

Chapter 532

Branding of Forest Products and Booming Equipment

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532.010 Definitions. Unless clearly contrary to or inconsistent with the context of this chapter or the section in which used:

(1) "Booming equipment" includes boom sticks and boom chains.

(2) "Brand" means an identifying mark upon forest products or booming equipment not less or smaller in size than two inches by two inches and containing not more than three symbols, or not more than one letter and two arabic numerals within a single form or outline. But any brands in use and registered with the Public Utilities Commissioner on October 1, 1951, with the exception of those brands inclosed in the letter "C," the use of which is particularly reserved for catch brands, may be continued in use, subject to the other provisions of this chapter.

(3) "Catch brand" means a mark or brand used by a person as an identifying mark upon forest products and booming equipment previously owned by another.

(4) "Forest products" includes logs, spars, piles and poles, boom sticks and shingle bolts and every form into which a fallen tree may be cut before it is manufactured into lumber or run through a saw-mill, shingle mill or tie mills, or cut into cord wood, stove wood or hewn ties. However, when several sticks or pieces of forest products are bundled together or are being transported and destined to be bundled together, the component parts shall be considered to be one stick or piece of forest products.

(5) "Highway" means every street, alley, road, highway and thoroughfare in this state, used by the public or dedicated or appropriated to public use.

(6) "Motor vehicle" means any self-propelled or motor driven vehicle or any train or combination of vehicles used upon any highway in this state in transporting forest products.

(7) "Railroad" means any self-propelled vehicle or any train or combination of vehicles operating wholly on fixed rails or tracks.

(8) "Waters of this state" includes all bodies of fresh and salt water within the jurisdiction of the state capable of being used for the transportation of forest products, and all rivers and lakes and their tributaries, harbors, bays, sloughs and marshes.

532.020 Forest products and booming equipment to be branded. Except as provided

in ORS 532.030, every person who puts into any of the waters of this state or ships on any motor vehicle or railroad any forest products or uses any booming equipment as a part of his operation in securing, rafting or floating forest products shall have a mark or brand previously selected by him and registered in the manner provided in this chapter plainly impressed or cut in a conspicuous place on each stick or piece of forest products sawed, shipped on any railroad or motor vehicle or put into any of the waters and on each piece of booming equipment so used.

532.030 Branding optional east of crest of Cascade Mountains. In view of the different conditions obtaining in the logging industry of this state between the parts of the state lying respectively east and west of the crest of the Cascade Mountains, forest products may be put into the waters of this state or shipped on railroads or motor vehicles without having thereon a registered mark or brand as required in this chapter, within that portion of the state lying east of the crest of the Cascade Mountains; and the penalties provided in ORS 532.990 for failure to mark or brand such forest products shall not apply. However, any person operating within the east side portion of the state may select a mark or brand and cause it to be registered in the office of the Public Utilities Commissioner pursuant to the terms of this chapter and use it for the purpose of marking or branding forest products and booming equipment. In the event of the registration of such mark or brand and the use of it in marking or branding forest products or booming equipment, the provisions of this chapter shall apply to the forest products and booming equipment so marked or branded.

532.040 Ownership of forest products and booming equipment presumed from registered brands or catch brands thereupon. All forest products and booming equipment having impressed thereupon a registered brand as provided in this chapter are presumed to belong to the person appearing on the records in the office of the Public Utilities Commissioner as the owner of the brand. However, all forest products having impressed thereupon also a registered catch brand are presumed to belong to the owner of the registered catch brand, unless there are impressed thereupon more than one

registered catch brand, in which event they shall be presumed to belong to the owner whose registered catch brand was placed thereupon latest in point of time.

532.050 Application for registration of brand; recording; rejection. (1) Every person selecting a brand, before using it, shall make application for its registration in the office of the Public Utilities Commissioner by depositing therein an impression stamped on a designated form, together with, in duplicate, a written statement duly signed and verified by him or his agent, containing a description of the brand and declaring that it is not, and at the time of its adoption by him, was not in use to his knowledge by any other person and that he has selected it in good faith for branding forest products to be transported on motor vehicles or railroads, or floated or rafted in the waters of this state, or booming equipment to be used by him as a part of his operations in securing, rafting or floating forest products.

(2) The Public Utilities Commissioner, upon the receipt of the application and the fee provided in ORS 532.110, if he finds that the brand is not identical with any other brand registered in his office or does not so closely resemble one registered therein as to be confused therewith, shall file in his office the impression or drawing and one copy of the written statement and shall register the brand in a book to be provided by him and kept for the purpose and known as the Forest Products Brand Register, entering therein the name of the owner, character of the brand, date of registration and such other details as he may see fit to enter therein. The commissioner shall return to the applicant the other copy of the written statement as evidence that the brand has been duly registered in accordance with the provisions of this chapter and that the applicant is the registered owner. The Public Utilities Commissioner, in the event of his refusal to register a brand on account of confliction with or resemblance to one already registered, shall immediately give notice of that fact to the applicant, who may select another brand and apply for its registration in the manner of an original application.

532.060 Application for registration of catch brand. Every person desiring to use a catch brand as an identifying mark upon forest products or booming equipment pur-

chased or lawfully acquired by him from another shall, before using it, make application for its registration in the office of the Public Utilities Commissioner in the manner prescribed for the registration of brands, and the provisions contained in this chapter in reference to registration, certifications, assignments and cancelation and the fees to be paid to the Public Utilities Commissioner shall apply equally to catch brands. However, the certificate of the commissioner shall designate the mark or brand as a catch brand, and the mark selected by the applicant as a catch brand shall be inclosed in the letter "C," which letter "C" shall identify the mark as, and shall be used only in connection with, a catch brand.

532.070 Certified copy of brand registration as evidence of registration and ownership. A copy of brand registration certified by the commissioner or his deputy as a true copy and in good standing shall be received in all the courts of this state as evidence of the due and proper registration of the mark or brand and of its ownership.

532.080 Mark or brand assignable; procedure. Every mark or brand registered under this chapter shall be assignable in law. The Public Utilities Commissioner, upon payment of the fee mentioned in ORS 532.110 and presentation to him, in duplicate, of an assignment, duly executed and acknowledged by the owner, transferring the mark or brand to a person named therein, shall file one copy of the assignment in his office and make an entry in the Forest Products Brand Register of the fact of the assignment, the date, the name of the assignee and such other details as he may see fit to enter therein. He shall return to the assignee the other copy of the assignment, with a certificate attached thereto, signed by him or his employe, to the effect that the mark or brand has been duly registered in accordance with the provisions of this chapter and assigned to the assignee and that the assignee is the registered owner. The assignee, upon the due registration of the assignment as herein provided, shall become the owner of the mark or brand with the full right of exclusive use to the same extent as though he had been the original owner.

532.090 Cancelation of registered brand or mark. The Public Utilities Commissioner, upon the petition of the owner of a regis-

tered mark or brand, may cause the registration thereof to be canceled, and in the event of such cancelation, the mark or brand shall be open to registration by any person subsequently applying therefor.

532.100 Renewal of marks or brands; abandonment of mark or brand; reissue of abandoned or canceled brand. (1) The Public Utilities Commissioner shall, each five-year period after October 1, 1951, notify by registered letter the owners of all log marks or brands then of record in Oregon to renew them. Upon receipt of the fee provided for in ORS 532.110, the Public Utilities Commissioner shall give a renewal certificate, which shall give the holder and owner the exclusive right to continue the use of the brand or mark within Oregon. If any owner of a brand or mark which is on record fails or refuses to pay the renewing fee within three months after notification, such brand shall become forfeited and be no longer carried on the records.

(2) On or after January 1, 1952, no person shall claim or own any log mark or brand which has not been renewed in accordance with the provisions of this section, and any failure to renew the log mark or brand as required by such provisions shall be deemed an abandonment of the same. Any other person shall be at liberty to adopt or use the abandoned mark or brand; but he shall not claim or use it until after it has been recorded in his own name, in the manner provided in this chapter. However, no abandoned or canceled brand may be reissued for a period of one year after such abandonment or cancelation, except to the previous owner or his assignee. In case of a dispute as to the right of any person to the use of such mark or brand, the Public Utilities Commissioner shall determine which of the applicants is entitled to its use.

532.110 Fees. The fees to be paid to the Public Utilities Commissioner are as follows:

(1) For filing an application to register a mark or brand and registering the same, including the certificate, \$5.

(2) For filing an application for an assignment of a registered mark or brand and registering such assignment, including the certificate, \$5.

(3) For every other certificate of regis-

tration, including a copy of the written statement or assignment, \$5.

(4) For each copy of any drawing, the reasonable expense of preparing it.

(5) For renewing brands or marks, \$5.

532.120 Disposition of fees; Public Utilities Commissioner Log Brand Fund. All fees collected by the commissioner under the provisions of this chapter shall be paid by him into the State Treasury within 30 days after collection, and shall be placed by the State Treasurer to the credit of a fund to be known as the Public Utilities Commissioner Log Brand Fund. The salaries, general and continuing expenses of the commissioner shall be paid by the State Treasurer out of the fund upon presentation of duly verified claims therefor, which claims shall have been approved by the commissioner and audited by the Secretary of State. The fees collected pursuant to this chapter shall be used by the commissioner for the purpose of administering the provisions of this chapter. The surplus, if any, in this fund shall be transmitted to the General Fund at times designated by the commissioner.

532.130 Prohibitions generally. No person, unless permitted to do so under ORS 532.030, shall:

(1) Put into any of the waters of this state or ship on any railroad or motor vehicle any forest products, or use any booming equipment as a part of his operation in securing, rafting or floating forest products, without having plainly impressed or cut in a conspicuous place on each such stick or piece of forest products, and on any piece of booming equipment so used, a mark or brand previously registered as required by the terms of this chapter.

(2) Except boom companies, railroads and log patrol or salvage companies organized as corporations for the purpose of catching or reclaiming and holding or disposing of forest products for the benefit of the owners and authorized to do business under the laws of this state, have or take in tow or into his custody or possession or under his control, without the authorization of the owner of a registered mark or brand thereon, any forest products or booming equipment having thereupon a mark or brand registered as required by the terms of this chapter or, with or without such authorization, any forest products or booming equipment required to be branded under

the terms of this chapter with a registered mark or brand and having no registered mark or brand impressed thereupon or cut therein.

(3) Impress upon or cut in any forest products or booming equipment a mark or brand that is false, forged or counterfeit.

(4) Impress or cut a catch brand that has not been registered under the terms of this chapter upon or into any forest products or booming equipment upon which there is or should be a registered mark or brand as required by the terms of this chapter or a catch brand, whether registered or not, upon any forest products or booming equipment that has not been purchased or lawfully acquired by him from the owner.

532.140 Acts relating to branding or marking, and intended to injure or defraud, prohibited. No person, with an intent to injure or defraud the owner, shall:

(1) Falsely make, forge or counterfeit a mark or brand registered as provided in this chapter and use it in marking or branding forest products or booming equipment.

(2) Cut out, destroy, alter, deface or

obliterate any registered mark or brand impressed upon or cut into any forest products or booming equipment.

(3) Sell, encumber or otherwise dispose of or deal in, or appropriate to his own use, any forest products or booming equipment having impressed thereupon a mark or brand registered as required by the terms of this chapter.

(4) Buy or otherwise acquire or deal in any forest products or booming equipment having impressed thereupon a registered mark or brand.

532.990 Penalties. (1) Violation of any of the provisions of ORS 532.130 is punishable, upon conviction, by a fine of not less than \$500 nor more than \$1,000 or by imprisonment in the county jail for not less than 60 days nor more than 180 days, or both.

(2) Violation of any of the provisions of ORS 532.140 is a felony and is punishable, upon conviction, by a fine of not less than \$1,000 nor more than \$5,000 or by imprisonment in the state penitentiary for a period not to exceed two years, or both.

CHAPTERS 533 TO 535

[Reserved for expansion]