Chapter 760

1957 REPLACEMENT PART

Railroad Regulation Generally

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DEFINITIONS; GENERAL PROVISIONS

760.005 Definitions. As used in ORS 760.005 to 760.025, 760.030 to 760.045, 760.105 to 760.180, 760.305 to 760.350, 760.505 to 760.525, subsection (4) of 760.530, ORS 760.555 to 760.605, 760.990, 761.110 to 761.130 and 763.170 to 763.200:

(1) "Commissioner" means the Public Utility Commissioner of Oregon.

(2) "Railroad" means all corporations, companies, individuals, associations of individuals and their lessees, trustees or receivers, that:

(a) Own, operate by steam, electric or other motive power, manage or control all or part of any railroad or interurban railroad as a common carrier in this state, or cars or other equipment used thereon, or bridges, terminals or sidetracks used in connection therewith, whether owned or operated under a contract, agreement, lease or otherwise.

(b) Are engaged in the ownership, management or control of union depots or terminals in this state (which corporations, companies, individuals and associations hereby are declared to be common carriers) or the transportation of property within this state by express.

(3) "Rate," "fare," "charge" and "joint rate" mean an entire schedule of rates, fares, charges or joint rates as well as particular rates and groups of rates.

(4) "Service" shall be taken in its broadest and most inclusive sense and to include the equipment and facilities.

760.010 Companies affected by provisions of this chapter. (1) The statutes listed in ORS 760.005 apply to:

(a) The transportation of passengers and property.

(b) The receiving, delivering, switching, storing, elevation and transfer in transit, ventilation, refrigeration or icing, and handling of such property, and all charges connected therewith.

(c) All railroad, union depot, terminal, car, oil, tank line, sleeping car, freight and freight line companies.

(d) All associations of persons, whether incorporated or otherwise, that do business as common carriers upon or over any line of railroad within this state.

(e) Any common carrier engaged in the transportation of passengers or property wholly by rail or partly by rail and partly by water.

(2) The statutes listed in ORS 760.005 do not apply to:

(a) The transportation of passengers being carried solely within the limits of cities by street and other railroads.

(b) Logging or other private railroads not doing business as common carriers.

760.015 Reasonable charges and adequate facilities required of railroads. Every railroad shall furnish reasonably adequate service, equipment and facilities, and the charges made for any service rendered or to be rendered in the transportation of passengers or property or for any service in connection therewith, or for the receiving, switching, delivering, storing, elevation and transfer in transit, ventilation, refrigeration or icing or handling of property; or for union depot or terminal facilities, shall be reasonable and just.

760.020 Treble damages recoverable from railroad for injuries due to illegal conduct. (1) Any railroad which does, or causes or permits to be done any matter, act or thing prohibited by the statutes listed in ORS 760.005, or omits to do any act, matter or thing required to be done by such statutes, is liable to the person injured thereby in treble the amount of damages sustained in consequence of such violation, together with a reasonable attorney's fee to be fixed by the court and taxed and collected as part of the costs in the case.

(2) Any recovery under this section, shall in no manner affect a recovery by the state of the penalty prescribed for such violation.

(3) Damages awarded the aggrieved party under ORS 760.345 by reason of cars not being furnished when applied for shall be in lieu of the treble damages awarded by this section.

760.025 Provisions relating to enforcement of railroad laws. (1) The commissioner shall inquire into any neglect or violation of the laws of this state by any railroad corporation doing business therein, or by the officers, agent or employes thereof, or by any person operating a railroad, and shall enforce all laws relating to railroads and report all violations thereof to the Attorney General.

(2) Upon the request of the commissioner, the Attorney General or the prosecuting attorney of the proper county shall aid in any investigation, hearing or trial

had under all laws of this state relating to railroads and institute and prosecute all necessary actions or proceedings for the enforcement of, or punishment of violators of such laws, or the recovery of penalties payable to the state.

(3) Any forfeiture or penalty provided in this chapter shall be recovered by an action brought thereon in the name of the State of Oregon in any court of appropriate jurisdiction.

(4) The commissioner has authority to employ special counsel in any proceeding, investigation, hearing or trial, and to fix their compensation.

760.027 Judicial proceedings to enforce certain provisions of law. (1) Whenever it appears to the commissioner that any railroad is engaged or about to engage in any acts or practices which constitute a violation of any provisions of the statutes listed in ORS 760.005, or any rule, regulation, requirement, order, term or condition issued thereunder, he may apply to any circuit court of the state in which district the railroad operates for the enforcement of such statute, rule, regulation, requirement, order, term or condition.

(2) Such court, without bond, has jurisdiction to enforce obedience thereto by injunction, or by other processes, mandatory or otherwise, restraining such railroad or its officers, agents, employes and representatives from further violation of such statute, rule, regulation, requirement, order, term or condition, and enjoining upon them obedience thereto.

(3) The provisions of this section are in addition to and not in substitution for any other enforcement provisions contained in any statute administered by the commissioner. [1957 c.415 §11]

760.030 Investigation of claims against railroads not acted upon within 90 days. All claims against any railroad for loss of or damage to property from any cause or for overcharge upon any shipments, or for any other service, if not acted upon within 90 days from the date of filing of such claim with the railroad, may be investigated by the commissioner. The results of such investigation shall be embodied in a special report which shall be open to public inspection and may be included in the next annual report of the commissioner.

760.035 Forfeiture by railroad that violates railroad laws or commissioner's regulations. (1) Any railroad which violates any provision of the statutes listed in ORS 760.005, or fails or refuses to perform any duty enjoined upon it, for which a penalty has not been provided, or fails, neglects or refuses to obey any lawful requirement, order made by the commissioner, or any judgment or decree made by any court upon the commissioner's application, shall forfeit and pay into the State Treasury a sum of not less than $100, nor more than $10,000 for each offense.

(2) In construing and enforcing the provisions of this section, the act, omission or failure of any officer, agent or other person acting for or employed by any railroad, acting within the scope of his employment, shall in every case be deemed to be the act, omission or failure of such railroad.

(3) All penalties, fines or forfeitures, or other sums collected or paid, under the statutes listed in ORS 760.005 shall be paid into the General Fund, except where it is provided that the same shall be paid to the aggrieved party.

760.040 Substantial compliance with law sufficient to give effect to commissioner's orders; construction of law generally. (1) A substantial compliance with the requirements of ORS 760.005 to 760.025, 760.030 to 760.180, 760.305 to 760.605 and 760.990 is sufficient to give effect to all the rules, orders, acts and regulations of the commissioner, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

(2) The provisions of ORS 760.005 to 760.025, 760.030 to 760.180, 760.305 to 760.605 and 760.990 shall be liberally construed with a view to the public welfare, efficient transportation facilities and substantial justice between shippers and passengers and railroads.

760.045 Effect of railroad laws on common law and other statutory rights of action, duties and liabilities. (1) The statutes listed in ORS 760.005 do not have the effect to release or waive any right of action by the state or by any person for any right, penalty or forfeiture which may arise under any law of this state.

(2) All penalties and forfeiture accruing under said statutes are cumulative and a suit for and recovery of one, shall not be

a bar to the recovery of any other penalty.

(3) The duties and liabilities of the railroads shall be the same as are prescribed by the common law, and the remedies against them the same, except where otherwise provided by the Constitution or statutes of this state, and the provisions of the statutes listed in ORS 760.005 are cumulative thereto.

760.050 Establishing speed limits for trains within city limits. (1) The power to fix and regulate the speed of railway trains within the limits of cities of less than 100,000 population is vested exclusively in the state.

(2) Upon petition of any incorporated city or of any railroad or upon his own motion, the commissioner shall, after due investigation and hearing, enter an order fixing and regulating the speed of railway trains within the corporate limits of cities of less than 100,000 population. Any such order may relate to and include more than one such city or particular portions of any one or more cities.

(3) The speed limits fixed by the commissioner shall be maximum speed limits and he may fix different rates of speed for different cities or within different portions of any city, which rates of speed shall be commensurate with the hazards presented and the practical operation of the trains.

(4) When the conditions of hazard and the practical operation of trains require, the commissioner may, in the same order, prescribe the number, kind and location of warning signal devices and stop signs to be installed at grade crossings, and by his order require the same to be installed and determine the division of the cost of such installation and future maintenance between the railroad and the state, county, municipality or other public authority in interest, in such proportion as he deems just and reasonable in the circumstances and in accordance with the respective benefits to be derived by the railroad and the public.

760.055 Peace officer's right to ride train. Every peace officer in this state when actually engaged in the performance of his official duties and upon payment or tender of the legal rate of fare for transportation has the right to ride upon any car or train of any railroad or interurban railroad within this state. This section applies only at stations where regular stops are made.

760.060 Procedure for construction of side lines and extensions. If any railway company owning or operating a railway within this state desires to construct any branch line or side line, or to build an extension of the main line, its board of directors shall adopt a resolution defining the branch, side line or extension, and designating the termini thereof, and shall cause a copy of such resolution, certified by its secretary, to be filed in the office of the Secretary of State, and in the office of each county clerk in or through whose county such branch or side line or extension is to be constructed. Thereupon such corporation has the right to build and construct such branch, side line or extension, and to exercise the right of eminent domain as provided by law, and the termini so designated in such resolution shall be a sufficient designation thereof for the purpose of exercising such right of eminent domain.

760.065 to 760.100 [Reserved for expansion]

RATES

760.105 Publishing and filing of schedules; contents of schedules. (1) Every railroad shall print in plain type and file with the commissioner within a time to be fixed by him, schedules, which shall be open to public inspection, showing all rates, fares and charges for the transporation of passengers and property, or use of union depots and terminals, and any service in connection therewith, which it has established and which are in force at the time between all points in this state upon its line, or any line controlled or operated by it.

(2) Such schedules shall plainly state the places upon its line or any line controlled or operated by it in this state between which passengers and property will be carried, and there shall be filed therewith the classification of freight in force.

(3) Every railroad shall publish with and as a part of such schedules all rules and regulations that in any manner affect the rates charged or to be charged for the transportation of passengers or property, also the charges for delay in loading or unloading cars, for track and car service or rental and for demurrage, switching, terminal or transfer service, or for rendering any other service in connection with the transportation of persons or property.

(4) One copy of such schedules for the use of the public shall be kept on file in

every depot, station and office of such railroad where an agent is maintained. The schedules shall be in such form and place as to be accessible to the public for convenient inspection.

(5) When passengers or property are transported over connecting lines in this state operated by more than one railroad, and the several railroads operating such lines establish joint rates, fares and charges, a schedule of joint rates shall in like manner be printed and filed with the commissioner and kept on file in every depot, station and office of such railroad where an agent is maintained.

760.110 Provisions relating to schedule changes. (1) No change shall be made in the rates, fares and charges or joint rates, fares and charges or any schedule, including schedule of joint rates, or in any classification, which has been filed and published by any railroad, except upon 30 days' notice to the commissioner and to the public, which shall state plainly the changes proposed to be made in the schedule then in force and the time when the changed rates, fares or charges will go into effect.

(2) The proposed changes shall be shown by printing new schedules, or shall be indicated plainly upon the schedules in force at the time and kept open to public inspection. Copies of all new schedules shall be filed as provided in ORS 760.105, in every depot, station and office of such railroad 30 days prior to the time they are to take effect.

(3) The commissioner may, for good cause shown, allow changes upon less than the notice specified in this section, or modify the requirements of this section in respect to publishing, posting and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions. The commissioner may make suitable rules and regulations for the simplification of schedules of rates, fares, charges and classifications and permit in such rules and regulations the filing of an amendment of or change in any rate, fare, charge or classification without filing complete schedules covering rates, fares, charges or classifications not changed, if, in his judgment, not inconsistent with the public interest.

(4) The names of the several carriers which are parties to any joint tariffs shall be provided therein, and each of the parties thereto, other than the one filing the schedule, shall file with the commissioner such evidence of concurrence therein or acceptance thereof, as may be required or approved by the commissioner. Where such evidence of concurrence or acceptance is filed it is not necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties.

(5) On request of the commissioner every railroad shall file with the commissioner copies of all contracts, agreements or arrangements with other common carriers in relation to any intrastate traffic affected by this chapter to which they may be parties.

(6) The schedules filed shall be published and filed in such form and manner as the commissioner, by regulation, shall prescribe. The commissioner may reject any schedule filed with him which is not in accordance with this section and with such regulations or which does not give lawful notice of the effective date. Any schedule so rejected by the commissioner is void and its use is unlawful.

(7) No railroad, unless otherwise provided by this chapter, shall engage or participate in the transportation of passengers or property, unless the rates, fares and charges, upon which the same are transported by such carrier, have been filed and published in accordance with ORS 760.105 to 760.115.

(8) Failure or refusal on the part of any railroad to comply with the terms of any regulation adopted or promulgated, or any order made by the commissioner under this section, makes such carrier liable to a penalty of $500 for each such offense and $25 for every day of the continuance of such offense, which shall accrue to the State of Oregon and may be recovered in civil actions brought by the commissioner in this state.

760.115 Posting of notice of schedule changes. Whenever a change is made in any existing schedule, including schedule of joint rates, a notice shall be kept posted by the railroad in a conspicuous place in every depot, station and office where an agent is maintained, stating what changes have been made in the schedules on file, specifying the class or commodity affected and the date when the same will take effect. However, the commissioner may, for good cause

shown, modify or suspend the requirements of this section in respect to posting changes in schedules, either in particular instances or by a general order.

760.120 Railroads required to follow schedules; authority to waive charges. (1) No railroad shall charge, demand, collect or receive a greater or less compensation for the transportation of passengers or property or for any service in connection therewith than is specified in such printed schedules, including schedules of joint rates, as may at the time be in force, and the rates, fares and charges named therein shall be the lawful rates, fares and charges until they are changed as provided in ORS 760.110 and 760.130.

(2) Upon petition of any railroad, the commissioner may, by ex parte order, after summary investigation but without formal hearing, authorize such railroad to refund, or waive collection of, such part of its charges for intrastate transportation service as shall be found by the commissioner to be in excess of just and reasonable charges for such service. However, no such refund or waiver shall be authorized in respect to charges which accrued more than two years prior to the filing of such petition.

760.125 Prescribing changes in form of schedule. The commissioner may prescribe such changes in the form in which the schedules are issued by the railroad as may be found expedient.

760.130 Hearings to determine reasonableness of new schedules; suspension of rates. (1) Whenever any railroad files with the commissioner any schedule stating or establishing a new intrastate rate or regulation, or increasing an existing intrastate rate, or changing or altering any existing regulation, the commissioner may either upon written complaint or upon his own initiative after reasonable notice, conduct a hearing to determine the propriety and reasonableness of such rate or regulation.

(2) At such hearing the burden of showing that the rate or regulation proposed to be established, increased or changed is just and reasonable is upon the railroad making the same.

(3) The commissioner may, pending such hearing and determination, order the suspension of the rate or regulation proposed to be established, increased or changed. The period of suspension shall not extend more than 120 days beyond the time when such rate or regulation would otherwise go into effect unless the commissioner extends the suspension for a further period not exceeding six months.

(4) After full hearing, whether completed before or after such rate or regulation has gone into effect, the commissioner may make such order in reference thereto as would be proper in a proceeding initiated after such rate or regulation was effective.

(5) As used in this section, "rate" means an individual or joint rate, fare or charge, and "regulation" means an individual or joint practice, regulation or classification.

(6) This section only affects and applies to the business of any railroad within this state and does not apply to interstate commerce or to the business of any railroad between the State of Oregon and any other states of the United States.

760.135 Requirements as to reasonableness of joint rates. Whenever passengers or property are transported over two or more connecting lines of railroad between points in this state, and the railroad companies have made joint rates for the transportation of the same, such rates and all charges in connection therewith shall be just and reasonable, and every unjust and unreasonable charge is prohibited. However, a lower charge by each of the railroads for its proportion of such joint rate than is made locally between the same points on their respective lines shall not for that reason be construed as a violation of this chapter.

760.140 Special contract rates permitted. This chapter does not prevent concentration, commodity, transit and other special contract rates, but all such rates shall be open to all shippers for a like kind of traffic under similar circumstances and conditions, and shall be subject to the printing and filing requirements of ORS 760.105 to 760.115. All such rates shall be under the supervision and regulation of the commissioner.

760.142 Classification of freight. There shall be but one classification of freight in the state, which shall be uniform on all railroads.

760.145 Special freight and passenger rates permitted. This chapter does not prevent:

(1) The carriage, storage or handling of freight free, or at reduced rates:

(a) For the United States, the state or any municipality thereof.

(b) For charitable purposes.

(c) To and from fairs and expositions for exhibition thereat.

(d) Consisting of household goods, the property of railway employes, or commodities shipped by employes for their own exclusive use or consumption.

(2) The issuance of mileage, commutation, party or excursion passengers' tickets, if they are obtainable by all persons applying therefor under like circumstances and conditions.

(3) The sale of such tickets as were usually and customarily sold at reduced rates prior to January 1, 1907, if they are sold without discrimination to all persons applying therefor under like circumstances and conditions.

760.150 Persons permitted to travel at reduced rates. This chapter does not prevent railroads from giving free transportation or reduced rates therefor, to:

(1) Its officers, agents, surgeons, physicians, employes and attorneys at law, or members of their families, or to former railroad employes or members of their families, where such employes have become disabled in the railroad service, or are unable from physical disqualification to continue in the service, or to members of families of deceased railroad employes.

(2) State and district officers of the State of Oregon and county judges and sheriffs of the various counties of this state in cases where such transportation is required by law.

(3) Ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work.

(4) The head of the University of Oregon, the state normal schools, Oregon State College, and the executive heads of the colleges of Oregon operating under the laws of this state, which are not run for financial profit.

(5) Indigent, destitute and homeless persons, and such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation.

(6) Inmates of national or state homes for disabled volunteer soldiers, and of soldiers' and sailors' homes, including those about to enter and those returning after discharge, and boards of managers of such homes.

(7) Any member of the Grand Army of the Republic residing within the State of Oregon and in good standing in the post of which he is a member.

(8) Employes on sleeping and express cars.

(9) Linemen of telegraph and telephone companies.

(10) Officers of the United States Bureau of Reclamation.

(11) United States livestock inspectors.

(12) Railroad mail service employes, postoffice inspectors, custom inspectors and immigration inspectors.

(13) Newsboys on trains, baggage agents, witnesses attending any legal investigations in which the railroad is interested, persons injured in wrecks and physicians and nurses attending such persons.

760.155 Passes that may be issued by railroads. (1) This chapter does not prevent the interchange of passes for the officers, agents or employes of common carriers and their families, nor prevent any railroad from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitation.

(2) Upon any shipment of livestock, poultry, fruit or other property of such nature as to require the care of an attendant, the railroad may furnish to the shipper or some person designated by him free transportation for such purpose, including return passes to the point at which the shipment originated. There shall be no discrimination in reference thereto between shippers, and the commissioner has power to prescribe regulations in relation thereto.

760.160 Special privileges to military personnel and property. Any railroad may, within this state, transport free or at reduced rates the national guard of any state, or volunteers or regulars of the United States Army, or military stores, property or equipment, when such transportation is necessary for military purposes, without being guilty of an unjust discrimination or an undue preference.

760.165 Fixing emergency rates. The commissioner may, when deemed by him necessary to prevent injury to the business

or interests of the people or railroads of this state in consequence of interstate rate wars, or in case of any other emergency, temporarily alter, amend or, with the consent of the railroad company concerned, suspend any existing passenger rates, freight rates, schedules and orders on any railroad or part of railroad in this state. Rates so made by the commissioner shall apply on one or more of the railroads in this state or any portion thereof as may be directed by the commissioner, and shall take effect at such time and remain in force for such length of time as may be prescribed by the commissioner.

760.170 Excessive charges as unjust discrimination. (1) Except as provided in ORS 760.145 to 760.160, no railroad or any agent or officer thereof shall, directly or indirectly, by any special rate, rebate or drawback or by means of any false billing, false classification, false weighing or by any other device, charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered by it for the transportation of persons or property or for any service in connection therewith, than that prescribed in the published tariffs then in force, or established as provided in ORS 760.105 to 760.115, or than it charges, demands, collects or receives from any other person for a like and contemporaneous service under substantially similar circumstances and conditions; provided, the commissioner may, for cause shown and after investigation, in special cases permit the collection of a greater sum for a shorter than for a longer distance over the same line.

(2) No railroad shall demand, charge, collect or receive from any person a less compensation for the transportation of property or for any service rendered or to be rendered by the railroad, in consideration of such person furnishing any part of the facilities incident thereto; but this does not prohibit any railroad from renting any facilities incident to transportation and paying a reasonable rental therefor.

760.175 Preferences to particular persons or localities as unjust discrimination. (1) No railroad shall:

(a) Make or give any undue or unreasonable preference or advantage to any particular person.

(b) Subject any particular person or particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect.

(c) Furnish free or reduced transportation to the head of any state institution of higher learning mentioned in ORS 760.150 and not furnish the same free or reduced transportation to the head of the other incorporated colleges mentioned in said statute.

(d) Make or give any undue or unreasonable preference or advantage to any particular locality, or subject any particular locality to any undue unreasonable prejudice or disadvantage in any respect.

(2) This section does not prohibit any railroad from giving necessary preference to livestock and perishable freight over other freight.

(3) Any railroad violating this section is guilty of unjust discrimination.

760.180 Acceptance of rebate prohibited. No person shall knowingly accept or receive any rebate, concession or discrimination in respect to transportation of any passenger or property wholly within this state, or for any service in connection therewith, whereby any property is transported at a less rate than that named in the published tariffs in force, or whereby any service or advantage is received other than is therein specified.

760.185 to 760.200 [Reserved for expansion]

PASSENGER FACILITIES AND SERVICE

760.205 Definitions for ORS 760.210 to 760.250. As used in ORS 760.210 to 760.250, the term:

(1) "Schedule of passenger transportation service" means a complete time schedule of all the passenger transportation service rendered by a railroad between the places and points in this state upon its line or upon any line controlled or operated by it and includes:

(a) The places and points upon the railroad's line or any line controlled or operated by it in this state between which passenger transportation service is or can be rendered.

(b) The scheduled train arrival and departure times.

(2) "Reduction of passenger transportation service" means:

(a) Any discontinuance or reduction in the frequency of passenger trains per day

in either direction over a particular railroad route

(b) Any discontinuance of a type of car offered for passenger transportation service over a particular railroad route.

(c) Any discontinuance or reduction in the number of stops by passenger trains over a particular railroad route.

(3) "Experimental type of car" means a new and unconventional type of passenger car intentionally offered experimentally for passenger service, either as a part of an existing scheduled passenger train or on an unscheduled basis. [1957 c.415 §1]

760.210 Publishing, filing and posting schedule of passenger transportation service. (1) Every railroad shall publish in print of plain type and file with the commissioner, within 30 days from June 4, 1957, a schedule of the passenger transportation service which it has established between the places and points in this state upon its line or upon any line controlled or operated by it and which were in force on June 4, 1957.

(2) In addition to ORS 760.405, the railroad shall post, within a time fixed by the commissioner, a copy of its schedule of passenger transportation service published under subsection (1) of this section in every depot, station and office of the railroad along the affected route where an agent is maintained. The schedule of passenger transportation service shall be in such form and place as to be accessible to the public for convenient inspection. [1957 c.415 §2]

760.215 Notice of proposed reduction of passenger transportation service. A railroad shall give 20 days' notice, unless exempted by the commissioner under ORS 760.225, to the commissioner and to the public, of any proposed reduction of passenger transportation service to any point or place in this state before such proposed reduction shall become effective. Such notice shall explicitly indicate each proposed reduction in passenger transportation service and shall set forth the reasons for such reductions. [1957 c.415 §3]

760.220 Publication of proposed amendment to schedule of passenger transportation service. The railroad, unless the commissioner provides otherwise, shall give notice to the public concerning its proposed reduction of passenger transportation service under ORS 760.215 by publishing the proposed amendments to its schedule of passenger transportation service which publication shall explicitly indicate the proposed reductions and shall be filed and posted as provided under ORS 760.210 not less than 10 days prior to the effective date of such amendments. [1957 c.415 §4]

760.225 Commissioner may allow less notice than otherwise required. The commissioner, upon good cause shown, may, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions, allow reductions of passenger transportation service upon less than the notice specified in ORS 760.215 and 760.220. [1957 c.415 §7(2)]

760.230 Rejection by commissioner of proposed amendment. The commissioner may reject any amendment to a schedule filed with him which is not in accordance with ORS 760.205 to 760.255 or the rules and regulations of the commissioner or which does not give lawful notice, either to the commissioner or to the public, as set forth in ORS 760.215 and 760.220. Any amendment to such schedule so rejected is void and shall not be considered filed or posted for the purposes of ORS 760.210 to 760.250. [1957 c.415 §5]

760.235 Hearings to determine propriety and adequacy of service. (1) Whenever any railroad files with the commissioner any schedule of passenger transportation service the effect of which is to reduce an existing passenger transportation service, the commissioner may, either upon written complaint or upon his own initiative after reasonable notice to the railroad, conduct a hearing to determine the propriety and adequacy of such service.

(2) At the hearing the burden of showing that the proposed passenger transportation service is just, reasonable and adequate is upon the railroad proposing the reduction.

(3) At any time within 10 days after receiving the notice required under ORS 760.215 the commissioner may, pending such hearing and determination, order the suspension of the reduction of passenger transportation service. The period of suspension shall not extend more than 60 days beyond the time when such change would otherwise go into effect.

(4) After full hearing, whether completed before or after the reduction of passenger transportation service has gone into effect, the commissioner may make such order as

would be proper in a proceeding initiated after such reduction of service was effective. [1957 c.415 §8]

760.240 Experimental types of cars. A railroad may install and discontinue experimental types of cars without compliance with ORS 760.210 to 760.220 after five days' written notice to the commissioner of its intent to install the same; provided, however, that any experimental type of car not discontinued within six months from date of its installation shall be deemed to be permanent and shall thereafter be subject to ORS 760.205 to 760.255. [1957 c.415 §6]

760.245 Rules and regulations of commissioner. The commissioner may make suitable rules and regulations governing the compilation and contents of schedules of passenger transportation service, including amendments to such schedules, and the manner of their publishing, filing and posting. [1957 c.415 §7(1)]

760.250 Temporary changes necessitated by causes beyond control of railroad. ORS 760.210 to 760.245 shall not apply in cases of temporary changes in operating schedules or service necessitated by floods, storms or other acts of God or other causes beyond the control of the railroad. [1957 c.415 §9]

760.255 Provisions supplemental to other laws. The provisions of ORS 692.210 to 692.250 are additional and cumulative to the provisions of any other law for the regulation of railroads, and shall be interpreted as providing additional powers and not in conflict with or exclusive of the provisions of existing laws on the same subject. [1957 c.415 §10]

760.260 to 760.300 [Reserved for expansion]

REPORTS, ACCOUNTS AND RECORDS; FREIGHT FACILITIES AND SERVICE

760.305 Annual report to commissioner. (1) Every railroad shall annually, on or before April 1 unless additional time is granted, file with the commissioner a report verified by such railroad, or by its president, vice president, treasurer, comptroller, auditor, receiver, managing partner, agent or owner, in such form as the commissioner may prescribe, covering the year ending December 31, next preceding, and showing in detail:

(a) The amount of capital stock issued, and the amount and manner of payment therefor;

(b) The dividends paid;

(c) The surplus fund, if any;

(d) The number of stockholders;

(e) The funded and floating debts, and the interest paid or due thereon;

(f) The cost and value of all the railroad's property, franchises and equipments;

(g) The number of employes and officers, and the salary and wages paid each class;

(h) The amounts expended for improvements, how expended, and the character of such improvements;

(i) The earnings and receipts from each branch of business and from all other sources;

(j) The operating and other expenses;

(k) The balance of profit or loss;

(L) A complete exhibit of the financial operations of the year, with an annual balance sheet;

(m) The amount of land received as grants from the state and from the United States, the amount of such land sold and the average price received per acre and the amount of unsold land and its average appraised value per acre;

(n) Information in regard to rates and regulations concerning fares and freights;

(o) Agreements, arrangements or contracts with express, telegraph, sleeping and dining-car companies, fast freight lines and other railroads and common carriers; and

(p) Such other matters as the commissioner may require.

(2) Any railroad failing to make such report shall forfeit to the state, for each day's default, $100, to be recovered in a civil action in the name of the State of Oregon.

760.310 Furnishing and filling out of report blanks. (1) The commissioner shall cause to be prepared suitable blanks for the purposes designated in this chapter, which shall conform as nearly as practicable to the forms prescribed by the Interstate Commerce Commission, and shall, when necessary, furnish such blank to each railroad. The commissioner may relieve any railroad from furnishing, excepting on written request of the commissioner, information with respect

to any item contemplated or required by such blanks.

(2) Any railroad receiving from the commissioner any such blanks, shall cause them to be properly filled out so as to answer fully and correctly each question therein propounded. If it is unable to answer any question it shall give a good and sufficient reason for such failure. The answer shall be verified under oath by the proper officer of the railroad and returned to the commissioner at his office within the time fixed by the commissioner.

760.315 Refusal or failure to furnish information or produce records. No officer, agent or employe of any railroad shall:

(1) Fail or wilfully refuse to fill out and return any blanks as required by ORS 760.310.

(2) Fail or refuse to answer any questions therein propounded.

(3) Knowingly or wilfully give a false answer to any such question, or evade the answer to any such question, where the fact inquired of is within his knowledge.

(4) Upon proper demand, fail or wilfully refuse to exhibit to the commissioner, or any person authorized to examine the same, any book, paper or account of such railroad, which is in his possession or under his control.

760.320 Commissioner may require production of records of railroad. (1) The commissioner may require, by order or subpena to be served on any railroad in the same manner that a summons is served in a civil action in the circuit court, the production within this state, at such time and place as he may designate, of any books, papers or accounts kept by the railroad in any office or place without the State of Oregon, or verified copies in lieu thereof, in order that an examination thereof may be made by the commissioner or under his direction.

(2) Any railroad failing or refusing to comply with any such order or subpena shall for each day it so fails or refuses, forfeit and pay into the State Treasury a sum of not less than $100 nor more than $1,000.

760.325 Prescribing of uniform system of accounting. The commissioner may prescribe a uniform system of rendering accounts of business transacted in Oregon by all railroads. He may also prescribe the manner in which such accounts may be kept, and the time within which such railroads shall adopt such system. All forms of accounts prescribed by the commissioner shall conform as nearly as practicable to similar forms prescribed by federal authority.

760.330 Delivery of copies of contracts to commissioner. Every railroad, whenever required by the commissioner, shall, within a time to be fixed by the commissioner, deliver to him for his use copies of all contracts which relate to the transportation of persons or property, or any service in connection therewith, made or entered into by it with any other railroad, car company, equipment company, express or other transportation company, or any shipper or other person doing business with it.

760.335 Record of tickets and passes issued for other than money consideration. Every railroad shall for a period of two years after the issuance thereof preserve and keep open to the inspection of the commissioner a true record of all railroad tickets, passes and mileage books issued free or for other than actual bona fide money consideration at full established rates together with the names of the recipients thereof, the amounts received therefor, mileage thereof and the reasons for issuing them. Such railroad, whenever required by the commissioner, shall furnish to him all or any designated part of such record duly verified by an authorized officer or other representative of the railroad.

760.340 Rules of commissioner regarding furnishing, loading and unloading of cars. (1) In furnishing cars no discrimination shall be made in favor of any person or place or any commodity except livestock and perishable property.

(2) The commissioner may adopt, prescribe, alter, amend and enforce reasonable rules, orders and regulations:

(a) For the furnishing of suitable cars to all persons applying therefor within this state for the transportation of all kinds of intrastate freight in carload lots of which the railroad to which the application is made is a common carrier;

(b) For the time within which and the place at which the cars shall be furnished;

(c) For the manner of the application therefor;

(d) For the time and place for the loading, transportation and unloading thereof,

and for demurrage and reciprocal demurrage, and the amount thereof; and

(e) Designed to require reasonable promptness in the furnishing of such cars, the loading thereof by applicants therefor, the unloading by the consignee and the transportation thereof.

(3) Such rules and regulations shall be promulgated and issued by the commissioner on his own motion and shall be served upon the railroad affected thereby as other orders of the commissioner are served and shall take effect at a time prescribed by the commissioner.

(4) Any railroad affected thereby that believes any such rule or regulation is improper, unjust, unreasonable or contrary to law may, within 20 days from the date of the service of such order upon it, file objections thereto with the commissioner, specifying the particular grounds of such objections. The commissioner shall upon receipt of such objections fix a time and place for the hearing of the same, and after a full hearing may make such changes or modifications thereto, if any, as the evidence may justify. All the terms of such order, and the rules and regulations fixed by the commissioner, shall be in force and are prima facie reasonable until finally found otherwise in an action brought for that purpose under ORS 760.580 to 760.595.

760.345 Liabilities for failure to properly furnish, load or unload cars. (1) Any railroad neglecting or refusing suitable cars when applied for in conformity with the orders, rules and regulations prescribed by the commissioner, and within the time therein stated, is immediately indebted and liable to pay to such applicant a sum per day equal to the demurrage per diem charge which the commissioner may, by his order, have determined, or which may have been established as provided in this section, for each car during the time the railroad fails, neglects or refuses to furnish the same in accordance with the rules, orders and regulations of the commissioner, and in addition thereto all damages actually sustained by reason of the cars not being so furnished.

(2) Any person making application for cars who fails, refuses or neglects to load any such car within the time prescribed by the rules and regulations of the commissioner, is liable and immediately indebted to the railroad furnishing the cars in such sum as the commissioner may by his order have determined, for each car so furnished for each day during which the applicant therefor fails, refuses or neglects to load the same. If any such car is not loaded at all, the applicant therefor shall notify the railroad furnishing it of his intention of not loading such car and he shall be liable for the penalty fixed by the commissioner as set out in subsection (1) of this section, to the railroad furnishing the car, for a period of one day after such notification.

(3) (a) All persons to whom cars are consigned shall unload them within such time after delivery thereof to the consignee at the usual or appropriate point for unloading as the commissioner may prescribe after hearing as provided for in this chapter, or, if the commissioner fails to prescribe rules and regulations, within the time prescribed in the tariffs or rules of the railroad company on file with the commissioner.

(b) Upon failure to so unload such cars within the time specified in this subsection, the consignee thereof is liable and immediately indebted to the railroad delivering the cars in such sum as the commissioner may by his order have determined, or, if the commissioner fails to fix an amount, then as stated in the tariffs or rules of the railroad company, for each car so left unloaded.

(c) The time for unloading such car shall be computed in the manner prescribed by the rules and regulations of the commissioner, or, if he fails to prescribe such rules and regulations, then as prescribed in the tariffs or rules and regulations of the railroad on file with the commissioner.

(4) All claims which any person may have against any railroad for failure to furnish cars, or for damages sustained by reason thereof, are assignable in the same manner and to the same extent as any assignable claim or chose in action, and action for the collection thereof may be brought against any railroad by any person having such claim or by his assignee.

760.350 Facilities for interchange of intrastate traffic between connecting lines required; commissioner's control over private tracks. (1) All railroads shall afford reasonable, proper and equal facilities for the interchange of intrastate traffic between their respective lines for forwarding and delivering passengers and property, and shall transfer, switch for a reasonable compensation, and deliver without discrimination or unreasonable delay any intrastate freight or cars,

loaded or empty, destined to any point on its track or any connecting lines; provided, that precedence over other freight shall be given to livestock and perishable freight.

(2) The commissioner has control over private tracks in so far as they are used by common carriers in connection with any railroad for the transportation of freight, in all respects the same as though such tracks were a part of the track of said railroad.

(3) This section does not require any railroad company to interchange with another company, traffic originating at competitive points, when the former company furnishes adequate transportation service for such traffic.

760.355 to 760.400 [Reserved for expansion]

LOCAL AGENTS AND TICKETS

760.405 Duty to post passenger train schedules and notice of delayed trains. (1) Every local agent in charge of any passenger railroad depot within this state shall publicly announce the schedule time of arrival and departure of all passenger trains at such depot by keeping such schedule time posted upon a bulletin board within such depot in a conspicuous place where it may be read by persons desiring such information.

(2) Every local agent of any railway company whose duty it is to make such announcement shall, upon receiving information that any passenger train is behind time, and that it will not arrive or depart upon the regular schedule time, shall in like manner post the approximate time of arrival and departure of such delayed passenger train immediately upon receipt of such information, and shall in no instance announce the approximate time of the arrival of such train to be sooner than 30 minutes ahead of the actual time when it is expected to arrive according to the actual information received by the agent.

760.410 Redemption of unused railroad tickets. (1) If the whole or any part of any unused railroad ticket or other evidence of a right to travel upon any railroad doing business in this state is presented for redemption by the lawful holder to any of such railroad's ticket agents in this state within 60 days after the right to use it has expired according to its terms, the owner or person operating such railroad shall redeem the same, if it was sold within or without this state by such owner or person or his agents. The redemption shall be upon the following terms:

(a) If no part of such ticket has been used, it shall be redeemed at the full amount paid therefor.

(b) If the ticket has been used in part only, the unused portion shall be redeemed at the remainder after deducting from the price paid for the whole ticket, the regular tariff rate between the points between which the portion of the ticket was used.

(2) In an action instituted by the lawful holder of such railroad ticket or other evidence of a right to travel, such owner or person is liable to the holder in a sum equal to treble the value thereof.

760.415 Ticket agents required to have certificates of authority. Every owner or person operating any railroad shall provide every agent who is authorized to sell tickets or other evidence of a right to travel upon any railroad, with a certificate setting forth the authority of the agent to make such sale. Such certificate shall be duly attested by the corporate seal of the owner of the railroad or of the corporation operating it, and by the signature of the manager, secretary or general passenger agent of the railroad.

760.420 Ticket agents to have fixed place of business; posting certificate. Every agent or person engaged in selling, issuing or dealing in railroad passenger transportation in this state, must have a fixed place of business in the town or city wherein he transacts such business, and shall keep the certificate mentioned in ORS 760.415 posted in a conspicuous place in such place of business.

760.425 Unauthorized person selling or maintaining office for the sale of tickets. No person who is not possessed of and who has not posted his certificate of authority as prescribed by ORS 760.415 and 760.420 shall:

(1) Sell, exchange or transfer, or offer for sale, exchange or transfer, the whole or any part of any railroad ticket, pass or other evidence of a right to travel upon any railroad, whether the railroad is situated, operated or owned within or without this state; or

(2) Set up, establish, maintain, conduct or operate within this state any office or

other place of business for such transactions.

760.430 What constitutes evidence of maintenance of ticket selling business; jurisdiction of courts. (1) In all prosecutions under subsection (2) of ORS 760.425, proof of the maintenance of any office or other place of business within this state, upon or within or in connection with which is attached or displayed any sign bearing the words "railroad ticket office," "cut rate office," "railroad tickets" or "ticket broker" or any combination of such words, or any other words intended or calculated to advertise to the public that the whole or any part of any railroad tickets, passes or other evidences of a right to travel upon any railroad, are sold, exchanged or transferred therein, without having posted within such office or place of business a certificate of authority required by ORS 760.415, is sufficient evidence to establish a prima facie case against the owner, proprietor, employe or person in charge of such office or place of business.

(2) Justices of the peace have concurrent jurisdiction with the circuit court in all offenses arising under ORS 760.410 to 760.430.

760.435 to 760.500 [Reserved for expansion]

HEARINGS AND INVESTIGATIONS

760.505 Procedure when commissioner believes interstate rates are excessive or discriminatory. The commissioner shall investigate all interstate rates, fares, charges, classifications or rules or practices in relation thereto, for or in relation to the transportation of persons or property or the transmission of messages or conversations, where any act in relation thereto takes place within this state. When the commissioner believes that they are excessive or discriminatory or are levied or laid in violation of the interstate commerce law, or in conflict with the rulings, orders or regulations of the Interstate Commerce Commission, he shall present the facts to the railroad or other affected or interested utility, with a request to make such changes as he may advise. If such changes are not made within a reasonable time the commissioner shall apply by petition to the Interstate Commerce Commission for relief, and may present to such commission all facts coming within his knowledge as to violations of its rulings, orders or regulations, or as to violations of the interstate commerce law or Acts amendatory or supplementary thereto. All tariffs issued by any railroad relating to interstate traffic in this state shall be filed in the office of the commissioner when issued.

760.510 Investigations and hearings upon complaint; notice required. (1) Upon complaint of any person, firm, corporation or association, including any railroad, or mercantile, agricultural or manufacturing society, or body politic or municipal organization, that any of the rates, fares, charges or classifications, or joint rates are in any respect unreasonable or unjustly discriminatory, or that any regulation or practice affecting the transportation of persons or property, or any service in connection therewith, are in any respect unreasonable or unjustly discriminatory or that any service is inadequate, the commissioner may notify the railroad complained of that complaint has been made, and 10 days after such notice has been given the commissioner may proceed to investigate the same.

(2) Before proceeding to make such investigation the commissioner shall give the railroad and the complainant 10 days' notice of the time when and place where such matters will be considered and determined, and such parties shall be entitled to be heard and shall have process to enforce the attendance of witnesses.

(3) The commissioner may, when complaint is made of more than one rate or charge, order separate hearings thereon, and may consider and determine the several matters complained of separately, and at such times as he may prescribe.

(4) No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

760.515 Investigation and hearing on motion of commissioner. Whenever the commissioner believes that any rate or charge is unreasonable or unjustly discriminatory, or that any service is inadequate, he may on his own motion investigate the same. If after making such investigation, he is satisfied that sufficient grounds exist to warrant a hearing being ordered to determine whether the rate so investigated is unreasonable or unjustly discriminatory, or whether the service investigated is inadequate, he shall furnish the railroads interested a statement setting forth the rate or service investigated. The statement shall be accompanied by a

notice fixing a time and place for hearing on such rate or service. Notice may likewise be given to other parties in interest, and shall be given at least 10 days in advance of any hearing. Thereafter proceedings shall be conducted and orders issued in reference to the matter investigated in like manner as though complaint was filed with the commissioner relative to the matter investigated, pursuant to ORS 760.510.

760.520 Issuance of orders by commissioner; when effective. (1) Whenever, upon an investigation made under this chapter, the commissioner finds any existing rate, fare, charge, classification or joint rate, or any regulation or practice affecting the transportation of persons or property, or any service in connection therewith, unreasonable or unjustly discriminatory, or any service inadequate, he shall determine and by order fix a reasonable rate, fare, charge, classification or joint rate, regulation, practice, or an adequate service to be imposed, observed and followed in the future in lieu of that found to be unreasonable, unjustly discriminatory or inadequate. He shall cause a certified copy of each such order to be delivered to an officer or station agent of the railroad affected thereby, which order shall of its own force take effect and become operative 20 days after the service thereof.

(2) All railroads to which the order applies shall make such changes in their schedules on file as may be necessary to make them conform to the order. No change shall thereafter be made by any railroad in any such rate, fare, charge or joint rate, regulation, practice, or service without the approval of the commissioner.

(3) Certified copies of all other orders of the commissioner shall be delivered to the railroads affected thereby in like manner, and shall take effect within such time thereafter as the commissioner prescribes.

(4) The commissioner may at any time, upon notice to the railroad, and after opportunity to be heard as provided in ORS 760.510, rescind, alter or amend any order made by him, and certified copies of the same shall be served and take effect as provided in this section for original orders. [Amended by 1957 c.416 §1]

760.525 Special orders for joint rates. (1) Whenever the rate ordered substituted by the commissioner under ORS 760.520 is a joint rate or charge or a joint rate is established under subsection (2) of this section, and the railroads party thereto fail to agree upon the apportionment thereof within 20 days after the service of such order, the commissioner may, after a like hearing, issue a supplementary order declaring the apportionment of such joint rate or charge, and the same shall take effect of its own force as part of the original order.

(2) Whenever the railroads refuse or neglect to establish a through route or joint rates for the transportation of persons or property, the commissioner may, upon notice to the railroads and after opportunity to be heard as provided in ORS 760.510, fix and establish such through route or joint rates.

760.530 Service, modification and observation of orders; availability and evidentiary effect of certified copies. (1) Every order of the commissioner shall be forthwith served upon the statutory agent of the carrier in the State of Oregon or in such other manner as may be provided by law.

(2) The commissioner may suspend or modify his order upon such notice and in such manner as he deems proper.

(3) Every common carrier, its agent and employes, shall observe and comply with such orders so long as they remain in effect.

(4) Upon application of any person, the commissioner shall furnish certified copies, under his seal, of any order made by him, which shall be prima facie evidence of the facts stated therein.

760.535 Award of damages to persons paying unreasonable rates. If, after hearing on a complaint made as provided in ORS 760.510, with respect to intrastate commerce, the commissioner determines that any party complainant has suffered a pecuniary loss or damage by reason of the imposition or collection by any common carrier, railroad or transportation company, of rates, fares or charges in violation of ORS 760.015 or 760.135, he shall make an order directing the carrier to pay to the complainant on or before the day named the sum found to have been imposed upon or collected from him in violation of said statutes.

760.540 Enforcement of award by court action. (1) If a common carrier, railroad or transportation company does not comply with an order issued under ORS 760.535 within the limit in such order, the com-

plainants, or any person for whose benefit such order was made, may file in any state court of general jurisdiction, within one year from the date of the order, a petition setting forth briefly the causes for which he claims damages and the order of the commissioner in the premises.

(2) Such action in the courts of the state shall proceed in all respects like other civil actions for damages, except that:

(a) On the trial of such action the findings and order of the commissioner are prima facie evidence of the facts therein stated; and

(b) The petitioner is not liable for costs in the circuit court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal.

(3) If the petitioner finally prevails he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the action.

760.545 Limitations on actions by and against carriers. (1) Except as provided in subsection (3) of this section:

(a) All actions at law by any common carrier, railroad or transportation company subject to ORS 760.530 to 760.540, for recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues.

(b) All complaints for the recovery of damages shall be filed with the commissioner within two years from the time the cause of action accrues, unless the carrier, after the expiration of such two years or within 90 days before such expiration, begins an action for recovery of charges in respect of the same service, in which case such period of two years shall be extended to 90 days from the time such action by the carrier is begun.

(2) For the purposes of subsection (1) of this section, the cause of action in respect of a shipment of property accrues upon delivery or tender of delivery thereof by the carrier.

(3) All actions by railroads for the recovery of their charges, and all actions against railroads for the recovery of overcharges, shall be begun within two years from the time the cause of action accrues.

760.550 Joinder of parties in action on award. In suits brought under ORS 760.540, all parties in whose favor the commissioner has made an award for damages by a single order may be joined as plaintiffs, and all the carriers parties to such order may be joined as defendants. Service of process against any one of such defendants found in the state may be made by the sheriff. In case of such joint action, the recovery, if any, may be by judgment in favor of any one of the plaintiffs against the defendant found to be liable to such plaintiff.

760.555 Power of commissioner at hearings; duty to obey subpenas or orders of the commissioner. (1) The commissioner, for the purpose mentioned in the statutes listed in ORS 760.005, has power to administer oaths, certify to official acts, issue subpenas, compel the attendance of witnesses and the production of papers, tariffs, waybills, contracts, books, accounts, documents and testimony.

(2) If any person fails to comply with the order of the commissioner or any subpena, or any witness refuses to testify to any matter regarding which he may be lawfully interrogated, the circuit court of any county, or the judge thereof, on application of the commissioner, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpena issued from such court, or a refusal to testify therein.

(3) No person shall neglect or refuse to attend and testify, to answer any lawful inquiry, or to produce books, papers, tariffs, waybills, contracts, books, accounts and documents, if it is within his power to do so, in obedience to the subpena or lawful requirement of the commissioner.

760.560 Rights of witnesses at hearings; depositions. (1) Each witness who appears before the commissioner by the commissioner's order shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the commissioner. However, no witness subpenaed at the instance of parties other than the commissioner is entitled to compensation from the state for attendance or travel unless the commissioner certifies that his testimony was material to the matter investigated, and no witness is entitled to any witness fees or mileage who is an officer, agent or employe of any railroad, when summoned at the in-

stance of such railroad. No witness furnished with free transportation shall receive pay for the distance he may have traveled upon such free transportation.

(2) The commissioner or any party may in any investigation cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil action in circuit courts.

760.565 Keeping, filing and evidentiary effect of record of hearing. (1) A full and complete record shall be kept of all proceedings had before the commissioner on any investigation had under ORS 760.510 and 760.515, and all testimony shall be taken down by a stenographer appointed by the commissioner.

(2) Whenever any complaint is served upon the commissioner under ORS 760.580, he shall, before the trial of such suit, cause a certified transcript of all proceedings had and testimony taken upon such investigation to be filed with the county clerk of the county where the action is pending.

(3) A transcribed copy of the evidence and proceedings, or any specific part thereof, on any investigation, taken by a stenographer appointed by the commissioner, being certified by such stenographer to be a true and correct transcript of all the testimony on the investigation, or of a specific part thereof, carefully compared by such stenographer with the stenographer's original notes, and to be a correct statement of the evidence and proceedings had on such investigation so purporting to be taken and transcribed, shall be received in evidence with the same effect as if the evidence had been given and the proceedings had upon the trial in which the transcript or any part thereof is offered.

(4) A copy of such transcript shall be furnished on demand, at cost, to any party to such investigation. [Amended by 1957 c.473 §1]

760.570 Orders binding on transferees of railroad. (1) All orders made by the commissioner upon notice to any railroad and after hearing, shall remain in force and shall bind the successors in interest, grantees and lessees of such railroad or its railroad property, until set aside as provided by law.

(2) Whenever any complaint has been filed with the commissioner against any railroad, or an investigation has been commenced by the commissioner upon his own motion against any railroad, and the railroad has received notice thereof as provided in ORS 760.510 and 760.515, and the matter is pending undetermined when the property or franchises of the railroad are sold, leased or otherwise assigned, the complaint may be heard, the investigation continued and concluded and an order may be made in the premises notwithstanding any change in possession, or any such assignment, sale or lease by the railroad complained of or investigated. Any order made shall bind the successor and shall be observed by him.

760.575 Prima facie effect of commissioner's rates, classifications, regulations, practices and orders. All rates, fares, charges, classifications, joint rates, regulations, practices and service fixed or prescribed by the commissioner shall be in force and shall be prima facie reasonable, until found otherwise in an action brought for that purpose under ORS 760.580 to to 760.595.

760.580 Suits to set aside order and findings of commissioner. (1) Any railroad or other person interested in or affected by any order of the commissioner fixing any rate, fare, charge, classification, joint rate, regulation, practice or service, being dissatisfied therewith, may commence a suit in the Circuit Court of Marion County against the commissioner as defendant to vacate and set aside any such order on the ground that the rate, fare, charge, classification or joint rate, fixed in such order is unlawful, or that any regulation, practice or service prescribed or fixed in such order is unreasonable. In such suit a copy of the complaint shall be served with the summons as in civil actions.

(2) The commission shall serve and file its answer to the complaint within 10 days after the service thereof, whereupon the suit shall be at issue and stand ready for trial upon 10 days' notice by either party.

(3) All suits brought under this section have precedence over any civil cause of a different nature pending in the court, and the circuit court is always deemed open for the trial thereof. The suit shall be tried and determined as a suit in equity.

(4) In all trials under this section and ORS 760.585 to 760.595, the burden of proof is upon the plaintiff to show by clear and satisfactory evidence that the order of the

commission complained of is unlawful or unreasonable.

760.585 Suspending order during suit to set aside order. The provisions of ORS 757.570 apply to railroads and suits commenced under ORS 760.580.

760.590 Procedure when new evidence is introduced in a suit to set aside order. The provisions of ORS 756.600 apply to suits commenced under ORS 760.580.

760.595 Appeals to Supreme Court; stay of order pending appeal. The provisions of ORS 757.580 apply to suits commenced under ORS 760.580.

760.600 Rules of procedure. In all suits, actions and proceedings in court arising under ORS 760.005 to 760.025, 760.030 to 760.180, 760.305 to 760.605 and 760.990 all processes shall be served, and the practice and rules of evidence shall be the same as in civil actions except as otherwise provided in ORS 760.005 to 760.025, 760.030 to 760.180, 760.305 to 760.605 and 760.990. Every sheriff or other officer empowered to execute civil processes shall execute any process issued under ORS 760.005 to 760.025, 760.030 to 760.180, 760.305 to 760.605 and 760.990, and shall receive such compensation therefor as may be prescribed by law for similar services.

760.605 Self-incrimination of witnesses. The provisions of ORS 757.590 apply to proceedings based upon violations of the statutes listed in ORS 760.005.

760.610 to 760.985 [Reserved for expansion]

PENALTIES

760.990 Penalties. (1) Any railroad violating subsection (1) of ORS 760.170 is guilty of discrimination and shall, upon conviction, forfeit and pay to the State Treasurer not less than $100 nor more than $10,000 for each offense.

(2) Any agent or officer violating subsection (1) of ORS 760.170 shall be punished, upon conviction, by a fine of not less than $100 nor more than $1,000 for each offense.

(3) Violation of ORS 760.180 is punishable, upon conviction, by a fine of not less than $50 nor more than $1,000 for each offense.

(4) Violation of ORS 760.315 is punishable, upon conviction, by a fine of not less than $100 nor more than $1,000 for each offense. When such violation is by an officer, agent or employe acting in obedience to the direction, instruction or request of a railroad or any general officer thereof, the railroad shall pay a penalty of not less than $500 nor more than $1,000.

(5) Violation of ORS 760.405 is punishable, upon conviction, by a fine not exceeding $25.

(6) Violation of subsection (1) of ORS 760.410 is punishable, upon conviction, by a fine of not less than $100 nor more than $500.

(7) Violation of ORS 760.415 to 760.425 is punishable, upon conviction, by a fine of not less than $100 nor more than $500, or by imprisonment in the county jail for not less than 10 nor more than 60 days, or both.

(8) Violation of subsection (3) of ORS 760.555 is punishable, upon conviction, by a fine of not less than $100 nor more than $1,000, or by imprisonment in the county jail for not more than one year, or both.

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