

D R A F T

SUMMARY

Prohibits harvesting of wild mushrooms without wild mushroom harvesting permit. Prohibits sale, or purchase for resale, of wild mushrooms without wild mushroom dealer permit. Authorizes State Department of Agriculture to adopt rules regulating harvesting of and dealing in wild mushrooms. Makes violations of permit requirements or rules subject to civil penalty, not to exceed \$5,000.

Provides for deposit of moneys from permit fees and civil penalties to Department of Agriculture Service Fund for use in administering and enforcing wild mushroom permit requirements and rules.

A BILL FOR AN ACT

1
2 Relating to wild mushrooms; creating new provisions; and amending ORS
3 164.813.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) A person may not harvest any mushroom, including**
6 **but not limited to a truffle, growing wild in this state unless the per-**
7 **son holds a wild mushroom harvesting permit issued by the State De-**
8 **partment of Agriculture. The department may establish different**
9 **categories of permit based on individual and group use, commercial**
10 **and noncommercial use or any other distinction the department con-**
11 **siders reasonable or expedient. The department may establish different**
12 **privileges, restrictions and fees for each category of permit.**

13 **(2) A person may not sell wild mushrooms in this state or purchase**
14 **wild mushrooms in this state for purposes of resale unless the person**
15 **holds a wild mushroom dealer permit issued by the department. The**
16 **department may establish different categories of permit on any basis**

1 **the department considers reasonable or expedient and may establish**
2 **different privileges, restrictions and fees for each category of permit.**

3 **(3) The department may adopt rules to regulate the harvesting of**
4 **wild mushrooms and dealing in wild mushrooms.**

5 **(4) Moneys received by the department from fees charged for wild**
6 **mushroom harvesting permits and wild mushroom dealer permits, and**
7 **any civil penalties collected under this section, shall be deposited to**
8 **the Department of Agriculture Service Fund and, notwithstanding**
9 **ORS 561.150, may be used by the department only for the adminis-**
10 **tration and enforcement of this section and rules adopted under this**
11 **section.**

12 **(5) The department may impose a civil penalty for a violation of this**
13 **section or a rule adopted under this section, not to exceed \$5,000.**

14 **SECTION 2.** ORS 164.813 is amended to read:

15 164.813. (1) It is unlawful for any person to cut or split wood into special
16 forest products or to harvest or remove special forest products from a place
17 unless the person has in possession a written permit to do so from the owner
18 of the land from which the wood is cut or the products taken. The written
19 permit required under this subsection must set forth:

20 (a) The date of the permit;

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

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

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

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

30 (f) The date of expiration of the permit.

31 (2) It is unlawful for a person to transport special forest products without

1 possessing a permit as described in subsection (1) of this section or a docu-
2 ment of sale showing title thereto. A document of sale must be signed by the
3 landowner, seller or donor, and must set forth:

4 (a) The date of the document;

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

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

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

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

14 (3) Any person who engages in the purchase or other acquisition of spe-
15 cial forest products for resale, other than special forest products acquired
16 from property owned by that person, shall keep records of such purchases
17 or acquisitions for a period of one year from the date of purchase or acqui-
18 sition. The records shall be made available to any peace officer upon request
19 and shall reveal:

20 (a) The date of purchase or acquisition;

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

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

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

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

29 (4) Any permit for the removal of special forest products from public lands
30 issued by the United States Forest Service or the Bureau of Land Manage-
31 ment is sufficient for the purposes of subsections (1) and (2) of this section,

1 regardless of whether the permit conforms to the specific requirements as to
2 content set forth in subsections (1) and (2) of this section.

3 (5) Subsections (1) and (2) of this section do not apply to:

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

6 [(b)] (a) The cutting or transportation of special forest products, as de-
7 fined in subsection (6)(b)(D), (F) and (H) of this section, having a total vol-
8 ume of less than 27 cubic feet;

9 [(c)] (b) The cutting or transportation of special forest products, other
10 than those specified in [paragraphs (a) and (b)] **paragraph (a)** of this sub-
11 section, having a total volume of less than 12 cubic feet;

12 [(d)] (c) The cutting or transportation of coniferous trees that are subject
13 to the provisions of ORS 164.825;

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

16 [(f)] (e) The transportation of special forest products by a common carrier
17 or contract carrier.

18 (6) As used in this section:

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

22 (A) Its physical connection or point of contact with the ground or vege-
23 tation upon which it was growing; or

24 (B) The place or position where it lay.

25 (b) "Special forest products" means:

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

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

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

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

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

3 (F) Firewood;

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

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

10 [*I Wild edible mushrooms that have not been cultivated or propagated by*
11 *artificial means.*]

12 (c) “Special forest products” does not mean mill ends, driftwood and ar-
13 tificially fabricated fireplace logs.

14 (d) “Transportation” means the physical conveyance of special forest
15 products away from a harvest site and includes, but is not limited to, trans-
16 portation in or on:

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

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

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

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

23 (8) Violation of any provision of subsections (1) to (3) of this section is
24 a Class B misdemeanor.

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