Chapter 527

1971 REPLACEMENT PART

(1973 reprint)

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527.170 [Amended by 1953 c.262 §2; 1961 c.221 §2; repealed by 1971 c.316 §15]

527.180 [Repealed by 1971 c.316 §15]

527.190 [Amended by 1953 c.262 §2; 1955 c.100 §6; 1961 c.221 §3; repealed by 1971 c.316 §15]

527.200 [Amended by 1953 c.262 §2; repealed by 1971 c.316 §15]

527.210 [Repealed by 1953 c.262 §2]

527.215 [1953 c.262 §3; 1955 c.100 §7; 1959 c.83 §2; repealed by 1971 c.316 §15]

527.220 [Amended by 1965 c.253 §149; repealed by 1971 c.316 §15]

527.230 [Repealed by 1971 c.316 §15]

527.240 [Amended by 1971 c.316 §13; renumbered ORS 527.700]

PROHIBITED ACTS

527.260 Injuring forest tree of another or extracting pitch without, or in violation of, a permit prohibited; permit to extract pitch. (1) No person shall wilfully and unlawfully:

(a) Bore or cut any forest tree belonging to another for the purpose of extracting pitch;

(b) Cut, injure or deface any such tree for the purpose of taking any part of it; or

(c) Injure or destroy any such tree.

(2) The State Forester, with the consent of the owner of the land, shall issue permits for the extraction of pitch from forest trees. The terms of the permits shall clearly describe the area to which the extraction shall be confined and state the precautions necessary, in the judgment of the State Forester, to be taken by the permittee, so that the extraction will not result in an increased fire hazard to life and adjoining property.

(3) No person shall:

(a) Bore or cut any forest tree for the purpose of extracting pitch without having first obtained a permit to do so; or

(b) Wilfully or negligently fail to comply with the terms of the permit.

527.280 [1953 c.375 §24; 1957 c.654 §2; 1961 c.297 §8; 1965 c.253 §83; renumbered 477.440]

527.282 [1953 c.375 §25; 1961 c.297 §9; renumbered 477.445]

527.284 [1953 c.375 §26; 1957 c.309 §12; repealed by 1961 c.297 §12]

527.286 [1953 c.357 §27; 1957 c.309 §13; subsection (2) of 1959 Replacement Part enacted as 1957 c.216 §1; repealed by 1961 c.297 §12]

527.288 [1953 c.375 §28; 1961 c.297 §10; renumbered 477.450]

527.290 [1953 c.375 §29; renumbered 477.455]

527.292 [1953 c.375 §30; 1961 c.297 §11; renumbered 477.460]

527.294 [1961 c.689 §10; repealed by 1965 c.253 §153]

INSECT AND DISEASE CONTROL

527.310 Definitions for ORS 527.310 to 527.400. As used in and for the purposes of ORS 527.310 to 527.400:

(1) "Owner" means any person owning timberlands or timber as shown on the latest records of the tax collector of the county in which the timberlands or timber is situated. Where timber is owned entirely separate and apart from the land whereon it grows or is situated, "owner" means any person owning such timber as shown on the latest records of the tax collector of the county in which the timber is situated.

(2) "Timberland" means any land which has enough timber or forest growths, standing or down, to constitute, in the judgment of the State Board of Forestry, a forest insect pest or forest tree disease breeding

ground of a nature to be harmful, detrimental and injurious to timber or forest growth in the district under consideration.

(3) "Control" includes prevent, retard, suppress, eradicate or destroy, or any combination thereof.

(4) "Infestation" includes actual, potential, incipient infestation, or infection by forest insect pests or diseases.
[Amended by 1967 c.87 §1]

527.320 Pests and diseases harmful to timber a public nuisance. Forest insect pests and forest tree diseases harmful, detrimental and injurious to timber and forest growths infested thereby are declared to be a public nuisance.

527.330 Owner to destroy pests and diseases. Every owner of timberlands or timber shall control and destroy forest insect pests and forest tree diseases, or provide for the same to be done on timberlands or timber owned by him or under his control. In case of his failure, neglect or inability to do so, the work may be performed as provided in ORS 527.350.

527.335 Investigations by State Forester concerning pests and diseases; access to privately owned lands. (1) The State Forester is hereby authorized to make surveys and investigations to determine the presence and extent of insect pests and tree diseases which are harmful, detrimental or injurious to timber and forest growths within this state, and in so doing, the forester or his representatives may go upon privately owned lands with permission of the respective owners thereof, and should any owner withhold such permission and the forester believes an emergency exists, the forester may petition that circuit court of this state having jurisdiction over the lands involved for a warrant authorizing the forester or his representatives to go upon such lands. Upon petition being made the court shall forthwith summarily determine whether or not such emergency exists, and if determining such emergency exists, immediately issue a warrant authorizing the forester or his representatives to go upon such lands for the purposes of this section.

(2) The State Forester may cooperate with the United States or agencies thereof, other agencies of the state, county or municipal governments, agencies of other states or other public or private organizations or individuals and may accept such funds, equipment, supplies or services from cooperators and others as it may deem appropriate for the purposes of subsection (1) of this section.

(3) The State Forester is authorized to accept moneys from private and public sources for the purposes stated in subsection (1) of this section; provided, however, that such moneys shall be placed in the State Forestry Department Account and shall be continuously appropriated for such purposes.
[1961 c.212 §1]

527.340 Designation of infestation control district by State Forester; service of notice to abate infestation. (1) Whenever the State Forester finds timberlands or timber infested or threatened to be infested with forest insects or forest tree diseases of such character as to be harmful, detrimental and injurious to timber and forest growths, he shall determine whether measures of control are needed and are available, and the area over which the control measures should be applied. Thereafter, the State Forester shall, with the approval of the State Board of Forestry, designate an infestation control district and declare and fix the boundaries thereof so as definitely to describe and identify such district. The district may include timberlands or timber threatened by the infestation as well as those timberlands or timber already infested.

(2) Immediately thereafter the State Forester shall notify in writing all owners of timberlands or timber within the district to proceed without delay to destroy the forest insect pests or forest tree diseases. The notice may be served by delivery of a copy of the notice to the owner, or by mail addressed to his last known place of address, sealed, plainly addressed, with the requisite amount of postage stamps thereon, and deposited in the United States post-office. In addition there shall be published a legal description of the infestation control district at least once a week for two consecutive weeks in one or more newspapers having a general circulation in the county, or counties, in which the infestation control district is situated.
[Amended by 1955 c.116 §1; 1967 c.87 §2]

527.350 State Forester to eradicate infestation if owner fails to act; exceptions. If an owner so notified, fails, refuses, neglects or is unable to undertake compliance with the requirements of the notice within the time stated therein, the State Forester shall, using such funds as are made available,

alone, or in cooperation with the owners involved, apply measures of infestation control approved by the State Board of Forestry on lands within such district, and to any trees, timber, plants or shrubs therein, harboring or which may harbor the forest insects or forest tree diseases. However, the State Forester shall not proceed with the destruction within the infestation control district so long as an owner notified as provided in ORS 527.340 proceeds within the time designated in the notice and continues in good faith thereafter to destroy the forest insect pests and forest tree diseases upon the timberlands or timber in a manner approved by the State Board of Forestry. Nor shall the State Forester proceed with the destruction of forest insect pests or forest tree diseases upon the timberlands or timber of an owner in an infestation control district who is a member of a cooperative association of timberland or timber owners which actively engages in the destruction and control of the forest insect pests and forest tree diseases, using methods approved by the State Board of Forestry.
[Amended by 1967 c.87 §3]

527.360 Costs of eradication; state may contribute; unpaid costs to be charge against timber; collection of charge. Upon completion of any work authorized and performed under the provisions of ORS 527.350, the State Forester shall prepare a certified statement of the expenses necessarily incurred in performing the work of eradicating the forest insects or forest tree diseases. The state may assist in the payment of control costs from funds available for that purpose and in amounts to be determined by the State Board of Forestry. The balance of the expenses, after deducting the sum of such amounts as may be contributed by the state, the Federal Government or any other agencies or persons to defray control costs, shall constitute a charge against the timberlands or timber involved and shall be collected in the same manner as forest patrol assessments under the provisions of ORS chapter 477.
[Amended by 1967 c.87 §4]

527.370 Disposition of receipts. All moneys collected under ORS 527.360, together with such moneys as have been and may be appropriated by the legislature for the purposes of ORS 527.310 to 527.400, and with such moneys as may be contributed by the Federal Government or any agencies or persons, shall be paid into the State Treasury, credited to the General Fund and available for general governmental expenses.
[Amended by 1953 c.15 §3; 1955 c.116 §2; 1957 c.83 §11; 1967 c.34 §5]

527.380 Dissolution of infestation control districts. Whenever the State Board of Forestry determines that forest insect pest or forest tree disease control work within the designated infestation control district is no longer necessary or feasible, the board by resolution may dissolve the district.

527.390 [Amended by 1957 c.83 §12; repealed by 1967 c.34 §8]

527.400 State Forester to employ assistants, purchase equipment and award contracts. The State Forester may employ assistants and personnel and purchase equipment and supplies required to accomplish the purposes of ORS 527.310 to 527.400, and also may enter into and award, subject to any applicable provisions of ORS 527.510 to 527.530, all contracts in the name of the State Board of Forestry as are necessary for control and destruction of forest insect pests and forest tree diseases.

527.410 [Repealed by 1957 c.83 §26]

527.420 [Repealed by 1957 c.83 §26]

527.430 [Repealed by 1957 c.83 §26]

AERIAL SPRAYING OF FOREST LANDS

527.510 Contractor engaging in aerial spraying of forest lands with insecticides must furnish proof of financial responsibility; federal agency provisions. (1) Any contract for the aerial spraying of forest lands with insecticides entered into under the provisions of ORS 527.400 shall not be executed until and unless the contractor files with the State Forester proof of financial responsibility which may consist of a deposit of money, certified check, liability insurance or surety bond, corporate or otherwise, in the sum of $10,000 to indemnify any landowner for damages to his lands or crops caused by the wilful or negligent operation of aircraft of the contractor while engaged in such spraying. Any person whose lands or crops are so damaged shall have a right of action against such contractor and the underwriter of liability insurance or the surety upon such bond or security. The action shall be commenced within two years of the date on which the wilful or negligent operation occurred, and if no action is filed within that time the contractor shall be

relieved of liability and the policy of insurance canceled or the surety bond or security withdrawn.

(2) Before entering into any cooperative agreement with any agency of the United States under which the agency undertakes the spraying of forest lands, the State Forester and the State Board of Forestry shall urgently request the federal agency to provide for similar protection from damages in any aerial spraying contracts entered into by it.

527.520 State Forester, in awarding aerial spraying contracts, may give preference to Oregon bidders. When a bid is submitted or a price quoted by a bidder who is an individual residing in Oregon, or a bidder, not an individual, who has a place of business in Oregon, and if the bid is not more than five percent in excess of the lowest bid or price quoted by a bidder not residing or not having a place of business in Oregon, and if other factors considered in awarding the contract are equal, the State Forester, in awarding a contract for the aerial spraying of forest lands or timberlands under the provisions of ORS 527.400, may give preference to the bidder residing or having a place of business in Oregon.

527.530 Pilot to be certified for aerial spraying; examination; fee. In addition to other qualifications required by law, no pilot shall engage in aerial spraying of forest lands by aircraft until he has been certified as competent to perform such services by the State Board of Aeronautics. Examinations and instructions, under such rules and regulations as the board may prescribe, shall be conducted by the board at such times and places as it shall determine. An application for a certificate shall be accompanied by a $5 filing fee.

527.540 Operation of aircraft in violation of ORS 527.510 to 527.530 prohibited. No person shall operate an aircraft in violation of ORS 527.510 to 527.530.

OREGON FOREST PRACTICES ACT

527.610 Short title. ORS 527.610 to 527.730 and subsection (1) of ORS 527.990 are known as the Oregon Forest Practices Act.
[Formerly ORS 527.010]

527.620 Definitions for ORS 527.610 to 527.730. As used in ORS 527.610 to 527.730 and subsection (1) of ORS 527.990:

(1) "State Forester" means the State Forester or his duly authorized representative.

(2) "Operator" means any person who conducts an operation.

(3) "Board" means the State Board of Forestry.

(4) "Forest land" means land for which a primary use is the growing and harvesting of forest tree species.

(5) "Operation" means any commercial activity relating to the growing, harvesting or processing of forest tree species.

(6) "Landowner" means any individual, combination of individuals, partnership, corporation or association of whatever nature that holds an ownership interest in forest land, including the state and any political subdivision thereof.

(7) "Timber owner" means any individual, combination of individuals, partnership, corporation or association of whatever nature, other than a landowner, that holds an ownership interest in any forest tree species on forest land.
[1971 c.316 §3]

527.630 Policy. (1) Recognizing that the forest makes a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, by helping to maintain forest tree species, soil, air and water resources and by providing a habitat for wildlife and aquatic life, it is hereby declared to be the public policy of the State of Oregon to encourage forest practices that maintain and enhance such benefits and such resources, and that recognize varying forest conditions.

(2) It is recognized that operations on forest land are already subject to other laws and to regulations of other agencies which deal primarily with consequences of such operations rather than the manner in which operations are conducted. It is further recognized that it is essential to avoid uncertainty and confusion in enforcement and implementation of such laws and regulations and in

planning and carrying out operations on forest lands.

(3) To encourage forest practices implementing the policy of ORS 527.610 to 527.730 and 527.990 and to provide a mechanism for harmonizing, and helping to implement and enforce laws and regulations relating to forest land, it is declared to be in the public interest to vest in the board authority to develop and enforce regional rules:

(a) Designed to assure the continuous growing and harvesting of forest tree species and to protect the soil, air and water resources, including but not limited to streams, lakes and estuaries; and

(b) To achieve coordination among state agencies which are concerned with the forest environment.

[1971 c.316 §4]

527.640 Forest regions. The board shall establish a number of forest regions, but not less than three, necessary to achieve the purposes described in ORS 527.630.

[1971 c.316 §6]

527.650 Forest practice committees; members; qualifications; appointment; terms. (1) The board shall establish a forest practice committee for each forest region established pursuant to ORS 527.640. Each such committee shall consist of nine members, a majority of whom must reside in the region. Members of each committee shall be qualified by education or experience in natural resource management and not less than two-thirds of the members of each committee shall be private landowners, private timber owners or authorized representatives of such landowners or timber owners who regularly engage in operations.

(2) Members of forest practice committees shall be appointed by the board for three-year terms. Appointments under this subsection shall be made by the board within 60 days after July 1, 1972. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term. Each such committee shall select a chairman from among its members. A staff member of the State Forestry Department shall be designated by the State Forester to serve as the secretary, without voting power, for each such committee.

(3) Notwithstanding the terms of the committee members specified by subsection (2) of this section, of the members first appointed to each such committee:

(a) Three shall serve for a term of one year.

(b) Three shall serve for a term of two years.

(c) Three shall serve for a term of three years.

[1971 c.316 §7]

527.660 Committees to recommend rules. Each forest practice committee shall recommend forest practice rules appropriate to the forest conditions within its region to the board.

[1971 c.316 §8]

527.670 Commencement of operations; notification of State Forester required; changes in operations. (1) The board shall designate the types of operations for which notice shall be required under this section.

(2) An operator, timber owner or landowner, before commencing an operation, shall notify the State Forester as required by subsection (3) of this section. The notification required by this subsection shall be filed with the State Forester who shall then notify the Department of Revenue and the county assessor.

(3) The notification required by subsection (2) of this section shall be on forms provided by the State Forester and shall include the name and address of the operator, timber owner and landowner, the legal description of the operating area, and any other information considered by the State Forester to be necessary for the administration of the rules promulgated by the board pursuant to ORS 527.710. Promptly upon receipt of such notice, the State Forester shall mail a copy of the notice to whichever of the operator, timber owner or landowner did not submit the notification. The State Forester shall also mail to the operator, the timber owner and the landowner a copy of the rules applicable to the proposed operation.

(4) An operator, timber owner or landowner, whichever filed the original notification, shall notify the State Forester of any subsequent change in the information contained in the notification.

[1971 c.316 §9]

527.680 Violation by operator; citation; order to cease violation; order to repair damage; temporary order where violation continuing; service on operator. (1) Whenever the

State Forester determines that an operator has committed a violation under subsection (1) of ORS 527.990, he may issue and serve a citation upon the operator or his authorized representative. The State Forester shall cause a copy of the citation to be mailed or delivered to the timber owner and landowner. Each citation issued under this section shall specify the nature of the violation charged and any damage or unsatisfactory condition that has occurred as the result of such violation.

(2) Whenever a citation is served pursuant to subsection (1) of this section, the State Forester:

(a) Shall issue and serve upon the operator or his authorized representative an order directing that the operator cease further violation and shall cause a copy of such order to be mailed or delivered to the timber owner and landowner; and

(b) May issue and serve an order upon the operator and shall cause a copy of such order to be mailed or delivered to the timber owner and landowner, directing the operator, where practical and economically feasible, to make reasonable efforts to repair the damage or correct the unsatisfactory condition specified in the citation within a period specified by the State Forester.

(3) In the event the order issued under paragraph (a) of subsection (2) of this section has not been complied with, and the violation specified in such order is resulting in continuing damage, the State Forester by temporary order, may direct the operator to cease any further activity in that portion of the operation that is resulting in such damage. Such temporary order shall be in effect until the date of the expiration of the period as prescribed in subsection (4) of this section or until the date that the violation ceases, whichever date occurs first.

(4) A temporary order issued under subsection (3) of this section shall be served upon the operator or his authorized representative, and the State Forester shall cause a copy of such temporary order to be mailed or delivered to the timber owner and landowner. If requested by the operator, timber owner or landowner, the board, following the appeal procedures of ORS 527.700, must hold a hearing on the temporary order within five working days after the receipt by the board of the request. A temporary order issued and served pursuant to subsection (3) of this section shall remain in effect not more than five working days after such hearing unless the order is sooner affirmed, modified or revoked by the board.
[1971 c.316 §10]

527.690 Failure to comply with order to repair damage; estimate of cost of repair; notification; board may order repair completed; cost of repair as lien upon operator, timber owner or landowner. (1) In the event an order issued pursuant to paragraph (b) of subsection (2) of ORS 527.680 directs the repair of damage or correction of an unsatisfactory condition, and if the operator does not comply with the order within the period specified in such order, the State Forester shall estimate the cost to repair the damage or the unsatisfactory condition as directed by the order and shall notify the operator, timber owner and landowner in writing of the amount of the estimate. Upon agreement of the operator, timber owner or the landowner to pay the cost, the State Forester may proceed to repair the damage or the unsatisfactory condition. In the event approval of the expenditure is not obtained within 30 days after notification to the operator, timber owner and landowner under this section, the State Forester shall present to the board the alleged violation, the estimate of the expenditure to repair the damage or unsatisfactory condition and the justification for the expenditure.

(2) The board shall review the matter presented to it pursuant to subsection (1) of this section and shall determine whether to authorize the State Forester to proceed to repair the damage or correct the unsatisfactory condition and the amount authorized for expenditure. The board shall afford the operator, timber owner or landowner the opportunity to appear before the board for the purpose of presenting facts pertaining to the alleged violation and the proposed expenditure.

(3) If the board authorizes the State Forester to repair the damage or correct the unsatisfactory condition, the State Forester shall proceed, either with his own forces or by contract, to repair the damage or correct the unsatisfactory condition. The State Forester shall keep a complete account of direct expenditures incurred, and upon completion of the work, shall prepare an itemized statement thereof and shall deliver a copy to the operator, timber owner and landowner. In no event shall the expenditures exceed the amount authorized by subsection (2) of this

section. An itemized statement of the direct expenditures incurred by the State Forester, certified by the State Forester, shall be accepted as prima facie evidence of such expenditures in any proceeding authorized by this section.

(4) The expenditures in cases covered by this section shall constitute a general lien upon the real and personal property of the operator, timber owner and landowner within the county in which the damage occurred. A written notice of the lien, containing a statement of the demand, the description of the property upon which the expenditures were made and the name of the parties against whom the lien attaches, shall be certified under oath by the State Forester and filed in the office of the county clerk of the county or counties in which the expenditures were made within six months after the date of delivery of the itemized statement referred to in subsection (3) of this section, and may be foreclosed in the manner and with like effect as the liens created by ORS 87.010.

(5) Liens provided for in this section shall cease to exist unless suit for foreclosure is instituted within six months from the date of filing under subsection (4) of this section.
[1971 c.316 §11]

527.700 Appeals from orders of State Forester; appeals committee; hearings; judicial review. (1) Any operator, timber owner or landowner affected by any finding or order of the State Forester issued pursuant to ORS 527.680 or 527.690 may appeal to the State Board of Forestry.

(2) The board may delegate to an appeals committee, comprised of members of the board, the authority to hear and decide appeals taken under this section. The board shall designate the appeals committee in the same manner that other committees of the board are designated. Any other member of the board is authorized to serve as an alternate to the appeals committee in the absence or incapacity of a member of the committee upon appointment by the chairman of the board. The board may establish such rules as it deems appropriate for the hearing of appeals.

(3) A request for a judicial review of any decision of the appeals committee may be taken by any operator, timber owner or landowner affected by such decision. The review shall be taken to the circuit court of the county in which the land or any part thereof affected by the decision is located and must be taken within 30 days from the date of the decision by the appeals committee of the State Board of Forestry.
[Formerly 527.240]

527.710 Duties and powers of board. The board, in carrying out the purpose of ORS 527.610 to 527.730 and subsection (1) of ORS 527.990:

(1) Where necessary to accomplish the purpose specified in ORS 527.630, shall promulgate, in accordance with applicable provisions of ORS chapter 183, rules to be administered by the State Forester establishing minimum standards for forest practices in each region or subregion, relating to the following:

(a) Reforestation of forest land economically suitable therefor;

(b) Road construction and maintenance operations on forest land;

(c) Harvesting of forest tree species;

(d) Application of chemicals on forest land; and

(e) Disposal of slashing on forest land.

(2) Before promulgating such rules, shall consult with other agencies of this state or any of its political subdivisions that have functions with respect to the purposes specified in ORS 527.630; and

(3) May enter into cooperative agreements or contracts necessary in carrying out the purposes specified in ORS 527.630.
[1971 c.316 §5]

527.720 Purposes of rules; presumption of compliance with rules of other agencies. (1) Rules promulgated pursuant to ORS 527.710, in order to achieve the purpose of ORS 527.630, shall be designed to meet the objectives of the rules and regulations of other agencies in so far as they pertain to forest land.

(2) An operation performed in compliance with rules of the board designed to meet the rules and regulations of other agencies, and when such rules so designed have been approved by the other agencies pursuant to the review required by subsection (2) of ORS 527.710, shall be presumed to have complied with such other rules and regulations.
[1971 c.316 §5a]

527.730 Construction. Nothing in ORS 527.610 to 527.730 and subsection (1) of

ORS 527.990 shall prevent the conversion of forest land to any other use.
[1971 c.316 §12]

PENALTIES

527.990 Penalties. (1) Violation of ORS 527.670 or any rule promulgated under ORS 527.710 is punishable, upon conviction, as a misdemeanor. Each day of operation in violation of an order issued under subsection (3) of ORS 527.680 shall be deemed to be a separate offense.

(2) Violation of subsection (1) of ORS 527.260 is a misdemeanor. Violation of subsection (3) of ORS 527.260 is punishable, upon conviction, by a fine of not more than $250 or by imprisonment in the county jail for not more than 60 days, or both.

(3) Violation of ORS 527.540 is punishable, upon conviction, by a fine of not more than $100 or by imprisonment in the county jail for not more than 30 days, or both.
[Amended by 1953 c.262 §2; 1971 c.316 §14]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on December 1, 1971.

Robert W. Lundy
Legislative Counsel