

Chapter 769

1957 REPLACEMENT PART

Water Carriers

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769.010 Definitions. As used in this chapter:

(1) "Carrier by water" includes every corporation, company, copartnership or individual engaged in the transportation of freight by water between points within this state for compensation.

(2) "Commissioner" means the Public Utility Commissioner.

(3) "Common carrier by water" includes every carrier by water which holds itself out to the general public to transport one or more commodities or classes of freight by water.

(4) "Contract carrier by water" includes every water carrier which transports property by water under individual contracts with particular shippers and not included in the term common carrier by water.

769.020 Service, facilities and rates of common carriers by water. Common carriers by water shall:

(1) Provide and furnish reasonably adequate service, equipment and facilities for performing the transportation service in which it is engaged. The rates, charges and practices of such carriers shall be just and reasonable.

(2) Not give any undue or unreasonable preference or advantage to any particular shipper or locality, or subject any particular shipper or locality to any undue or unreasonable prejudice or disadvantage.

(3) File with the commissioner and keep open to public inspection at every point where it receives or discharges freight, tariffs showing all its rates, charges, classifications, rules, regulations and practices for the transportation of freight between points in this state. No change shall be made in such tariff except upon 30 days' notice to the commissioner unless the commissioner, upon application, shall prescribe a shorter period of notice. No such carrier shall charge, demand, collect or receive a greater or less or different compensation for such transportation, or any service in connection therewith, than that specified in such tariffs. No such carrier shall refund or remit in any manner or by any device any portion of such tariff rates or charges.

769.030 Rates of contract carriers by water. (1) Every contract carrier by water shall establish and observe just and reasonable rates and charges which do not cause any undue or unreasonable advantage or

preference to those whom it serves as compared with shippers who use the services of common carriers by water.

(2) Every contract carrier by water, immediately after making any contract for transportation by water, shall file with the commissioner a copy of the contract.

(3) The commissioner may investigate and determine whether the rates and charges specified in such contract are in conflict with the requirements of this section, and may suspend said rates and charges pending such determination.

(4) No contract carrier by water, without the prior approval of the commissioner, shall collect or receive any greater or less compensation for any transportation service than that specified in the applicable contract on file with the commissioner.

769.040 Annual reports by water carriers. (1) Every carrier by water shall file with the commissioner such annual, periodical or special reports as the commissioner may require.

(2) The commissioner shall prescribe the manner and form of such reports, which shall show the same detailed information as to water carriers as is currently required of motor carriers, railroads and other carriers under the jurisdiction of the commissioner.

769.050 Records of water carrier. (1) The commissioner may prescribe the forms of all accounts, records and memoranda to be kept by carriers by water, including records of the movement of traffic, receipts and expenditures.

(2) No such carrier shall keep any account, record or memoranda contrary to any rule, regulation or order of the commissioner.

769.060 Rules and regulations; classification of carriers. (1) The commissioner may prescribe any rules and regulations he considers necessary or appropriate to carry out the provisions of this chapter and every carrier by water shall observe those rules and regulations.

(2) The commissioner may establish such just and reasonable classifications of groups of carriers included in the terms "common carrier by water" and "contract carrier by water" as the special nature of the services performed by such carriers requires.

769.070 Enforcement of chapter. (1) Proceedings to enforce this chapter may be

instituted and conducted in conformity with ORS 756.505 to 756.610.

(2) The commissioner may exercise, with respect to carriers by water, all the powers vested in him by ORS 756.505 to 756.610 with respect to other carriers subject to his jurisdiction.

769.080 Fees payable by water carriers.

(1) To defray the cost of performing the duties imposed upon the commissioner by this chapter, each carrier by water shall pay to the commissioner on or before July 1 of each year such fee as the commissioner finds and determines to be necessary but not to exceed two-tenths of one percent of such carrier's gross operating revenues derived from intrastate business within this state in the preceding calendar year, except that in no case shall such fee be less than \$2.

(2) Any person who fails to pay the fees required by this section when due and payable shall, in addition to such fees, pay a penalty equal to two percent of the unpaid fees for each month or part of a month that such fees are delinquent. If, in the judgment of the commissioner, action is necessary to collect any unpaid fees or penalties, the commissioner shall bring such action or take such proceedings as may be necessary in the name of the State of Oregon in any court of competent jurisdiction. The commissioner is entitled to all costs and disbursements incurred in such action or proceeding.

(3) The fees and penalties and other moneys collected under this section shall be paid into the State Treasury and credited to the Public Utility Commissioner Account and shall be used only for the purpose of paying

the expenses of the commissioner in performing the duties imposed upon him by this chapter. [Amended by 1957 c.459 §12]

769.090 Application and construction of chapter. This chapter shall not be construed:

(1) To apply to transportation by water solely within the limits of a single harbor or between places in contiguous harbors.

(2) To apply to the transportation of United States mail by any carrier by water under a contract with the Post Office Department of the United States, or to the transportation of persons or property, in addition to such mail, by any such carrier over its regular mail route when not in competition with a common carrier by water.

(3) To give the commissioner any authority to establish minimum rates for transportation of freight by water.

769.100 to 769.980 [Reserved for expansion]

769.990 Penalties. (1) Any carrier by water which violates any of the provisions of this chapter, or fails to obey any lawful order, regulation or requirement of the commissioner made pursuant to this chapter, shall forfeit and pay to the state not more than \$10,000 for each such offense.

(2) Any officer, agent or employe of any carrier by water who wilfully fails to make any report required by this chapter, or knowingly makes any false statement in any such report, or knowingly makes any false entry in any account mentioned in this chapter, is punishable, upon conviction, by a fine of not more than \$10,000 for each offense.

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