

CHAPTER 276

AN ACT

HB 2615

Relating to the forest products industry; creating new provisions; amending ORS 164.813, 164.814, 164.845 and 164.855; and declaring an emergency.
Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 164.813 is amended to read:

164.813. (1) **As used in this section:**

(a) **"Harvest"** means to separate by cutting, digging, prying, picking, peeling, breaking, pulling, splitting or otherwise removing a special forest product from:

(A) Its physical connection or point of contact with the ground or vegetation upon which it was growing; or

(B) The place or position where it lay.

(b) **"Special forest products"** means:

(A) Bear grass (*Xerophyllum tenax*), boughs, branches, ferns and other forest plant parts used in floral arrangements and decorations;

(B) The bark and needles of the Pacific yew (*Taxus brevifolia*);

(C) Cascara bark from the cascara tree (*Rhamnus purshiana*);

(D) Cedar salvage, including cedar chunks, slabs, stumps and logs that are more than one cubic foot in volume;

(E) Cut or picked evergreen foliage and shrubs, including, but not limited to, ferns, huckleberry, Oregon grape, rhododendron and salal;

(F) Firewood;

(G) Native ornamental trees and shrubs, including trees and shrubs that are not nursery grown and that have been removed from the ground with the roots intact;

(H) Round or split posts, poles, pickets, stakes or rails, shakeboards, shake-bolts, shingle bolts or other round or split products of any forest tree species;

(I) Wild edible fungi, regardless of species, that have not been cultivated or propagated by artificial means; and

(J) Items identified by the State Board of Forestry by rule as special forest products.

(c) **"Special forest products"** does not mean mill ends, driftwood and artificially fabricated fireplace logs.

(d) **"Transportation"** means the physical conveyance of special forest products away from a harvest or collection site and includes, but is not limited to, transportation in or on:

(A) A motor vehicle or trailer, both as defined for purposes of the Oregon Vehicle Code;

(B) A boat, barge, raft or other water vessel; or

(C) An airplane, helicopter, balloon or other aircraft.

[(1)] (2) Subject to subsection (6) of this section, it is unlawful for any person **other than the landowner** to cut or split wood into special forest products or to harvest or remove special forest products from a place unless the person has in possession a written permit to do so from the owner of the land from which the wood is cut or the **special forest** products taken. The written permit required under this subsection must set forth:

(a) The date of the permit;

(b) The name, address, telephone number and signature of the person granting the permit;

(c) The name, address and telephone number of the person to whom the permit is granted;

(d) The amount and kind of wood, by species, to be cut or split or the amount and kind of special forest products to be taken;

(e) A description of the premises from which the wood is to be cut or the **special forest** products taken. The description may be by legal description, tax account number or other description clearly identifying the premises; and

(f) The date of expiration of the permit.

[(2)] (3) Subject to subsection (6) of this section, it is unlawful for a person to transport special forest products without possessing a permit as described in subsection **[(1)] (2)** of this section or a document of sale showing title **[thereto]** **to the special forest products**. A document of sale must be signed by the landowner, seller or donor, and must set forth:

(a) The date of the document;

(b) The name, address and telephone number of the seller or donor of the **special forest** products;

(c) The name, address and telephone number of the purchaser or donee;

(d) The amount and kind of **special forest** products sold, by species; and

(e) A description of the premises from which the special forest products were taken. The description may be by legal description, tax account number or other description clearly identifying the premises, or by street address in the event of purchase from a woodlot or fuel dealer or dealer in other special forest products.

[(3)] (4) Except as provided in subsection (7) of this section, any person who engages in the purchase or other acquisition of special forest products for resale, other than special forest products acquired from property owned by that person, shall keep records of such purchases or acquisitions for a period of one year from the date of purchase or acquisition. The records shall be made available to any peace officer upon request and shall reveal:

(a) The date of purchase or acquisition;

(b) The name, address, telephone number and signature of the person from whom the special forest products were obtained and the date they were obtained;

(c) The license number of any vehicle used to deliver the special forest products to the dealer for resale;

(d) The quantity of special forest products purchased or acquired; and

(e) The name and address of the landowner from whose land the special forest product was harvested.

[(4)] **(5)** Any permit for the removal of special forest products from public lands issued **or required** by the United States Forest Service or the Bureau of Land Management is:

(a) Sufficient for the purposes of subsections [(1) and] (2) **and** (3) of this section, regardless of whether the permit conforms to the specific requirements as to content set forth in subsections [(1) and] (2) **and** (3) of this section; **and**

(b) Valid only for the purposes and public lands locations identified in the permit.

[(5)] **(6)** Subsections [(1) and] (2) **and** (3) of this section do not apply to **the following activities conducted on public lands:**

(a) The cutting or transportation of wild edible [mushrooms] **fungi** occupying a volume at harvest of one gallon or less;

(b) The cutting or transportation of special forest products, [as defined] **described** in subsection [(6)(b)(D)] **(1)(b)(D)**, (F) and (H) of this section, having a total volume of less than 27 cubic feet;

(c) The cutting or transportation of special forest products, other than those specified in paragraphs (a) and (b) of this subsection, having a total volume of less than 12 cubic feet;

(d) The cutting or transportation of coniferous trees that are subject to the provisions of ORS 164.825;

(e) The cutting or transportation of special forest products by the owner of the land from which they were taken or by the owner's agent; or

(f) The transportation of special forest products by a common carrier or contract carrier.

[(6) As used in this section:]

[(a) "Harvest" means to separate by cutting, prying, picking, peeling, breaking, pulling, splitting or otherwise removing a special forest product from:]

[(A) Its physical connection or point of contact with the ground or vegetation upon which it was growing; or]

[(B) The place or position where it lay.]

[(b) "Special forest products" means:]

[(A) Bear grass (*Xerophyllum tenas*), boughs, branches, ferns and other forest plant parts used in floral arrangements and decorations;]

[(B) The bark and needles of the Pacific yew (*Taxus brevifolia*);]

[(C) Cascara bark from the cascara tree (*Rhamnus purshiana*);]

[(D) Cedar salvage including cedar chunks, slabs, stumps and logs that are more than one cubic foot in volume;]

[(E) Cut or picked evergreen foliage and shrubs including, but not limited to, ferns, huckleberry, Oregon grape, rhododendron and salal;]

[(F) Firewood;]

[(G) Native ornamental trees and shrubs, including trees and shrubs that are not nursery grown and

that have been removed from the ground with the roots intact;]

[(H) Round or split posts, poles, pickets, stakes or rails, shakeboards, shake-bolts, shingle bolts or other round or split products of any forest tree species; and]

[(I) Wild edible mushrooms that have not been cultivated or propagated by artificial means.]

[(c) "Special forest products" does not mean mill ends, driftwood and artificially fabricated fireplace logs.]

[(d) "Transportation" means the physical conveyance of special forest products away from a harvest site and includes, but is not limited to, transportation in or on:]

[(A) A motor vehicle designed for use on improved roadways;]

[(B) A boat, barge, raft or other water vessel; or]

[(C) An airplane, helicopter, balloon or other aircraft.]

(7) Subsection [(3)] **(4)** of this section does not apply to a person who purchases cedar products that are special forest products and who complies with the record keeping requirements of ORS 165.109.

(8) Violation of any provision of subsections [(1) to (3)] **(2) to (4)** of this section is a Class B misdemeanor.

SECTION 2. ORS 164.813, as amended by section 1 of this 2013 Act, is amended to read:

164.813. (1) As used in this section:

(a) "Harvest" means to separate by cutting, digging, prying, picking, peeling, breaking, pulling, splitting or otherwise removing a special forest product from:

(A) Its physical connection or point of contact with the ground or vegetation upon which it was growing; or

(B) The place or position where it lay.

(b) "Special forest products" means:

[(A) Bear grass (*Xerophyllum tenas*), boughs, branches, ferns and other forest plant parts used in floral arrangements and decorations;]

[(B) The bark and needles of the Pacific yew (*Taxus brevifolia*);]

[(C) Cascara bark from the cascara tree (*Rhamnus purshiana*);]

[(D) Cedar salvage, including cedar chunks, slabs, stumps and logs that are more than one cubic foot in volume;]

[(E) Cut or picked evergreen foliage and shrubs, including, but not limited to, ferns, huckleberry, Oregon grape, rhododendron and salal;]

[(F) Firewood;]

[(G) Native ornamental trees and shrubs, including trees and shrubs that are not nursery grown and that have been removed from the ground with the roots intact;]

[(H) Round or split posts, poles, pickets, stakes or rails, shakeboards, shake-bolts, shingle bolts or other round or split products of any forest tree species;]

[(I) Wild edible fungi, regardless of species, that have not been cultivated or propagated by artificial means; and]

(A) Plants, plant parts, fruit, fungi, parts of fungi, rocks or minerals that are identified in State Board of Forestry rules as special forest products;

(B) Firewood;

(C) Trees or parts of trees of a species identified in board rules as a forest tree species not normally used in commercial forest harvests; and

[(J)] **(D) Other** items identified by the *[State Board of Forestry]* board by rule as special forest products.

(c) "Special forest products" does not mean mill ends, driftwood and artificially fabricated fireplace logs.

(d) "Transportation" means the physical conveyance of special forest products away from a harvest or collection site and includes, but is not limited to, transportation in or on:

(A) A motor vehicle or trailer, both as defined for purposes of the Oregon Vehicle Code;

(B) A boat, barge, raft or other water vessel; or

(C) An airplane, helicopter, balloon or other aircraft.

(2) Subject to subsection (6) of this section, it is unlawful for any person other than the landowner to cut or split wood into special forest products or to harvest or remove special forest products from a place unless the person has in possession a written permit to do so from the owner of the land from which the wood is cut or the special forest products taken. The written permit required under this subsection must set forth:

(a) The date of the permit;

(b) The name, address, telephone number and signature of the person granting the permit;

(c) The name, address and telephone number of the person to whom the permit is granted;

(d) The amount and kind of wood, by species, to be cut or split or the amount and kind of special forest products to be taken;

(e) A description of the premises from which the wood is to be cut or the special forest products taken. The description may be by legal description, tax account number or other description clearly identifying the premises; and

(f) The date of expiration of the permit.

(3) Subject to subsection (6) of this section, it is unlawful for a person to transport special forest products without possessing a permit as described in subsection (2) of this section or a document of sale showing title to the special forest products. A document of sale must be signed by the landowner, seller or donor, and must set forth:

(a) The date of the document;

(b) The name, address and telephone number of the seller or donor of the special forest products;

(c) The name, address and telephone number of the purchaser or donee;

(d) The amount and kind of special forest products sold, by species; and

(e) A description of the premises from which the special forest products were taken. The description may be by legal description, tax account number or other description clearly identifying the premises, or by street address in the event of purchase from a woodlot or fuel dealer or dealer in other special forest products.

(4) Except as provided in subsection (7) of this section, any person who engages in the purchase or other acquisition of special forest products for resale, other than special forest products acquired from property owned by that person, shall keep records of such purchases or acquisitions for a period of one year from the date of purchase or acquisition. The records shall be made available to any peace officer upon request and shall reveal:

(a) The date of purchase or acquisition;

(b) The name, address, telephone number and signature of the person from whom the special forest products were obtained and the date they were obtained;

(c) The license number of any vehicle used to deliver the special forest products to the dealer for resale;

(d) The quantity of special forest products purchased or acquired; and

(e) The name and address of the landowner from whose land the special forest product was harvested.

(5) Any permit for the removal of special forest products from public lands issued or required by the United States Forest Service or the Bureau of Land Management is:

(a) Sufficient for the purposes of subsections (2) and (3) of this section, regardless of whether the permit conforms to the specific requirements as to content set forth in subsections (2) and (3) of this section; and

(b) Valid only for the purposes and public lands locations identified in the permit.

(6) Subsections (2) and (3) of this section do not apply to the following activities conducted on public lands:

(a) The cutting or transportation of wild edible fungi occupying a volume at harvest of one gallon or less;

(b) The cutting or transportation of special forest products, described in subsection *[(1)(b)(D), (F) and (H)]* **(1)(b)(B) and (C)** of this section, having a total volume of less than 27 cubic feet;

(c) The cutting or transportation of special forest products, other than those specified in paragraphs (a) and (b) of this subsection, having a total volume of less than 12 cubic feet;

(d) The cutting or transportation of coniferous trees that are subject to the provisions of ORS 164.825;

(e) The cutting or transportation of special forest products by the owner of the land from which they were taken or by the owner's agent; or

(f) The transportation of special forest products by a common carrier or contract carrier.

(7) Subsection (4) of this section does not apply to a person who purchases cedar products that are special forest products and who complies with the record keeping requirements of ORS 165.109.

(8) Violation of any provision of subsections (2) to (4) of this section is a Class B misdemeanor.

SECTION 3. ORS 164.814 is amended to read:

164.814. *[No later than three months after September 9, 1995,]* The State Forester shall develop a typical form for the permit and document of sale required by ORS 164.813 and for the records required by ORS 164.813 [(3)] (4). The State Forester shall make copies of the forms available. Use of the forms is not required.

SECTION 4. ORS 164.845 is amended to read:

164.845. (1) Whenever any peace officer has reasonable cause to believe that a person is cutting or transporting trees or special forest products in violation of ORS 164.813 [(1) or] (2) **or** (3) or 164.825, the peace officer may arrest the person without a warrant and take the person before any court having jurisdiction of the offense. The court shall proceed without delay to hear, try and determine the matter and enter judgment according to the allegations and proofs.

(2) The peace officer making the arrest, if not immediately taking the person arrested into custody, may issue a summons to the person. The summons shall direct the person to appear at the court named in the summons to answer a complaint to be filed therewith. The violation shall be noted on the summons, which shall be dated and signed by the peace officer.

(3) Any person to whom a summons is issued under this section who fails to appear at the time and place specified therein commits a Class B misdemeanor.

SECTION 5. ORS 164.855 is amended to read:

164.855. (1) Whenever any peace officer has reasonable cause for believing that a person is cutting or transporting trees or special forest products in violation of ORS 164.813 [(1) or] (2) **or** (3) or 164.825, the peace officer may, at the time of making the arrest or issuing the summons, under ORS 164.845, seize and take possession of the trees or special forest products. The peace officer shall hold the trees or special forest products subject to the order of the court before which the arrested person is ordered to appear. If the owner of the trees or special forest products appears before the court within 48 hours after the seizure thereof and presents satisfactory

evidence of ownership, the court shall order the peace officer to deliver the trees or special forest products to the owner. If the owner does not appear within the 48-hour period and prove ownership of the trees or special forest products, the court may direct the peace officer to sell the trees or special forest products in any manner and for any price that appears to the court to be warranted. If the trees or special forest products have no value, the court may direct the officer to destroy them in any manner practicable. The proceeds of the sale, less the reasonable expenses thereof, shall be paid to the treasurer of the county in which the trees or special forest products are sold. At any time within one year after the seizure of the trees or special forest products the owner thereof may appear before the court, and, upon presentation of satisfactory evidence of ownership, the court shall direct the treasurer of the county to pay the proceeds to the owner. If the owner does not appear within one year from the seizure of the trees or special forest products and prove a right to the proceeds, the proceeds shall thereafter belong to the county, and may be disposed of as the county court may direct.

(2) The return of the trees or special forest products or the payment of the proceeds shall not preclude the court from imposing any fine or penalty for any violation of ORS 164.825 to 164.855.

SECTION 6. The amendments to ORS 164.813 by section 2 of this 2013 Act become operative July 1, 2014.

SECTION 7. (1) The State Forester shall amend the form described in ORS 164.814 to reflect the amendments to ORS 164.813 by section 1 of this 2013 Act and make copies of the form available no later than 90 days after the effective date of this 2013 Act.

(2) The State Forester shall amend the form described in ORS 164.814 to reflect the amendments to ORS 164.813 by section 2 of this 2013 Act and make copies of the form available no later than October 1, 2014.

SECTION 8. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Approved by the Governor June 4, 2013
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