

**PROPOSED AMENDMENTS TO  
SENATE BILL 578**

1 On page 1 of the printed bill, line 2, delete “and” and after “164.813” in-  
2 sert “, 164.814, 164.845 and 164.855; appropriating money; and declaring an  
3 emergency”.

4 Delete lines 4 through 28 and delete pages 2 and 3 and insert:

5 **“SECTION 1. (1) Except as provided in this subsection, a person**  
6 **may not harvest for purposes of resale any wild edible mushroom, in-**  
7 **cluding but not limited to a truffle, growing in this state unless the**  
8 **person holds a commercial wild mushroom harvester license issued by**  
9 **the State Department of Agriculture. This subsection does not apply**  
10 **to a landowner harvesting mushrooms on the property of the land-**  
11 **owner.**

12 **“(2) Except as provided in this subsection, a person may not pur-**  
13 **chase wild edible mushrooms for purposes of resale unless the person**  
14 **holds a commercial wild mushroom buyer license issued by the de-**  
15 **partment. This subsection does not apply to a licensee under ORS**  
16 **chapter 624 or a person purchasing wild mushrooms only for the pur-**  
17 **pose of resale by the person at retail.**

18 **“(3) A person may not purchase wild edible mushrooms for purposes**  
19 **of resale unless the mushrooms are purchased from a licensed com-**  
20 **mercial wild mushroom harvester or from a landowner exempted from**  
21 **licensing under subsection (1) of this section.**

22 **“(4) The department may adopt rules establishing fees for the issu-**

1 **ance of a commercial wild mushroom harvester license or commercial**  
2 **wild mushroom buyer license. The fee for a commercial wild mush-**  
3 **room harvester license may not exceed \$100. The fee for a commercial**  
4 **wild mushroom buyer license may not exceed \$500.**

5 **“(5) The department may impose a civil penalty for a violation of**  
6 **this section or a department rule for the administration or enforce-**  
7 **ment of this section, not to exceed \$5,000.**

8 **“(6) Moneys received by the department from fees charged under**  
9 **this section for commercial wild mushroom harvester licenses and**  
10 **commercial wild mushroom buyer licenses, and any civil penalties**  
11 **collected under this section, shall be deposited to the credit of the Wild**  
12 **Mushroom and Truffle Fund established under section 2 of this 2013**  
13 **Act.**

14 **“SECTION 2. The Wild Mushroom and Truffle Fund is established**  
15 **in the State Treasury, separate and distinct from the General Fund.**  
16 **Interest earned by the Wild Mushroom and Truffle Fund shall be**  
17 **credited to the fund. Moneys in the fund are continuously appropriated**  
18 **to the State Department of Agriculture for the purpose of adminis-**  
19 **tering and enforcing section 1 of this 2013 Act.**

20 **“SECTION 3. ORS 164.813 is amended to read:**

21 **“164.813. (1) As used in this section:**

22 **“(a) ‘Harvest’ means to separate by cutting, prying, picking, peel-**  
23 **ing, breaking, pulling, splitting or otherwise removing a special forest**  
24 **product from:**

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

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

28 **“(b) ‘Special forest products’ means:**

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

- 1       **“(B) The bark and needles of the Pacific yew (*Taxus brevifolia*);**  
2       **“(C) Cascara bark from the cascara tree (*Rhamnus purshiana*);**  
3       **“(D) Cedar salvage including cedar chunks, slabs, stumps and logs**  
4 **that are more than one cubic foot in volume;**  
5       **“(E) Cut or picked evergreen foliage and shrubs including, but not**  
6 **limited to, ferns, huckleberry, Oregon grape, rhododendron and salal;**  
7       **“(F) Firewood;**  
8       **“(G) Native ornamental trees and shrubs, including trees and**  
9 **shrubs that are not nursery grown and that have been removed from**  
10 **the ground with the roots intact;**  
11       **“(H) Round or split posts, poles, pickets, stakes or rails,**  
12 **shakeboards, shake-bolts, shingle bolts or other round or split pro-**  
13 **ducts of any forest tree species; and**  
14       **“(I) Wild edible mushrooms that have not been cultivated or prop-**  
15 **agated by artificial means.**  
16       **“(c) ‘Special forest products’ does not mean mill ends, driftwood**  
17 **and artificially fabricated fireplace logs.**  
18       **“(d) ‘Transportation’ means the physical conveyance of special for-**  
19 **est products away from a harvest site and includes, but is not limited**  
20 **to, transportation in or on:**  
21       **“(A) A motor vehicle designed for use on improved roadways;**  
22       **“(B) A boat, barge, raft or other water vessel; or**  
23       **“(C) An airplane, helicopter, balloon or other aircraft.**  
24       **“[(1)] (2) It is unlawful for any person to cut or split wood into special**  
25 **forest products or to harvest or remove special forest products from a place**  
26 **unless the person has in possession a written permit to do so from the owner**  
27 **of the land from which the wood is cut or the products taken. The written**  
28 **permit required under this subsection must set forth:**  
29       **“(a) The date of the permit;**  
30       **“(b) The name, address, telephone number and signature of the person**

1 granting the permit;

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

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

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

9 “(f) The date of expiration of the permit.

10 “[2] (3) It is unlawful for a person to transport special forest products  
11 without possessing a permit as described in subsection [(1)] (2) of this section  
12 or a document of sale showing title thereto. A document of sale must be  
13 signed by the landowner, seller or donor, and must set forth:

14 “(a) The date of the document;

15 “(b) The name, address and telephone number of the seller or donor of the  
16 products;

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

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

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

24 “[3] (4) Any person who engages in the purchase or other acquisition  
25 of special forest products for resale, other than special forest products ac-  
26 quired from property owned by that person, shall keep records of such pur-  
27 chases or acquisitions for a period of one year from the date of purchase or  
28 acquisition. The records shall be made available to any peace officer upon  
29 request and shall reveal:

30 “(a) The date of purchase or acquisition;

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

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

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

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

9 “[~~(4)~~] **(5)** Any permit for the removal of special forest products from public  
10 lands issued by the United States Forest Service or the Bureau of Land  
11 Management is sufficient for the purposes of subsections [~~(1) and~~] (2) **and**  
12 **(3)** of this section, regardless of whether the permit conforms to the specific  
13 requirements as to content set forth in subsections [~~(1) and~~] (2) **and (3)** of  
14 this section.

15 “[~~(5)~~] **(6)** Subsections [~~(1) and~~] (2) **and (3)** of this section do not apply to:

16 “(a) The cutting or transportation of wild edible mushrooms occupying a  
17 volume at harvest of one gallon or less **for purposes other than resale;**

18 “**(b) The commercial harvesting of wild mushrooms by a commer-**  
19 **cial wild mushroom harvester licensed under section 1 of this 2013 Act;**

20 “[~~(b)~~] **(c)** The cutting or transportation of special forest products[, *as de-*  
21 *fin***ed**] **described** in subsection [~~(6)(b)(D)~~] **(1)(b)(D)**, (F) and (H) of this  
22 section[,] having a total volume of less than 27 cubic feet;

23 “[~~(c)~~] **(d)** The cutting or transportation of special forest products, other  
24 than those specified in paragraphs (a) [~~and (b)~~] **to (c)** of this subsection,  
25 having a total volume of less than 12 cubic feet;

26 “[~~(d)~~] **(e)** The cutting or transportation of coniferous trees that are sub-  
27 ject to the provisions of ORS 164.825;

28 “[~~(e)~~] **(f)** The cutting or transportation of special forest products by the  
29 owner of the land from which they were taken or by the owner’s agent; or

30 “[~~(f)~~] **(g)** The transportation of special forest products by a common car-

1 rier or contract carrier.

2 “[*(6) As used in this section:*]

3 “[*(a) ‘Harvest’ means to separate by cutting, prying, picking, peeling,*  
4 *breaking, pulling, splitting or otherwise removing a special forest product*  
5 *from:*]

6 “[*(A) Its physical connection or point of contact with the ground or vege-*  
7 *tation upon which it was growing; or]*

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

9 “[*(b) ‘Special forest products’ means:*]

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

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

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

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

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

18 “[*(F) Firewood;*]

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

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

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

27 “[*(c) ‘Special forest products’ does not mean mill ends, driftwood and arti-*  
28 *ficially fabricated fireplace logs.*]

29 “[*(d) ‘Transportation’ means the physical conveyance of special forest pro-*  
30 *ducts away from a harvest site and includes, but is not limited to, transpor-*

1 *tation in or on:]*

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

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

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

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

8 “(8) **Subsection (4) of this section does not apply to a person pur-**  
9 **chasing wild edible mushrooms from a commercial wild mushroom**  
10 **harvester licensed under section 1 of this 2013 Act.**

11 “[~~(8)~~ (9) Violation of any provision of subsections [(1) to (3)] (2) to (4)  
12 of this section is a Class B misdemeanor.

13 “**SECTION 4.** ORS 164.814 is amended to read:

14 “164.814. [*No later than three months after September 9, 1995,*] The State  
15 Forester shall develop a typical form for the permit and document of sale  
16 required by ORS 164.813 and for the records required by ORS 164.813 [(3)]  
17 (4). The State Forester shall make copies of the forms available. Use of the  
18 forms is not required.

19 “**SECTION 5.** ORS 164.845 is amended to read:

20 “164.845. (1) Whenever any peace officer has reasonable cause to believe  
21 that a person is cutting or transporting trees or special forest products in  
22 violation of ORS 164.813 [(1) or] (2) **or (3)** or 164.825, the peace officer may  
23 arrest the person without a warrant and take the person before any court  
24 having jurisdiction of the offense. The court shall proceed without delay to  
25 hear, try and determine the matter and enter judgment according to the  
26 allegations and proofs.

27 “(2) The peace officer making the arrest, if not immediately taking the  
28 person arrested into custody, may issue a summons to the person. The sum-  
29 mons shall direct the person to appear at the court named in the summons  
30 to answer a complaint to be filed therewith. The violation shall be noted on

1 the summons, which shall be dated and signed by the peace officer.

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

5 **“SECTION 6.** ORS 164.855 is amended to read:

6 “164.855. (1) Whenever any peace officer has reasonable cause for believ-  
7 ing that a person is cutting or transporting trees or special forest products  
8 in violation of ORS 164.813 [(1) or] (2) **or (3)** or 164.825, the peace officer  
9 may, at the time of making the arrest or issuing the summons, under ORS  
10 164.845, seize and take possession of the trees or special forest products. The  
11 peace officer shall hold the trees or special forest products subject to the  
12 order of the court before which the arrested person is ordered to appear. If  
13 the owner of the trees or special forest products appears before the court  
14 within 48 hours after the seizure thereof and presents satisfactory evidence  
15 of ownership, the court shall order the peace officer to deliver the trees or  
16 special forest products to the owner. If the owner does not appear within the  
17 48-hour period and prove ownership of the trees or special forest products,  
18 the court may direct the peace officer to sell the trees or special forest pro-  
19 ducts in any manner and for any price that appears to the court to be war-  
20 ranted. If the trees or special forest products have no value, the court may  
21 direct the officer to destroy them in any manner practicable. The proceeds  
22 of the sale, less the reasonable expenses thereof, shall be paid to the treas-  
23 urer of the county in which the trees or special forest products are sold. At  
24 any time within one year after the seizure of the trees or special forest  
25 products the owner thereof may appear before the court, and, upon presen-  
26 tation of satisfactory evidence of ownership, the court shall direct the  
27 treasurer of the county to pay the proceeds to the owner. If the owner does  
28 not appear within one year from the seizure of the trees or special forest  
29 products and prove a right to the proceeds, the proceeds shall thereafter be-  
30 long to the county, and may be disposed of as the county court may direct.



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

4       “**SECTION 7.** (1) **The State Department of Agriculture shall make**  
5 **commercial wild mushroom harvester licenses and commercial wild**  
6 **mushroom buyer licenses available for issuance under section 1 of this**  
7 **2013 Act no later than 90 days after the effective date of this 2013 Act.**

8       “(2) **Section 1 of this 2013 Act and the amendments to ORS 164.813,**  
9 **164.814, 164.845 and 164.855 by sections 3 to 6 of this 2013 Act apply to**  
10 **the harvesting and buying of wild edible mushrooms on or after Jan-**  
11 **uary 1, 2014.**

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

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