Chapter 384

(1962 reprint)

Ferries

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GENERAL PROVISIONS

384.005 "County court" defined. As used in this chapter, unless the context requires otherwise, "county court" includes board of county commissioners.

384.010 to 384.100 [Reserved for expansion]

FERRIES UNDER HIGHWAY COMMISSION

384.105 Highway commission to acquire and operate or license ferries. Whenever the State Highway Commission finds and determines that the operation of a ferry across any stream, river, bay, arm of the ocean or other body of water is necessary and convenient in connection with the use of any state highway, the commission may acquire, construct, establish, maintain and operate the ferry. The commission may operate the ferry under a contract, or with its own employes or under a license or permit granted by the commission, the license or permit to contain such conditions, requirements, terms and provisions as to the commission seem best. The maintenance or operation of any such ferry is subject, however, to the federal laws and requirements governing navigation.

384.110 Ferry approaches and other appurtenances. The State Highway Commission may itself, or under a cooperative agreement with any county, construct the necessary approaches, ramps, docks, wharves, ferry slips or other such appurtenances as are necessary for the maintenance and operation of a ferry mentioned in ORS 384.105, or the commission may require the construction of such approaches, ramps, docks, wharves, ferry slips and other necessary approaches by the licensee in the event that the ferry is operated under a license or permit.

384.115 Cooperation between highway commission and counties as to ferries. In the acquisition, establishment, construction or operation of a ferry mentioned in ORS 384.105, the State Highway Commission and the county court of any county within which is located any stream, river, bay, arm of the ocean or other body of water over which it is contemplated and found necessary to operate ferries, may enter into a cooperative agreement for the acquisition, construction, operation or maintenance of the ferry upon such terms and conditions as the county court and the commission agree. When the ferry is operated under a cooperative agreement between the county court and the commission, the cost and expense incident to the acquisition, construction, operation or maintenance of the ferry shall be apportioned between the county and the state in such manner and amount as is agreed upon.

384.120 Discretion as to ferry operation with county and charging tolls. It is discretionary with the State Highway Commission whether a ferry mentioned in ORS 384.105 be operated by the state. If operated by the state and the county under a cooperative agreement, it is discretionary with the State Highway Commission and the county court whether the ferry be operated as a free public ferry or as a charge or toll ferry.

384.125 Funds from which ferry expense paid. When a ferry mentioned in ORS 384.105 is acquired, constructed, operated and maintained by the State Highway Commission alone, the entire cost and expense may be paid out of the State Highway Fund. If the ferry has been acquired, constructed and is being operated and maintained under a cooperative agreement between the state and a county, the proportion of the cost and expense to be borne by the state, as agreed upon, shall be paid out of the State Highway Fund and the proportion to be paid by the county shall be paid out of county road funds.

384.130 Fixing ferriage rates. (1) The State Highway Commission may fix, alter and establish from time to time the rate of ferriage to be levied and collected, and may, in its judgment, whenever circumstances warrant and require, alter or change any such rate.

(2) Whenever the State Highway Commission grants a license to keep and operate a ferry across any stream, river, bay, arm of the ocean or other body of water, the commission shall establish the rates of ferriage which may be lawfully demanded for the transportation of persons and property across the body of water, having due regard to the width, situation and location of the body of water and the damages and difficulties incident to the operation of the ferry.

384.135 Posting ferriage rates. Every person licensed to keep and operate a ferry as provided in ORS 384.105 shall post in

some conspicuous place near the ferry landing a written or printed list of the rates of ferriage which are chargeable under the orders of the State Highway Commission. The list of rates shall at all times be written or printed in a plain, legible manner and posted so near the place where persons pass across the ferry that it may be readily read.

384.140 Bond of ferry licensee. Persons licensed by the State Highway Commission to maintain and operate a ferry under ORS 384.105 to 384.150 shall be required to furnish a bond in such amount as the commission requires. The bond shall be conditioned upon the faithful compliance with and performance of all the conditions, requirements and provisions contained in the license, and shall be in such form as the commission may prescribe. The bond shall be made payable to the state.

384.145 Revocation of ferry licenses. (1) If any keeper or operator of a ferry at any time demands and receives more than the amount designated for ferrying or fails to keep or perform the conditions of his license or contract, the State Highway Commission may revoke his license or permit and may require him to discontinue further operation of the ferry.

(2) If at any time the keeper of a ferry mentioned in ORS 384.105 neglects or refuses to post and keep up the list of the rates of ferriage mentioned in ORS 384.135, the State Highway Commission may cancel and revoke the license.

384.150 Ferry as part of state highway system. Any ferry operated and maintained as provided in ORS 384.105 to 384.145 is part of the state highway system.

384.155 to 384.200 [Reserved for expansion]

FERRIES UNDER COUNTIES; CONTRACT AND LICENSED FERRIES

384.205 Ferry operation in county by county court or contract. (1) Whenever it is determined by any county court that it is necessary and convenient to keep and maintain a ferry upon and across any navigable or nonnavigable stream or waters, including any navigable or nonnavigable arm of the sea, upon any public road or street within the county, the county court may, irrespective of whether or not the ferry is upon a county road, keep, maintain, purchase, build and operate public ferries, landings, approaches and slips upon any such stream or waters within the county, at such places thereon as the county court deems most convenient for the use of the traveling public.

(2) The county court may enter into contracts with any person for keeping, maintaining, building or operating the ferry or for furnishing public ferry service on such stream or waters.

(3) The county court may spend the general road funds of the county for the purpose of securing the public ferry service as provided in this section, in the same manner as provided by law for the laying out, establishing and construction of county roads in the county.

384.210 Contract for ferry across stream on county road. Whenever it is made to appear by petition to any county court that it is necessary to keep and maintain a ferry across any stream on any county road within its jurisdiction and that the travel on the road is not sufficient to maintain the ferry as provided in ORS 384.215 to 384.280, then the county court may enter into a contract with any person to keep and maintain a ferry on the stream. This contract shall be let to the lowest responsible bidder.

384.215 License of ferries in counties. The county court of any county may grant a license to any person applying therefor to keep a ferry across any lake or stream within the county, upon being satisfied that a ferry is necessary at the point applied for. This license shall continue in force for a term to be fixed by the county court, not exceeding 15 years. However, nothing in ORS 384.215 to 384.280 empowers the county court of any county to grant a license for a ferry across any bay or arm of the sea.

384.220 Ferry license tax. The county court shall tax such sum as appears reasonable, not less than $1 nor more than $100 per year for the license mentioned in ORS 384.215. The person to whom such license is granted shall pay to the county treasurer the tax for one year in advance, taking his receipt therefor. Upon the production of such receipt the county clerk shall issue the license under the seal of the county court.

384.225 Persons to whom ferry license granted; notice to landing place owner by other applicant. (1) Unless otherwise provided by law, no license mentioned in ORS 384.215 shall be granted to any person other

than the owner of the land embracing or adjoining the lake or stream where the ferry is proposed to be kept, unless the landing place of the proposed ferry is at the end of a street in an incorporated city or unless the owner neglects to apply for the license.

(2) Whenever application is made for a license by any person other than such owner, the county court shall not grant it unless proof is made that the applicant caused notice in writing of his intention to make application to be given to such owner, if residing in the county, at least 10 days before the term of court at which application is made, unless the landing place of the proposed ferry is at the end of a street in an incorporated city.

(3) Nothing in this section or ORS 384.230 impairs the control with which any incorporated city is invested by its charter over its streets and public landings.

384.230 Ferry landings in cities. No ferry shall be licensed, established or maintained with a landing place in any incorporated city which by its charter is invested with the power to build, construct and regulate landings at the foot of streets terminating at a river, nearer than five blocks, streets or squares to the landing place of any other ferry already established and in actual operation.

384.235 Notice of intention to apply for ferry license. Every person intending to apply for a license to keep a ferry at any place shall give notice of such intention by posting at least three notices in public places in the neighborhood where the ferry is proposed to be kept 20 days prior to any regular term of the county court at which the application will be made. When application is made for the renewal of a license where the former license has expired, it may be granted or renewed without previous notice or petition.

384.240 Bond of ferry license applicant. Every person applying for a license to keep a ferry shall, before the license is issued, enter into a bond or undertaking, with one or more sureties, to be approved by the county clerk, in a sum not less than $100 nor more than $500, conditioned that such person shall keep the ferry according to law. If default is at any time made in the condition of the bond or undertaking, damages not exceeding the penalty may be recovered by any person aggrieved before any court having competent jurisdiction.

384.245 General duties of ferry licensee. Every person obtaining a license to keep a ferry shall:

(1) Provide and keep in good and complete repair the necessary boats for the safe conveyance of all persons and property.

(2) Furnish such boats at all times with suitable oars, setting poles and other implements necessary for the service thereof.

(3) Keep a sufficient number of discreet and skillful men to attend and manage the boats.

(4) At all times keep the place of embarking and landing in good order and repair by cutting away the bank of the stream so that persons and property may be embarked and landed without danger or unnecessary delay.

384.250 Attending ferry and providing passage; liability for failure to give passage. (1) Every person obtaining a license mentioned in ORS 384.215 shall:

(a) Give constant and diligent attention to the ferry from daylight in the morning until dark in the evening of each day.

(b) At any hour in the night if required, except in cases of evident danger, give passage to all persons requiring passage on the payment of double the rate of ferriage allowed in the daytime.

(2) If the ferry licensee mentioned in ORS 384.215 at any time neglects or refuses to give passage to any person or his property, he shall forfeit and pay to the party aggrieved for every such offense $5, to be recovered before any justice of the peace having jurisdiction, and shall, moreover, be liable in an action at law for any special damage which such person may have sustained in consequence of such neglect or refusal. However, no forfeiture or damages shall be recovered for a failure or refusal to convey any person or property across such stream when it is manifestly hazardous to do so by reason of any storm, flood or ice. No keeper of a ferry shall be compelled to give passage to any person or property until the fare or toll chargeable by law has been fully paid or tendered to the keeper.

384.255 Fixing ferriage rates; penalty for overcharging. (1) County courts may fix, alter and establish from time to time the rates of ferriage to be levied and collected at all ferries established by law within

or bordering upon the county lines of any of the counties.

(2) Whenever the county court of any county grants a license to keep a ferry across any lake or stream, the county court shall establish the rates of ferriage which may be lawfully demanded for the transportation of persons and property across the lake or stream, having due regard to the breadth and situation of the stream, the dangers and difficulties incident thereto and the publicity of the place at which the ferry has been established.

(3) Every keeper of a ferry who at any time demands and receives more than the amount designated as provided in subsection (2) of this section for ferrying shall forfeit and pay to the party aggrieved for every such offense $5 over and above the amount which has been illegally received, to be recovered before any justice of the peace having jurisdiction.

384.260 Posting ferriage rates; effect of not posting. Every person licensed to keep a ferry shall post in some conspicuous place near his ferry landing a written or printed list of the rates of ferriage chargeable by law at the ferry. This list of rates shall at all times be written or printed in a plain legible manner and posted so near the place where persons pass across the ferry that the list may be easily read. If at any time the keeper neglects or refuses to post and keep up such list, it shall not be lawful to charge or take any ferriage or compensation at the ferry during the time of such delinquency.

384.265 Order of ferrying persons; penalty for noncompliance. All persons shall be received into the ferryboats and conveyed across the stream over which the ferry is established according to their arrival at the ferry, except that public officers on urgent business, postriders, couriers, physicians, surgeons and midwives shall in all cases be first carried over where all cannot go at the same time. If any keeper of a ferry acts contrary to this regulation, he shall forfeit and pay the sum of $3 for every such offense to the party aggrieved, to be recovered before any justice of the peace having jurisdiction.

384.270 Exclusive privilege of ferry licensee; right of person to use own boat and carry neighbor. (1) Every person licensed to keep a ferry according to ORS 384.215 to 384.280 has the exclusive privilege of transporting all persons and property across the stream where the ferry is established and is entitled to all the fare arising by law therefrom.

(2) Nothing in ORS 384.215 to 384.280 prevents any person from crossing over the stream at the ferry in his own boat or taking in and carrying over his neighbor when such is done without fee or charge and not with intent to injure any person licensed to keep a ferry.

384.275 Forfeiture of ferry license. (1) The county court of the proper county, on complaint being made in writing, may summon any person licensed under ORS 384.215 to keep a ferry to show cause why the license should not be revoked, if:

(a) Such person fails to pay the tax assessed on the ferry when due;

(b) Such person does not provide and keep in good and complete repair the necessary boats, with the oars, setting poles and other necessary implements for the service thereof;

(c) Such person neglects to employ a sufficient number of skillful and discreet ferrymen, as provided in ORS 384.245, within three months from the time the license is granted;

(d) The ferry is not at any time kept in good condition and repair, agreeably to ORS 384.215 to 384.280; or

(e) The ferry is abandoned, disused or unfrequented for six months at any one time, except that if any ferry is disused by reason of the stream over which it is established being fordable at certain seasons of the year or by reason of the travel being subject to periodical fluctuations, it does not work a forfeiture within the meaning of this section.

(2) The county court shall decide the question of license revocation according to the testimony adduced and the laws of this state. The decision when made is valid to all intents and purposes, subject to review by the circuit court.

384.280 Unlicensed ferry prohibited; penalty; exceptions. Any person who maintains any ferry and receives ferriage without first obtaining a license for the same shall pay a fine of $10 for each offense, to be collected for the use of the county by suit before any justice of the peace having jurisdiction. Any person may bring such suit. It shall not be considered unlawful for any person to transport any other person or his

property over any stream for hire when it is made evident that there is no ferry or that the ferry established at such place was not in actual operation at the time or in sufficient repair to have afforded to such person or his property a safe and speedy passage.

384.285 [Repealed by 1953 c.9 §2]

384.290 to 384.300 [Reserved for expansion]

INTERSTATE FERRIES UNDER HIGHWAY COMMISSION, COUNTIES, CITIES, TOWNS AND PORTS

384.305 Operation of interstate ferries by highway commission, counties, cities, towns or ports. The state acting by and through the State Highway Commission, and any county, city, town or port of the State of Oregon adjoining or bordering on any interstate river or stream of water, is each and every one authorized to:

(1) Establish, maintain and operate ferry service in and to any adjoining state, and for such purpose may acquire by gift, purchase, lease, contract, agreement, condemnation or otherwise, real, personal and mixed property, rights, rights of way, approaches, licenses, privileges and easements, equipment and facilities in the State of Oregon or any adjoining state, necessary or convenient for the proper construction, maintenance and operation of any such ferry service or services; or

(2) Contract with others for the purpose of operating and maintaining such ferry service.

384.310 Independent or joint action. In carrying out the provisions of ORS 384.305 to 384.360, the State Highway Commission, and each of the counties, cities, towns or ports mentioned in ORS 384.305, may act independent of or in conjunction with each other upon the terms and conditions agreed upon by the contracting parties.

384.315 Agreements for carrying out powers of interstate ferry authorities. For the purpose of carrying out or putting into effect any right, power and authority granted by ORS 384.305 to 384.360 or any other law, the State Highway Commission, and each and all of the public bodies or agencies mentioned in ORS 384.305, may make and enter into agreements with:

(1) The Government of the United States or any of its agencies.

(2) Any adjoining state, its county, municipality, port or other political subdivisions or agencies.

(3) Any persons, associations, corporations, domestic or foreign.

384.320 Use of funds for interstate ferry expenses. The State Highway Commission, and any county, city, town or port mentioned in ORS 384.305, may pay out of its respective funds, or any other funds to any of them available, all or any part of the cost of the construction, maintenance and operation of the ferry service.

384.325 Loans for interstate ferry acquisition and operation; security. The construction, purchase, maintenance and operation of any ferry service under ORS 384.305 to 384.360 may be financed in whole or in part by loans obtained from the United States Government or any of its agencies, or from any other sources. As security for the payment of such loans the revenues derived from the ferry service, over and above the cost of its maintenance and operation, may be hypothecated or pledged, but no such hypothecation or pledge of revenues shall constitute in any manner, or to any extent be made to constitute, a general obligation of the State of Oregon, or of any county, city, town or port making the pledge.

384.330 Issuing revenue certificates for interstate ferry expenses. For the purpose of procuring funds, when necessary, with which to construct, maintain and operate the ferry service, the authority constructing, maintaining and operating the service may issue and sell revenue certificates, which shall not be the general obligation of the authority issuing them but shall be redeemable and payable solely from revenues accruing from the ferry service, over and above the cost of operating and maintaining the service. Such certificates may be purchased by the State of Oregon.

384.335 Acceptance of funds from United States and gifts. The State Highway Commission and every other public body and agency mentioned in ORS 384.305 may:

(1) Accept from the United States or any of its agencies, such funds as are available to this state or to any such public body or agency, for any of the purposes contemplated by ORS 384.305 to 384.360, and enter into such contracts and agreements with the United States or any of its agencies as may

be necessary, proper and convenient, and not contrary to the laws of the state.

(2) Accept from any source any grant or donation of land, any gift of money or any other valuable thing, made to the state or any such county, city, town or port, for any of the purposes contemplated by ORS 384.305 to 384.360.

384.340 Eminent domain. The State Highway Commission, and any county, city, town or port mentioned in ORS 384.305 to 384.360, may exercise the power of eminent domain to carry out any of the provisions of ORS 384.305 to 384.360, in accordance with the procedure provided in ORS 366.370 to 366.390.

384.345 Operation of interstate ferry free or on toll. Any ferry constructed, purchased or otherwise acquired and operated under ORS 384.305 to 384.360 may be operated free to the public or on toll. If operated on toll, the revenues derived thereform may be pledged as provided in ORS 384.305 to 384.360.

384.350 Use of interstate ferry by Federal Government. If any ferry constructed, maintained and operated under ORS 384.305 to 384.360 is needed by the United States for any purpose in connection with national defense, then the authority which constructed and is maintaining and operating the ferry may sell it to the United States or may, by contract, make the ferry available to the United States.

384.355 Location of interstate ferry; part of state highway system. Any ferry service maintained and operated under ORS 384.305 to 384.360 shall connect, or provision shall be made for such connection, with a state and federal highway in this state and a state and federal highway in the adjoining state to which the ferry service is maintained. Such ferry service is a part of the Oregon highway system.

384.360 ORS 384.305 to 384.355 as supplementary authority. The authority conferred by ORS 384.305 to 384.355 is in addition and supplemental to the authority conferred by any other law.

384.365 Contract or contributions for interstate ferries by counties. Whenever the county court of any county determines that the construction or maintenance of a ferry in a state adjoining such county or connecting the county with the adjoining state, where there is then no ferry licensed and maintained, is a necessity or convenience to the citizens of the county, the county court may enter into a contract for the construction or maintenance of such ferry or make contributions deemed advisable toward the construction or maintenance thereof.

384.370 to 384.400 [Reserved for expansion]

OREGON-WASHINGTON COOPERATIVE INTERSTATE FERRIES

384.405 Oregon-Washington cooperative interstate ferry service. The State Highway Commission, in the name of this state, if and when it appears to the commission to be for the best interests of this state and the citizens thereof, may enter into a written agreement with the State of Washington, by and through its Director of Highways or other lawfully constituted authority, whereby there shall be established and maintained ferry service for the transportation of persons and property across the Columbia River at such sites or locations as are mutually agreed upon by the Oregon State Highway Commission and the Director of Highways of the State of Washington.

384.410 Location of ferry. No ferry service shall be established or maintained under ORS 384.405 to 384.440 unless it connects a state and federal highway in the State of Oregon with a state and federal highway in the State of Washington.

384.415 Manner of ferry acquisition and operation. For the purpose of carrying out the objects of ORS 384.405 to 384.440 the State Highway Commission, acting jointly with the State of Washington, may:

(1) Purchase, acquire and operate ferries between such places; or

(2) Lease, rent or hire and operate ferries; or

(3) Contract with others for the operation of ferries between such places.

384.420 Payment of Oregon's share of ferry expense. This state shall not be obligated to pay, nor shall it pay for such ferry service, whether furnished by the facilities owned, acquired or operated by the state jointly or under contract with others, any sum in excess of 50 percent of the total cost of the service. The State Highway Commission may pay Oregon's part of the cost of the ferry service out of state highway funds

in the same manner that other disbursements are made out of such funds.

384.425 Ferry as part of state highway system. Any ferry operated under ORS 384.405 to 384.440 and the approach roads thereto on the Oregon side of the Columbia River are a part of the state highway system and shall be so declared and designated by an appropriate resolution entered in the minutes of the State Highway Commission.

384.430 Rules and regulations as to ferry operation. (1) The State Highway Commission shall, jointly with the proper officials of the State of Washington, for the protection of the general public and for the safeguarding of the interests of the State of Oregon, its officers, agents and employes, prescribe all necessary rules and regulations for the proper and efficient operation of any ferry mentioned in ORS 384.405.

(2) The operation of any ferry under ORS 384.405 to 384.440 shall conform in all respects to all federal or state laws, rules or regulations.

384.435 Liability and other insurance for ferry service. The State Highway Commission may, for the use and benefit of the state, its officers, agents or employes and of the general public, carry public liability insurance if ferries mentioned in ORS 384.405 are owned and operated by the state. The commission shall require such public liability insurance if the ferry service is provided under contract with others. In addition to such public liability insurance the commission may require such other insurance as in the commission's judgment the interest of the state and the general public require.

384.440 Free ferry operation. Any ferry operated under ORS 384.405 to 384.440 may be operated free of tolls.

384.445 Ferry between Umatilla, Oregon, and Plymouth, Washington. (1) The County Court of Umatilla County, Oregon, and the State Highway Commission, in cooperation, may enter into such agreement, as in their judgment is advisable, with the County Court of Benton County, Washington, and the Director of Highways of the State of Washington, for the establishment, maintenance and operation of a public ferry across the Columbia River between Umatilla, Oregon, and Plymouth, Washington, and for connecting the ferry with and making it a part of the state highway systems of Oregon and Washington.

(2) The County Court of Umatilla County, Oregon, and the State Highway Commission may use such portions of the county and state road funds as in their discretion they deem advisable for such purpose.

(3) Such public ferry and county road connecting it with the state highway hereby are made a part of the Oregon state highway system.