

B-Engrossed
House Bill 2615

Ordered by the Senate May 17
Including House Amendments dated April 19 and Senate Amendments
dated May 17

Sponsored by Representative CLEM (at the request of Oregon Small Woodlands Association) (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Expands permit exception for persons removing or possessing special forest products. Limits scope of permit. Alters definition of "special forest products." Provides for State Board of Forestry to define special forest products by rule after July 1, 2014.

A BILL FOR AN ACT

1
2 Relating to the forest products industry; creating new provisions; amending ORS 164.813, 164.814,
3 164.845 and 164.855; and declaring an emergency.

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

5 **SECTION 1.** ORS 164.813 is amended to read:

6 164.813. (1) **As used in this section:**

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

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

11 (B) **The place or position where it lay.**

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

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

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

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

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

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

21 (F) **Firewood;**

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

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

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

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

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

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

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

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

9 **[(1)] (2) Subject to subsection (6) of this section,** it is unlawful for any person **other than**
10 **the landowner** to cut or split wood into special forest products or to harvest or remove special
11 forest products from a place unless the person has in possession a written permit to do so from the
12 owner of the land from which the wood is cut or the **special forest** products taken. The written
13 permit required under this subsection must set forth:

14 (a) The date of the permit;

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

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

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

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

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

23 **[(2)] (3) Subject to subsection (6) of this section,** it is unlawful for a person to transport
24 special forest products without possessing a permit as described in subsection **[(1)] (2)** of this section
25 or a document of sale showing title *[thereto]* **to the special forest products.** A document of sale
26 must be signed by the landowner, seller or donor, and must set forth:

27 (a) The date of the document;

28 (b) The name, address and telephone number of the seller or donor of the **special forest** pro-
29 ducts;

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

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

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

36 **[(3)] (4) Except as provided in subsection (7) of this section,** any person who engages in the
37 purchase or other acquisition of special forest products for resale, other than special forest products
38 acquired from property owned by that person, shall keep records of such purchases or acquisitions
39 for a period of one year from the date of purchase or acquisition. The records shall be made avail-
40 able to any peace officer upon request and shall reveal:

41 (a) The date of purchase or acquisition;

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

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

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

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

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

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

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

10 [(5)] (6) Subsections [(1) and] (2) **and (3)** of this section do not apply to **the following activities**
11 **conducted on public lands:**

12 (a) The cutting or transportation of wild edible [*mushrooms*] **fungi** occupying a volume at har-
13 vest of one gallon or less;

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

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

18 (d) The cutting or transportation of coniferous trees that are subject to the provisions of ORS
19 164.825;

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

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

23 [(6) *As used in this section:*]

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

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

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

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

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

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

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

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

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

38 [(F) *Firewood;*]

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

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

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

44 [(c) "*Special forest products*" does not mean mill ends, driftwood and artificially fabricated fire-
45 *place logs.*]

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

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

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

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

6 (7) Subsection [(3)] (4) of this section does not apply to a person who purchases cedar products
7 that are special forest products and who complies with the record keeping requirements of ORS
8 165.109.

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

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

12 164.813. (1) As used in this section:

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

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

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

18 (b) "Special forest products" means:

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

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

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

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

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

27 *[(F) Firewood;]*

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

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

32 *[(I) Wild edible fungi, regardless of species, that have not been cultivated or propagated by artifi-*
33 *cial means; and]*

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

36 **(B) Firewood;**

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

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

41 (c) "Special forest products" does not mean mill ends, driftwood and artificially fabricated fire-
42 place logs.

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

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

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

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

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

8 (a) The date of the permit;

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

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

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

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

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

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

21 (a) The date of the document;

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

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

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

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

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

34 (a) The date of purchase or acquisition;

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

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

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

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

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

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

1 section; and

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

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

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

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

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

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

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

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

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

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

19 **SECTION 3.** ORS 164.814 is amended to read:

20 164.814. [No later than three months after September 9, 1995,] The State Forester shall develop
21 a typical form for the permit and document of sale required by ORS 164.813 and for the records
22 required by ORS 164.813 [(3)] (4). The State Forester shall make copies of the forms available. Use
23 of the forms is not required.

24 **SECTION 4.** ORS 164.845 is amended to read:

25 164.845. (1) Whenever any peace officer has reasonable cause to believe that a person is cutting
26 or transporting trees or special forest products in violation of ORS 164.813 [(1) or] (2) **or (3)** or
27 164.825, the peace officer may arrest the person without a warrant and take the person before any
28 court having jurisdiction of the offense. The court shall proceed without delay to hear, try and de-
29 termine the matter and enter judgment according to the allegations and proofs.

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

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

36 **SECTION 5.** ORS 164.855 is amended to read:

37 164.855. (1) Whenever any peace officer has reasonable cause for believing that a person is
38 cutting or transporting trees or special forest products in violation of ORS 164.813 [(1) or] (2) **or (3)**
39 or 164.825, the peace officer may, at the time of making the arrest or issuing the summons, under
40 ORS 164.845, seize and take possession of the trees or special forest products. The peace officer shall
41 hold the trees or special forest products subject to the order of the court before which the arrested
42 person is ordered to appear. If the owner of the trees or special forest products appears before the
43 court within 48 hours after the seizure thereof and presents satisfactory evidence of ownership, the
44 court shall order the peace officer to deliver the trees or special forest products to the owner. If the
45 owner does not appear within the 48-hour period and prove ownership of the trees or special forest

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

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

13 **SECTION 6. The amendments to ORS 164.813 by section 2 of this 2013 Act become oper-**
14 **ative July 1, 2014.**

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

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

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