

Senate Bill 578

Sponsored by COMMITTEE ON RURAL COMMUNITIES AND ECONOMIC DEVELOPMENT

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 **as introduced**.

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 164.813.

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

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

10 **(2) A person may not sell wild mushrooms in this state or purchase wild mushrooms in**
11 **this state for purposes of resale unless the person holds a wild mushroom dealer permit is-**
12 **sued by the department. The department may establish different categories of permit on any**
13 **basis the department considers reasonable or expedient and may establish different privi-**
14 **leges, restrictions and fees for each category of permit.**

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

17 **(4) Moneys received by the department from fees charged for wild mushroom harvesting**
18 **permits and wild mushroom dealer permits, and any civil penalties collected under this sec-**
19 **tion, shall be deposited to the Department of Agriculture Service Fund and, notwithstanding**
20 **ORS 561.150, may be used by the department only for the administration and enforcement**
21 **of this section and rules adopted under this section.**

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

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

25 164.813. (1) It is unlawful for any person to cut or split wood into special forest products or to
26 harvest or remove special forest products from a place unless the person has in possession a written
27 permit to do so from the owner of the land from which the wood is cut or the products taken. The
28 written permit required under this subsection must set forth:

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 (a) The date of the permit;
- 2 (b) The name, address, telephone number and signature of the person granting the permit;
- 3 (c) The name, address and telephone number of the person to whom the permit is granted;
- 4 (d) The amount and kind of wood, by species, to be cut or split or the amount and kind of special
5 forest products to be taken;
- 6 (e) A description of the premises from which the wood is to be cut or the products taken. The
7 description may be by legal description, tax account number or other description clearly identifying
8 the premises; and
- 9 (f) The date of expiration of the permit.
- 10 (2) It is unlawful for a person to transport special forest products without possessing a permit
11 as described in subsection (1) of this section or a document of sale showing title thereto. A document
12 of sale must be signed by the landowner, seller or donor, and must set forth:
- 13 (a) The date of the document;
- 14 (b) The name, address and telephone number of the seller or donor of the products;
- 15 (c) The name, address and telephone number of the purchaser or donee;
- 16 (d) The amount and kind of products sold, by species; and
- 17 (e) A description of the premises from which the special forest products were taken. The de-
18 scription may be by legal description, tax account number or other description clearly identifying
19 the premises, or by street address in the event of purchase from a woodlot or fuel dealer or dealer
20 in other special forest products.
- 21 (3) Any person who engages in the purchase or other acquisition of special forest products for
22 resale, other than special forest products acquired from property owned by that person, shall keep
23 records of such purchases or acquisitions for a period of one year from the date of purchase or ac-
24 quisition. The records shall be made available to any peace officer upon request and shall reveal:
- 25 (a) The date of purchase or acquisition;
- 26 (b) The name, address, telephone number and signature of the person from whom the special
27 forest products were obtained and the date they were obtained;
- 28 (c) The license number of any vehicle used to deliver the special forest products to the dealer
29 for resale;
- 30 (d) The quantity of special forest products purchased or acquired; and
- 31 (e) The name and address of the landowner from whose land the special forest product was
32 harvested.
- 33 (4) Any permit for the removal of special forest products from public lands issued by the United
34 States Forest Service or the Bureau of Land Management is sufficient for the purposes of sub-
35 sections (1) and (2) of this section, regardless of whether the permit conforms to the specific re-
36 quirements as to content set forth in subsections (1) and (2) of this section.
- 37 (5) Subsections (1) and (2) of this section do not apply to:
- 38 [(a) *The cutting or transportation of wild edible mushrooms occupying a volume at harvest of one*
39 *gallon or less;*]
- 40 [(b)] (a) The cutting or transportation of special forest products, as defined in subsection
41 (6)(b)(D), (F) and (H) of this section, having a total volume of less than 27 cubic feet;
- 42 [(c)] (b) The cutting or transportation of special forest products, other than those specified in
43 [paragraphs (a) and (b)] **paragraph (a)** of this subsection, having a total volume of less than 12 cubic
44 feet;
- 45 [(d)] (c) The cutting or transportation of coniferous trees that are subject to the provisions of

1 ORS 164.825;

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

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

5 (6) As used in this section:

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

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

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

11 (b) “Special forest products” means:

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

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

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

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

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

20 (F) Firewood;

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

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

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

26 (c) “Special forest products” does not mean mill ends, driftwood and artificially fabricated fire-
 27 place logs.

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

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

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

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

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

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

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