

## Chapter 174

### 1957 REPLACEMENT PART

## Construction of Statutes and General Definitions

- |         |   |         |  |
|---------|---|---------|--|
| 174.010 | General rule for construction of statutes                         | 174.130 | Majority can exercise authority given jointly                                |
| 174.020 | Legislative intent; general and particular provisions and intents | 174.140 | Construction of "a surety" or similar words                                  |
| 174.030 | Construction favoring natural right to prevail                    | 174.150 | Certified mail when statute specifies registered mail                        |
| 174.040 | Severability  | 174.510 | Oregon Revised Statutes enacted as law                                       |
| 174.050 | Effect of conflicting amendments                                  | 174.520 | General statutes enacted prior to January 12, 1953, are repealed; exceptions |
| 174.060 | Effect of amendment of statute adopted by reference               | 174.530 | Construction of statutes enacted as part of revised statutes                 |
| 174.070 | Effect of repeal of validating or curative Act                    | 174.540 | Parts of printed statute editions not to be a part of the law                |
| 174.080 | Effect of repeal of repealing Act                                 | 174.550 | Revised statutes are substituted for statutes repealed by ORS 174.520        |
| 174.090 | Effect of repeal of repealing constitutional provision            | 174.560 | Statutes to be designated as "Oregon Revised Statutes" or "ORS"              |
| 174.100 | Definitions   |         |  |
| 174.110 | Singular or plural number; masculine, feminine or neuter gender   |         |  |
| 174.120 | Computation of time   |         |  |

### CROSS REFERENCES

- |  |   |
|--|---|
| Administrative procedure provisions, construction of as regards inconsistent Acts, 183.510                                     | Publishing notice for "successive" or "consecutive" days, what constitutes compliance with, 193.040 |
| Adoption laws, not to be strictly construed, 109.305   | Repeal of statute authorizing state agency to collect, receive and expend money, 182.080            |
| Amendment or repeal of statute as affecting prosecution or punishment for violation, 161.040                                   | 174.100   |
| Appropriation bills requiring approval of Emergency Board before project started or contract let, how requirement met, 291.336 | "Column line of measurement" defined, 193.010   |
| Definition of words used in penal statutes, 161.010, 161.110   | "Legal advertisement" defined, 193.010  |
| Election documents, time allowed for receipt, 246.021  | 174.120   |
| Filing or receiving documents required by law to be filed with state agency, date of postmark as date of, 291.578              | Computation of time for publication of legal notices, 193.060                                       |
| Penal statutes, construction of, 161.050   | Holidays, acts required by statute to be done are deferred until next day, 187.010                  |
| Public and private statutes defined, 43.060  | 174.130   |
|  | Referees, all must meet, but a majority may do an act, 17.750                                       |
|  | 174.150   |
|  | Use of certified mail when agency rule specifies registered mail, 183.060                           |

**174.010 General rule for construction of statutes.** In the construction of a statute, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all.

**174.020 Legislative intent; general and particular provisions and intents.** In the construction of a statute the intention of the legislature is to be pursued if possible; and when a general and particular provision are inconsistent, the latter is paramount to the former. So a particular intent shall control a general one that is inconsistent with it.

**174.030 Construction favoring natural right to prevail.** Where a statute is equally susceptible of two interpretations, one in favor of natural right and the other against it, the former is to prevail.

**174.040 Severability.** It shall be considered that it is the legislative intent, in the enactment of any statute, that if any part of the statute is held unconstitutional, the remaining parts shall remain in force unless:

- (1) The statute provides otherwise;
- (2) The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional part that it is apparent that the remaining parts would not have been enacted without the unconstitutional part; or
- (3) The remaining parts, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

**174.050 Effect of conflicting amendments.** If at any session of the Legislative Assembly there are enacted two or more Acts amending the same section of the statutes, each of the Acts shall be given effect to the extent that the amendments do not conflict in purpose. Otherwise, the Act last filed in the office of the Secretary of State shall control.

**174.060 Effect of amendment of statute adopted by reference.** When one statute refers to another, either by general or by specific reference or designation, the reference shall extend to and include, in addition to the statute to which reference was made, amendments thereto and statutes enacted expressly

in lieu thereof unless a contrary intent is expressed specifically or unless the amendment to, or statute enacted in lieu of, the statute referred to is substantially different in the nature of its essential provisions from what the statute to which reference was made was when the statute making the reference was enacted.

**174.070 Effect of repeal of validating or curative Act.** The repeal of a validating or curative Act shall not affect any validation or cure theretofore accomplished.

**174.080 Effect of repeal of repealing Act.** Whenever a statute which repealed a former statute, either expressly or by implication, is repealed, the former statute shall not thereby be revived unless it is expressly so provided.

**174.090 Effect of repeal of repealing constitutional provision.** Whenever a constitutional provision which repeals or suspends in whole or in part a former constitutional provision, either expressly or by implication, is repealed, the former constitutional provision so repealed or suspended thereby shall not be revived unless it expressly is so provided.

**174.100 Definitions.** As used in the statute laws of this state, unless the context or a specially applicable definition requires otherwise:

- (1) "Any other state" includes any state and the District of Columbia.
- (2) "City" includes any incorporated village or town.
- (3) "Person" includes individuals, corporations, associations, firms, partnerships and joint stock companies.
- (4) "To" means "to and including" when used in a reference to a series of statute sections, subsections or paragraphs.
- (5) "United States" includes territories, outlying possessions and the District of Columbia.
- (6) "Violate" includes failure to comply.
- (7) "War veteran" includes every citizen of the United States who has been a member of the Armed Forces of the United States of America, and in active service for more than 90 consecutive days in time of any war in which this country has been or shall hereafter be engaged, including the period between September 15, 1940, and December 31, 1946, and the period between June 25, 1950, and midnight of January 31, 1955, and

who has been discharged or released therefrom under honorable conditions; provided, however, that attendance at a school under military orders, except schooling incident to an active enlistment or regular tour of duty, or normal military training as a reserve officer or member of an organized reserve or national guard unit shall not be considered active service within the meaning of this subsection; and provided further, that any such citizen otherwise eligible, who was discharged or released, under honorable conditions, on account of service-connected injury or illness prior to completion of such 90-day service, shall nevertheless be deemed to be a "war veteran." [Amended by 1953 c.145 §2; 1957 c.360 §1]

**174.110 Singular or plural number; masculine, feminine or neuter gender.** As used in the statute laws of this state:

(1) The singular number may include the plural and the plural number, the singular.

(2) Words used in the masculine gender may include the feminine and the neuter.

**174.120 Computation of time.** The time within which an act is to be done, as provided in the civil procedure statutes, is computed by excluding the first day and including the last unless the last day falls upon any legal holiday or on Saturday, in which case the last day is also excluded.

**174.130 Majority can exercise authority given jointly.** Any authority conferred by law upon three or more persons may be exercised by a majority of them unless expressly otherwise provided by law.

**174.140 Construction of "a surety" or similar words.** In any statute requiring a public official to furnish a fidelity bond or bond conditioned upon the faithful performance of the duties of the official, whenever the words "a surety" or "a corporate insurance company" or words of similar import are used in referring to execution of the bond, the bond may be executed by one or more sureties, or one or more corporate insurance companies, unless the particular statute specifically provides otherwise. [1955 c.289 §1]

**174.150 Certified mail when statute specifies registered mail.** Whenever any statute authorizes or requires the use of registered mail, and does not require a re-

turn receipt signed by the addressee only, certified mail may be used if a sender's receipt is obtained from the postal authorities and a return receipt is requested. If a return receipt signed by the addressee only is required, registered mail must be used. [1957 c.146 §1]

**174.160 to 174.500** [Reserved for expansion]

**174.510 Oregon Revised Statutes enacted as law.** (1) The statute laws set forth after section 8 of enrolled House Bill No. 2 of the Forty-seventh Legislative Assembly hereby are enacted as law of the State of Oregon.

(2) Enrolled House Bill No. 2 of the Forty-seventh Legislative Assembly shall become effective on December 31, 1953. [1953 c.3 §§1, 7]

Note: The statutes enacted by this section, if they have not since been amended or repealed, appear in this edition of the Oregon Revised Statutes without any source note or legislative history immediately following the statute text as in the case of ORS 174.510, for example.

**174.520 General statutes enacted prior to January 12, 1953, are repealed; exceptions.**

(1) All statute laws of Oregon of a general, public and permanent nature enacted prior to January 12, 1953, hereby are repealed, except as provided in subsection (2) of this section.

(2) If any provision of the Oregon Revised Statutes as enacted by ORS 174.510, derived from an Act that amended or repealed a pre-existing statute, is held unconstitutional, the provisions of subsection (1) of this section shall not prevent the pre-existing statute from being law if that appears to have been the intent of the Legislative Assembly or the people. [1953 c.3 §§2, 6]

**174.530 Construction of statutes enacted as part of revised statutes.** The Oregon Revised Statutes, as enacted by ORS 174.510, are intended to speak for themselves; and all sections of the Oregon Revised Statutes as so enacted shall be considered to speak as of the same date, except that in cases of conflict between two or more sections or of an ambiguity in a section, reference may be had to the Acts from which the sections are derived, for the purpose of applying the rules of construction relating to repeal or amendment by implication or for the purpose of resolving the ambiguity. [1953 c.3 §3]

**174.540** Parts of printed statute editions not to be a part of the law. Title heads, chapter heads, division heads, section and subsection heads or titles, and explanatory notes and cross references, in the Oregon Revised Statutes as enacted by ORS 174.510, do not constitute any part of the law. [1953 c.3 §4]

**174.550** Revised statutes are substituted for statutes repealed by ORS 174.520. The provisions of the Oregon Revised Statutes as enacted by ORS 174.510 shall be considered as substituted in a continuing way for the

provisions of the prior statute laws repealed by ORS 174.520. [1953 c.3 §5]

**174.560** Statutes to be designated as "Oregon Revised Statutes" or "ORS." The following statutes [i.e., those following this section in H.B. No. 2] contained in three volumes entitled "Proposed Oregon Revised Statutes" on pages 1 through 1,058 in volume 1, on pages 1 through 2,066 in volume 2 and on pages 1 through 1,915 in volume 3, and designated as House Bill No. 2, Forty-seventh Legislative Assembly, are to be known, designated and cited as the Oregon Revised Statutes, for which designation "ORS" may be substituted. [1953 c.3 §8]

#### CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, 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 2, 1957.

Sam R. Haley  
Legislative Counsel

#### CHAPTER 175

[Reserved for expansion]