORS 532.010 to 532.140 upon or into any forest products or booming equipment upon which there is or should be a registered mark or brand as required by the terms of ORS 532.010 to 532.140 or a catch brand, whether registered or not, upon any forest products or booming equipment that has not been purchased or lawfully acquired by the person from the owner.

(2) Subsection (1)(b) of this section shall not apply to:

(a) Railroads.

(b) Log patrol or salvage companies organized as corporations for the purpose of catching or reclaiming and holding or disposing of forest products for the benefit of the owners and authorized to do business under the laws of this state.

(3) In the case of a motor vehicle carrying more than three logs, branding of not less than three logs shall be considered compliance with the provisions of subsection (1)(a) of this section. [Amended by 1957 c.668 §21; 1973 c.800 §1; 1975 c.729 §1; 1993 c.47 §2; 1993 c.469 §8]

532.140 Prohibited acts relating to branding or marking if intended to injure or defraud. No person, with an intent to injure or defraud the owner, shall:

(1) Falsely make, forge or counterfeit a mark or brand registered as provided in ORS 532.010 to 532.140 and use it in marking or branding forest products or booming equipment.

(2) Cut out, destroy, alter, deface or obliterate any registered mark or brand impressed upon or cut into any forest products or booming equipment.

(3) Sell, encumber or otherwise dispose of or deal in, or appropriate to the own use of the person, any forest products or booming equipment having impressed thereupon a mark or brand registered as required by the terms of ORS 532.010 to 532.140.

(4) Buy or otherwise acquire or deal in any forest products or booming equipment having impressed thereupon a registered mark or brand.

532.510 [1957 c.668 §1; 1959 c.111 §1; 1983 c.89 §1; repealed by 1993 c.47 §1]

532.520 [1957 c.668 §2; 1983 c.89 §2; repealed by 1993 c.47 §1]

532.530 [1957 c.668 §3; 1961 c.174 §1; 1983 c.89 §3; 1991 c.331 §77; repealed by 1993 c.47 §1]

532.535 [1973 c.45 §2; 1983 c.89 §4; repealed by 1993 c.47 §1]

532.540 [1957 c.668 §4(1), (2); 1983 c.89 §5; repealed by 1993 c.47 §1]

532.550 [1957 c.668 §5(1), (2), (4); 1959 c.111 §2; repealed by 1983 c.89 §6 (532.551 enacted in lieu of 532.550)]

532.551 [1983 c.89 §7 (enacted in lieu of 532.550); repealed by 1993 c.47 §1]

532.560 [1957 c.668 §5(3); 1983 c.89 §8; 1983 c.740 §210; repealed by 1993 c.47 §1]

532.570 [1957 c.668 §6; 1983 c.89 §9; repealed by 1993 c.47 §1]

532.580 [1957 c.668 §15; 1983 c.89 §10; 1991 c.249 §41; repealed by 1993 c.47 §1]

532.590 [1957 c.668 §8; subsection (2) enacted as 1957 c.668 §4(3); 1983 c.89 §11; repealed by 1993 c.47 §1]

532.600 [1957 c.668 §23; repealed by 1993 c.47 §1]

532.610 [1957 c.668 §9; 1983 c.89 §12; repealed by 1993 c.47 §1]

532.620 [1957 c.668 §10; 1983 c.89 §13; repealed by 1993 c.47 §1]

532.630 [1957 c.668 §7; repealed by 1993 c.47 §1]

532.640 [1957 c.668 §12; repealed by 1993 c.47 §1]

532.650 [1957 c.668 §11; repealed by 1993 c.47 §1]

532.660 [1957 c.668 §17; repealed by 1993 c.47 §1]

532.670 [1957 c.668 §13; 1983 c.89 §14; repealed by 1993 c.47 §1]

532.680 [1957 c.668 §14; 1991 c.249 §42; repealed by 1993 c.47 §1]

532.690 [1957 c.668 §16; repealed by 1993 c.47 §1]

532.700 [1957 c.668 §18; 1983 c.89 §15; repealed by 1993 c.47 §1]

532.710 [1957 c.668 §19; 1967 c.34 §7; repealed by 1993 c.47 §1]

532.720 [1959 c.111 §3; repealed by 1993 c.47 §1]

PENALTIES

532.990 Penalties. (1) Violation of any of the provisions of ORS 532.130 is punishable, upon conviction, by a fine of not less than $500 nor more than $1,000 or by imprisonment in the county jail for not less than 60 days nor more than 180 days, or both.

(2) Violation of any of the provisions of ORS 532.140 is a felony and is punishable, upon conviction, by a fine of not less than $1,000 nor more than $5,000 or by imprisonment in the custody of the Department of Corrections for a period not to exceed two years, or both. [Subsection (3) enacted as 1957 c.668 §22; 1983 c.89 §16; 1987 c.320 §238; 1993 c.47 §3]

CHAPTERS 533 TO 535

[Reserved for expansion]