Chapter 654

1961 REPLACEMENT PART

(1963 reprint)

Places of Employment; Safety and Health Regulations

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SAFETY AND HEALTH CONDITIONS IN PLACES OF EMPLOYMENT GENERALLY

654.005 Definition for ORS 654.005 to 654.100. As used in ORS 654.005 to 654.100, unless the context requires otherwise, "commission" means the State Industrial Accident Commission.

654.010 Employers to furnish safe place of employment. Every employer shall furnish employment and a place of employment which are safe for employes therein, and shall furnish and use such safety devices and safeguards, and shall adopt and use such practices, means, methods, operations and process as are reasonably adequate to render such employment and place of employment safe, and shall do every other thing reasonably necessary to protect the life and safety of such employes.

654.015 Unsafe place of employment prohibited. No employer, owner or lessee of any real property in this state shall construct or cause to be constructed or maintained, any place of employment that is not safe.

654.020 Interference with safety devices or methods prohibited; failure to do everything reasonably necessary for safety of employes prohibited. No employe shall remove, displace, damage, destroy or carry off any safety device or safeguard furnished and provided for use in any employment or place of employment, or interfere in any way with the use thereof by any other person, or interfere with the use of any method or process adopted for the protection of any employe in such employment or place of employment, or fail to do every other thing reasonably necessary to protect the life and safety of such employes.

654.025 Jurisdiction and supervision of Industrial Accident Commission over employment and places of employment. (1) The commission is vested with full power and jurisdiction over, and shall have such supervision of, every employment and place of employment in this state as may be necessary adequately to enforce and administer all laws and all lawful orders requiring such employment and place of employment to be safe, and requiring the protection of the life and safety of every employe in such employment or place of employment.

(2) The commission may make, establish, promulgate and enforce all necessary and reasonable rules, regulations and provisions for the purpose of carrying ORS 654.005 to 654.100 into effect and in reference to the investigation of all violations of said statutes and fixing and setting the time and place for all hearings which may be necessary or expedient for the purpose of carrying said statutes into effect.

(3) The commission may subpena witnesses, administer oaths, take depositions and fix the fees and mileage of witnesses and compel the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state, and the commission shall provide for defraying the expenses thereof.

(4) The commission may do and perform all things, whether specifically designated in ORS 654.005 to 654.100 or in addition thereto, which are necessary or convenient in the exercise of any power, authority or jurisdiction conferred upon it by ORS 654.005 to 654.100.

654.030 Proceedings against unwilling witnesses. (1) The commission, or any member thereof, before whom the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by such subpena, may report to the circuit court in and for the county in which the proceeding is pending, by petition setting forth that due notice has been given of the time and place of attendance of the witness, or the production of the papers and that the witness has been subpenaed in the manner prescribed and that the witness has failed and refused to attend or produce the papers required by the subpena or has refused to answer questions propounded to him in the course of such proceeding, and ask an order of the court to compel the witness to attend and testify or produce said papers before the commission.

(2) The court, upon the petition of the commission or any member thereof, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended and testified or produced the papers before the commission or any member thereof.

(3) A copy of the order shall be served upon the witness.

(4) If it is apparent to the court that the subpena was regularly issued by the commission or member thereof, the court shall

thereupon enter an order that the witness appear before the commission or member thereof at a time and place to be fixed in such order, and testify and produce the required papers and upon failure to obey the order the witness shall be dealt with as for contempt of court.

654.035 Scope of rules and orders of the commission. The commission may, after a hearing had upon its own motion or upon complaint, by general or special orders, rules and regulations, or otherwise:

(1) Declare and prescribe what safety devices, safeguards or other means or methods of protection are well adapted to render the employes of every employment and place of employment safe as required by law or lawful order.

(2) Fix reasonable standards and prescribe, modify and enforce such reasonable orders for the adoption, installation, use, maintenance and operation of safety devices, safeguards and other means or methods of protection, to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life and safety of employes in employment and places of employment

(3) Fix and order such reasonable standards for the construction, repair and maintenance of places of employment and equipment as shall render them safe.

(4) Require the performance of any other act which the protection of the life and safety of employes in employments and places of employment may demand.

654.040 Hearing on general safety order; notice of hearing. Upon the fixing of a time and place for the holding of a hearing for the purpose of considering and issuing general safety orders as authorized by ORS 654.035, the commission shall cause a notice of such hearing to be published in one or more daily newspapers of general circulation published and circulated in the City of Portland and in such other papers of general circulation in this state and published therein as the commission may deem expedient. No defect or inaccuracy in such notice or in the publication thereof shall invalidate any general order issued by the commission after hearing had.

654.045 Safety orders. Whenever the commission, after a hearing had upon its own motion or upon complaint, finds that any employment or place of employment is not safe or that the practices or means or methods or operations or processes employed or used in connection therewith are unsafe, or do not afford adequate protection to the life and safety of employes in such employments and places of employment, the commission shall make and enter and serve such order relative thereto as may be necessary to render such employment or place of employment safe and protect the life and safety of employes in such employment and places of employment. The commission may in the order direct that such additions, repairs, improvements or changes be made and such safety devices and safeguards be furnished, provided and used, as are reasonably required to render such employment or place of employment safe, in the manner and within the time specified in the order.

654.047 Inspection of places of hazardous employment. The commission shall inspect annually and from time to time, all places of employment enumerated in ORS 656.084 and the machinery and appliances therein contained to which ORS 654.005 to 654.100 and safety codes and regulations are applicable for the purpose of determining whether they conform to the law
[Formerly 654 225]

654.050 Prohibiting use of apparatus or place constituting violation of statute or order; posting notices of violations; civil and criminal penalties. (1) The commission, or authorized representative thereof with the approval of the commission or its accident prevention director, upon finding any violation of any statute or duly promulgated safety code involving failure to install or maintain any safety appliance, device or safeguard required by such statute or code may prohibit the further use of the machine, equipment, apparatus or place of employment constituting such violation and when such use is prohibited shall post notice in an appropriate place in plain view of any person likely to use the same calling attention to the unsafe condition, defect or lack of safeguard and the fact that the further use thereof is prohibited.

(2) The notice required by subsection (1) of this section shall not be removed until the required safety appliance, device or safeguard complies with the requirement of the statute or safety code.

(3) Every person who, after the notice required by subsection (1) of this section

is posted as provided in that subsection, uses or operates any place of employment, machine, device, apparatus or equipment referred to in subsection (1) of this section before it is made safe and the required safeguards or safety appliances or devices are provided, or who defaces, destroys or removes any notice, required by subsection (1) of this section without the authority of the commission is guilty of a misdemeanor and, in addition to the punishment provided in subsection (2) of ORS 654.990, is subject to a civil penalty in an amount of not more than $1,000. This civil penalty may be imposed and collected by the commission in an action in the circuit or district court of the county in which the employer resides or in which he employs workmen. Any penalty collected under this subsection shall be paid into the Industrial Accident Fund to be used solely for the enforcement of this chapter, but not including ORS 654 105 and 654.110.
[Amended by 1953 c 387 §2, 1957 c 436 §1]

654.055 Time for compliance with order. The commission may, upon application of any employer, or other person affected thereby, grant such time as may reasonably be necessary for compliance with any order, and any person affected by such order may petition the commission for an extension of time, which the commission shall grant if it finds such an extension of time necessary.

654.060 Duty to comply with orders, decisions and regulations. Every employer, employe and other person shall obey and comply with every requirement of every order, decision, direction, rule or regulation made or prescribed by the commission in connection with the matters specified in ORS 654.005 to 654.100, or in any way relating to or affecting safety of employments or places of employment, or to protect the life and safety of employes in such employments or places of employment, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation.

654.062 Notice of violation to employer by workman; complaint by workman to commission; inspection by commission. (1) A workman shall notify his employer of any violation of law or regulation pertaining to safety of places of employment when the violation comes to the knowledge of the workman.

(2) If the employer fails to remedy the violation, the workman may complain in writing to the commission of the violation.

(3) Upon receiving the complaint, the commission shall forthwith inquire or make an inspection as to the safety of the place of employment.
[Formerly 654 235]

654.065 Application for rehearing by person aggrieved by commission's order; grant or denial of rehearing as prerequisite to accrual of cause of action; enforcement of order notwithstanding rehearing. (1) Any party or person aggrieved directly or indirectly by any final order, decision, rule or regulation of the commission, made or entered under ORS 654.005 to 654.100 may apply to the commission for a rehearing in respect to any matters determined or covered by such final order, decision, rule or regulation and specified in the application for rehearing within the time and in the manner specified in ORS 654.065 to 654.075 and not otherwise.

(2) No cause of action arising out of any final order or decision shall accrue in any court to any person until and unless he has made application for rehearing and the application has been granted or denied; provided, that ORS 654.065 to 654.075 do not prevent the enforcement of any such final order, decision, rule or regulation in the manner provided in ORS 654.005 to 654.100.

654.070 Contents of application for rehearing; waiver of objections not stated; service on and answer of adverse parties. (1) The application for rehearing shall set forth specifically and in full detail the grounds upon which the applicant considers the final order, decision, rule or regulation is injust or unlawful, and every issue to be considered by the commission.

(2) The application must be verified upon oath in the same manner as required for verified pleadings in the courts of record and must contain a general statement of any evidence or other matters upon which the applicant relies in support thereof.

(3) The applicant for rehearing shall be deemed to have finally waived all objections, irregularities and illegalities concerning the matter upon which rehearing is sought other than those set forth in the application.

(4) A copy of the application for rehearing shall be served forthwith on all adverse

parties, who may file an answer thereto within 10 days thereafter. Such answer must likewise be verified.

(5) If there are no adverse parties, the application may be heard ex parte or the commission may require the application for rehearing to be served on such parties as may be designated by it.

654.075 Grant or denial of rehearing; procedure and orders on rehearing. (1) Upon filing of an application for a rehearing, if the issues raised thereby have theretofore been adequately considered by the commission, it may determine the same by confirming, without hearing, its previous determination, or if a rehearing is necessary to determine one or more of the issues raised, the commission shall order a rehearing thereon and consider and determine the matters raised by such application.

(2) Notice of the time and place of the rehearing shall be given to the applicant, the adverse parties and such other persons as the commission may order.

(3) If after the rehearing and a consideration of all the facts, including those arising since the making of the order or decision involved, the commission shall be of the opinion that all or any part of the original order or decision is in any respect unjust or unwarranted, or should be changed, the commission shall abrogate, change or modify the same.

(4) An order or decision, made after the rehearing, abrogating, changing or modifying the original order or decision shall have the same force and effect as an original order or decision, but shall not affect any right or the enforcement of any right arising from or by virtue of the original order or decision unless so ordered by the commission.

(5) An application for a rehearing is considered denied by the commission unless it has been acted upon within 30 days from the date of filing; provided, that the commission may, upon good cause being shown therefor, extend the time within which it may act upon an application for rehearing for not exceeding 30 days.

654.080 Appeals from rules and orders of commission. (1) The orders of the commission, general or special, its rules or regulations, findings and decisions, made and entered under the safety provisions of ORS 654.005 to 654.100, may be reviewed by the courts within the time and in the manner specified in this section and not otherwise.

(2) Within 30 days after the application for a rehearing is denied, or, if the application is granted, within 30 days after the rendition of the decision on the rehearing, any party affected thereby may appeal to the circuit court for the county in which is situated the place of employment complained of for the purpose of having the lawfulness of the original order or decision or the order or decision on rehearing inquired into and determined.

(3) To give the circuit court jurisdiction, it is sufficient that a notice be filed with the clerk of the court to the effect that an appeal is taken to the circuit court from the order or decision of the commission and describing the order or decision sufficient for purposes of identification. The notice shall be signed by the party appealing or his attorney, and a copy thereof shall be served by registered mail on the commission. Within 10 days after the receipt of the notice, the commission shall file with the clerk of the court the record of proceedings before the commission, including a transcript of the evidence and all evidence adduced upon the hearing and rehearing, if any, before the commission. The circuit court on application for good cause shown may extend the time within which the commission shall file such record, transcript and evidence.

(4) The cause shall be tried before the court in the same manner and as a suit in equity; provided, that no new or additional evidence may be introduced in the court, but the cause shall be heard on the record to the commission as certified to by it.

(5) The appeal shall not be extended further than to determine whether or not:

(a) The commission acted without or in excess of its powers, or in violation of law.

(b) The order or decision was procured by fraud.

(c) The order, decision, rule or regulation is unreasonable.

(d) If findings of fact are made, the findings of fact support the order or decision under review.

(6) An appeal may be taken from the decree of the circuit court to the Supreme Court as in other civil cases.

654.085 Admissibility of rules and orders of commission in evidence in prosecutions for violations of ORS 654.005 to 654.100; effect. Every order of the commission, general or special, its rules and regulations, findings and decisions, made and entered under

the safety provisions of ORS 654.005 to 654.100 shall be admissible as evidence in any prosecution for violation of any of such provisions and shall, in every such prosecution, be conclusively presumed to be reasonable and lawful and to fix a reasonable and proper standard and requirement of safety, unless, prior to the institution of the prosecution for such violation, proceedings for a rehearing thereon or a review thereof have been instituted under ORS 654.080 and not then finally determined.

654.090 Lectures on industrial accidents and related matter; appointment of safety advisers. The commission may:

(1) Cause lectures to be delivered, illustrated by stereopticon or other views, diagrams or pictures, for the information of employers and their employes and the general public in regard to the causes and prevention of industrial accidents, occupational diseases and related subjects.

(2) Appoint advisers who shall, without compensation, assist the commission in establishing standards of safety. The commission may adopt and incorporate in its general orders such safety recommendations as it may receive from such advisers.

654.092 Schedule of inspection fees. Every employer engaged in an occupation enumerated in ORS 656.084 shall pay to the commission an annual inspection fee 30 days after demand by the commission for each place of employment operated by him. The fee shall be based on the maximum number of workmen employed at any time within the 12-month period preceding inspection in accordance with the following schedule:

Number of Workmen	Amount of Fee
2 and under	$ 6
3	10
4	14
5	18
6	22
7	26
8 to 20	40
21 to 40	60
41 to 100	85
101 to 500	125
501 to 1,000	175
1,001 and over	225

[Formerly 654 255]

654.093 Collection of delinquent fees and penalties. (1) If, after three months, any employer fails to pay the amount due, an amount equal to 50 percent of the fee due shall be added thereto and collected as a penalty.

(2) If, after six months, any employer fails to pay the amount due, the circuit court of the county in which the employer resides, or in which he employes workmen, upon the commencement of a suit by the commission for that purpose, shall enjoin such employer from further employing workmen until such employer has paid the amount due. Upon filing of a suit for such purpose by the commission, the court shall set a day for hearing and shall cause notice thereof to be served upon the employer. The hearing shall be not less than five nor more than 15 days from the service of such notice.
[Formerly 654.265]

654.094 Waiver of fee payments. The commission may waive payment of the fees provided for in ORS 654.092 by any employer subject to the workmen's compensation law if there is a comparable inspection and payment therefor at least equal to such fees.
[Formerly 654 270]

654.095 Payment of expenses; disposition of fines. All expenses incurred by the commission under ORS 654.005 to 654.100 shall be paid out of the Industrial Accident Fund. All fines imposed and collected under prosecutions for violations of ORS 654.005 to 654.100 shall be paid into the Industrial Accident Fund.

654.096 Disposition of moneys and fines collected; Safety Inspection Account. There hereby is established in the General Fund of the State Treasury the Safety Inspection Account. All moneys collected from inspection fees and all fines collected from employers paying inspection fees for violations of safety laws shall be paid by the commission to the State Treasurer and by him credited to the Safety Inspection Account. All payments so made hereby are appropriated for the purpose of administration of the safety law as it pertains to employers paying those inspection fees and fines.
[Formerly 654 275]

654.100 Labor Commissioner to enforce rules of and furnish information to commission. The Commissioner of the Bureau of Labor shall see that the general and special orders, rules and regulations of the commission are enforced, and shall at all times give

the commission any information that would assist the commission in carrying out the purposes of ORS 654.005 to 654.100.

654.105 Regulations regarding and inspections of health conditions in places of employment and in living quarters furnished employes. (1) Except as provided in subsection (2) of this section, the State Board of Health shall make rules and regulations concerning conditions detrimental to the health of employes in all factories, workshops, mills, industrial establishments, common carriers and in living quarters and shelters furnished by employers of such employes. Such rules and regulations shall relate to matters of sanitation, shelter, atmospheric contamination, lighting, ventilation and other environmental conditions affecting the health of employes.

(2) If a state agency other than the State Board of Health is authorized by law to make rules and regulations relating to certain conditions detrimental to the health of employes, the State Board of Health shall not make any rules and regulations concerning such conditions.

(3) The State Board of Health, on its own motion or whenever requested by the State Industrial Accident Commission, the Bureau of Labor, the State Wage and Hour Commission, the State Department of Agriculture, or the Department of Employment Commissioner, may make inspections to determine if an employer is complying with the rules and regulations made pursuant to subsection (1) of this section.
[1957 c 156 §1; 1959 c 684 §1]

654.110 Procedure to eliminate or remedy condition detrimental to health. (1) Whenever the State Board of Health determines that conditions detrimental to the health of employes exist in any place inspected under ORS 654.105, it shall notify the owner or operator of the place in writing of the detrimental condition, stating the measures that should be taken to remedy it.

(2) A recipient of such a notice may apply within 30 days of receiving it for a hearing by the board or authorized representative of the board to determine whether the conditions are in fact detrimental to health and what remedial measures are necessary. Such hearing may include an inspection of the alleged detrimental condition.

(3) If good faith efforts to remedy a detrimental condition are not commenced within 30 days of receipt of a notice, or, if there has been a hearing, within 10 days after a determination therein adverse to the owner or operator, the board may commence a suit in the circuit court for the county in which the detrimental condition is located to enjoin the continuance of the condition. In such suit, the court may make any order or decree necessary to eliminate or remedy any condition found to be detrimental to the health of employes. Under this subsection no proceeding shall be ex parte.
[1957 c 156 §2; 1959 c 684 §3]

654.115 to 654.150 [Reserved for expansion]

654.155 Inspection of and reports on violations of standards regarding electric lines. (1) The State Industrial Accident Commission shall make such inspections and take such other action as may be necessary to enforce and assure compliance with all orders, rules or regulations made or prescribed by the Public Utility Commissioner of Oregon pursuant to ORS 757.035, and by the Industrial Accident Commission pursuant to ORS 654.035, applicable to standards of construction, maintenance and operation of electric lines and appurtenances, and to work on and about such lines and appurtenances.

(2) To that end, the State Industrial Accident Commission may employ and direct the work of qualified persons to inspect such electric lines and appurtenances, and report to the commission and to the owners or operators of such lines or appurtenances any violations or threatened violations of any such orders, rules or regulations.

(3) This section is supplemental to, and shall not be construed as repealing, modifying or amending ORS 757.035 or 654.035 or as derogating in any respect from the jurisdiction of the Public Utility Commissioner of Oregon or of the Industrial Accident Commission under those statutes, respectively.

654.160 to 654.170 [Reserved for expansion]

654.175 Seats for streetcar motormen. Each person owning, managing or operating any intrastate, interurban and city electric street railway line in this state shall provide all cars run or used on his road with good, substantial and sufficient seats for the use of motormen operating passenger cars. The motormen shall be permitted to occupy those seats at least one-half the time while operating said cars.

654.180 Streetcar vestibules. (1) Any person owning, managing or operating any street railway line in this state shall provide, during the months of November, December, January, February and March of each year, all cars run or used on his road with good, substantial, and sufficient vestibules or weather guards for the reasonable protection of the employes operating his passenger cars.

(2) The vestibules or weather guards shall be so constructed and so maintained and adjusted upon each car during each of those months as to reasonably protect the employes operating the passenger car from the wind, rain, or snow.

(3) The district attorneys shall see that this section is strictly enforced.

654.185 to 654.200 [Reserved for expansion]

654.205 [Repealed by 1959 c 516 §6]

654.210 [Repealed by 1959 c 516 §6]

654.215 [Repealed by 1959 c 516 §6]

654.220 [Repealed by 1959 c 516 §6]

654.225 [Amended by 1959 c 516 §1, renumbered 654 047]

654.230 [Repealed by 1959 c 516 §6]

654.235 [Amended by 1959 c 516 §2, renumbered 654 062]

654 240 [Repealed by 1959 c 516 §6]

654.245 [Repealed by 1959 c 516 §6]

654.250 [Repealed by 1959 c 516 §6]

654.255 [Amended by 1955 c 643 §1, 1957 c 492 §1, 1959 c 516 §3, renumbered 654 092]

654.260 [Amended by 1955 c 643 §2, repealed by 1959 c 516 §6]

654.265 [Amended by 1955 c 644 §1, renumbered 654 093]

654.270 [Renumbered 654 094]

654.275 [Amended by 1959 c 516 §4, renumbered 654 096]

654 280 to 654 300 [Reserved for expansion]

EMPLOYERS' LIABILITY LAW

654.305 Protection and safety of persons in hazardous employment generally. Generally, all owners, contractors or subcontractors and other persons having charge of, or responsible for, any work involving a risk or danger to the employes or the public, shall use every device, care and precaution which it is practicable to use for the protection and safety of life and limb, limited only by the necessity for preserving the efficiency of the structure, machine or other apparatus or device, and without regard to the additional cost of suitable material or safety appliance and devices.

654.310 Protective measures to be observed regarding certain machines, equipment and devices which are dangerous to employes. All owners, contractors, subcontractors or persons whatsoever, engaged in the construction, repairing, alteration, removal or painting of any building, bridge, viaduct or other structure, or in the erection or operation of any machinery, or in the manufacture, transmission and use of electricity, or in the manufacture or use of any dangerous appliance or substance, shall see that:

(1) All metal, wood, rope, glass, rubber, gutta percha or other material whatever, is carefully selected and inspected and tested, so as to detect any defects.

(2) All scaffolding, staging, false work or other temporary structure is constructed to bear four times the maximum weight to be sustained by said structure, and such structure shall not at any time be overloaded or overcrowded.

(3) All scaffolding, staging or other structure more than 20 feet from the ground or floor is secured from swaying and provided with a strong and efficient safety rail or other contrivance, so as to prevent any person from falling therefrom.

(4) All dangerous machinery is securely covered and protected to the fullest extent that the proper operation of the machinery permits.

(5) All shafts, wells, floor openings and similar places of danger are inclosed.

(6) All machinery other than that operated by hand power, whenever necessary for the safety of persons employed in or about the same or for the safety of the general public, is provided with a system of communication by means of signals, so that at all times there may be prompt and efficient communication between the employes or other persons and the operator of the motive power.

(7) In the transmission and use of electricity of a dangerous voltage, full and complete insulation is provided at all points where the public or the employes of the owner, contractor or subcontractor transmitting or using the electricity are liable to come in contact with the wire, and dead wires are not mingled with live wires, nor

strung upon the same support, and the arms or supports bearing live wires are especially designated by a color or other designation which is instantly apparent.

(8) Live electrical wires carrying a dangerous voltage are strung at such distance from the poles or supports as to permit repairmen to freely engage in their work without danger of shock.

654.315 Persons in charge of work to see that ORS 654.305 to 654.335 is complied with. The owners, contractors, subcontractors, foremen, architects or other persons having charge of the particular work, shall see that the requirements of ORS 654.305 to 654.335 are complied with.

654.320 Who considered agent of owner. The manager, superintendent, foreman or other person in charge or control of all or part of the construction, works or operation shall be held to be the agent of the employer in all suits for damages for death or injury suffered by an employe.

654.325 Who may prosecute damage action for death; damages unlimited. If there is any loss of life by reason of violations of ORS 654.305 to 654.335 by any owner, contractor or subcontractor or any person liable under ORS 654.305 to 654.335, the surviving spouse and children and adopted children of the person so killed and, if none, then his or her lineal heirs and, if none, then the mother or father, as the case may be, shall have a right of action without any limit as to the amount of damages which may be awarded. If none of the persons entitled to maintain such action reside within the state, the executor or administrator of the deceased person may maintain such action for their respective benefits and in the order above named.

654.330 Fellow servant's negligence as defense. In all actions brought to recover from an employer for injuries suffered by an employe, the negligence of a fellow servant shall not be a defense where the injury was caused or contributed to by any of the following causes:

(1) Any defect in the structure, materials, works, plant or machinery of which the employer or his agent could have had knowledge by the exercise of ordinary care.

(2) The neglect of any person engaged as superintendent, manager, foreman or other person in charge or control of the works, plant, machinery or appliances.

(3) The incompetence or negligence of any person in charge of, or directing the particular work in which the employe was engaged at the time of the injury or death.

(4) The incompetence or negligence of any person to whose orders the employe was bound to conform and did conform and by reason of his having conformed thereto the injury or death resulted.

(5) The act of any fellow servant done in obedience to the rules, instructions or orders given by the employer or any other person who has authority to direct the doing of said act.

654.335 Contributory negligence. The contributory negligence of the person injured shall not be a defense, but may be taken into account by the jury in fixing the amount of the damage.

654.340 to 654.400 [Reserved for expansion]

PROPER LIGHTING IN PLACES OF EMPLOYMENT

654.405 Definitions for ORS 654.405 to 654.430. As used in ORS 654.405 to 654.430, unless the context requires otherwise:

(1) "Place of employment" means and includes every place, whether indoors or out, or underground, and the premises appurtenant thereto, where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly relating to any industry, trade or business is carried on, and where any person is directly or indirectly employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service or agricultural pursuits which do not involve the use of mechanical power.

(2) "Owner" means and includes every person, firm, corporation, state, county, town, city, village, manager, representative, officer or other person having ownership, control or custody of any place of employment or of the construction, repair or maintenance of the buildings of any such place of employment or who prepares the plans for the construction of any place of employment.

654.410 Necessity of adequate light in certain areas of places of employment. (1) All passageways and other portions of places

of employment and all moving parts of machinery which are not so guarded as to prevent accidents, where, on or about which persons work or pass or may have to work or pass in emergencies, shall be kept properly and sufficiently lighted during working hours.

(2) The halls and stairs leading to the workrooms shall be properly and adequately lighted, and a proper and adequate light shall be kept burning by the owner or lessee in the public hallways near the stairs, upon the entrance floor and upon the other floors on every work day in the year, from the time when the building is open for use in the morning until the time it is closed in the evening, except in times when the influx of natural light makes artificial light unnecessary.

(3) Such lights shall be so arranged as to insure their reliable operation when through accident or other cause the regular factory or workshop lighting is extinguished.

654.415 Workroom illumination. All workrooms in any place of employment shall be properly and adequately lighted during working hours. Artificial illuminants in every workroom shall be installed, arranged and used so that the light furnished will at all times be sufficient and adequate for the work carried on therein, and so as to prevent unnecessary strain on the vision, or glare in the eyes of the workers. Lamps must be so located or suitably shaded as to minimize glare.

654.420 Artificial light in working or traversed spaces to be in accordance with schedule. Working or traversed spaces in all places of employment shall be supplied during the time of use with artificial light in accordance with a schedule of minimum values determined as specified in ORS 654.430 when the natural light is less than the intensity so determined.

654.425 Distribution of light; emergency exit lights; location of switches. (1) All lamps and lighting appliances must be so installed in regard to height, spacing, reflectors or other accessories as to secure a good distribution of light on the work, avoiding objectionable shadows and sharp contrast of intensity.

(2) Emergency lamps shall be provided in the main aisles and in all stairways, passageways and exits so as to afford sufficient guidance to provide the safe exit from places of employment in case of emergency. Such lamps shall be in operation concurrently with the lighting and independent thereof.

(3) The switching and controlling apparatus shall be so placed that at least pilot or night lights may be turned on at the main points of entrance.

654.430 Establishing and readjusting minimum values of lighting. (1) The Commissioner of the Bureau of Labor may establish certain minimum values for lighting, which shall be deemed proper and adequate in accordance with the conditions set forth in ORS 654.405 to 654.430.

(2) In arriving at what values shall be used in this schedule of minimum lighting, and such other rules as shall determine definitely what constitutes compliance with ORS 654.405 to 654.430, the commissioner shall be guided by the best engineering practice as set forth in the recommendations of the Illuminating Engineering Society.

(3) Before such schedule and rules, however, become effective, the commissioner must, upon his own motion, appoint a commission of three persons, one to represent the manufacturing interests, one to represent the operating electrical workers and one must be an electrical engineer.

(4) Notice of the public meetings of the commission shall be published in the leading newspapers of each county in the state, giving the time, place and purpose of such meetings. The commission may, after holding these public meetings, establish, rearrange or readjust the schedule of lighting values and rules. These rulings or readjustments shall then become effective 30 days after they have been made, and the Commissioner of the Bureau of Labor shall serve notice, in writing or by publication in the leading newspapers of each county in the state, of the rulings thus made and of the date upon which they become effective.

654.435 to 654.500 [Reserved for expansion]

654.505 [Repealed by 1961 c 485 §29]

654.510 [Amended by 1953 c 514 §5, 1957 c 201 §1, 1959 c 515 §1, repealed by 1961 c 485 §29]

654.515 [Repealed by 1961 c 485 §29]

654.520 [Amended by 1953 c 514 §5, repealed by 1961 c 485 §29]

654.525 [Amended by 1959 c 657 §1, repealed by 1961 c 485 §29]

654.530 [Amended by 1953 c 514 §5, 1957 c 201 §2, repealed by 1961 c 485 §29]

654.532 [1953 c 514 §5, 1957 c 201 §3, repealed by 1961 c 485 §29]

654.535 [Amended by 1953 c 514 §5, 1957 c 201 §4, repealed by 1961 c 485 §29]

654.540 [Amended by 1957 c 465 §11, repealed by 1961 c 485 §29]

654.545 [Amended by 1953 c 514 §5, repealed by 1961 c 485 §29]

654.550 [Amended by 1953 c 514 §5, 1957 c 201 §5, repealed by 1961 c 485 §29]

654.555 to 654.600 [Reserved for expansion]

SAFETY AND SANITATION OF THEATER PROJECTION BOOTHS

654.605 Equipment and sanitary facilities required in new motion picture establishments. The owner or operator of any motion picture establishment catering to the general public who builds a new establishment shall equip and provide the projection room with each of the following facilities:

(1) Ventilation equipment connected to ducts leading to the exterior of the building, and of a sufficient capacity to change the air every five minutes.

(2) A toilet of a flush running-water type to be installed in the projection room or in a room adjoining.

(3) Running water for drinking purposes and a wash basin with running water, both to be available in the projection room or in a room adjoining.

(4) First-aid equipment of a type and quality adequate to meet the ordinary hazards incident to the needs of operators of projectors.

654.610 Inspection by Labor Commissioner; report to district attorney. The Commissioner of the Bureau of Labor shall inspect at least once a year all motion picture establishments catering to the general public and make a report of the working conditions in the projection rooms thereof. A copy of this report shall be transmitted to the district attorney of the county in which the particular theater is situated.

654.615 to 654.700 [Reserved for expansion]

REPORTS OF ACCIDENTS BY EMPLOYERS

654.705 Report of accidents to Industrial Accident Commission. Every railroad, as defined in ORS 760.005, and every public utility, as defined in ORS 757.005, and every other employer, including receivers appointed by any court, who employs more than three persons at the same time or is subject to the workmen's compensation law, shall report to the State Industrial Accident Commission all accidents happening to any person upon the premises of such railroad, public utility or employer. Such report shall be made within five days from the occurrence of such accident and shall state:

(1) The time, place, cause and nature of the accident and injuries, the name, sex, age and particular relationship between the person injured and the person so reporting, and the probable duration of the injury resulting therefrom.

(2) Whether the accident arose out of or in the course of the injured person's employment, or out of any relationship as passenger or patron of the railroad or public utility.

(3) Any other matters which the State Industrial Accident Commission may prescribe by its rules and regulations.

654.710 Preservation and use of reports. (1) The State Industrial Accident Commission shall preserve reports made under ORS 654.705 as a public record available for the use of any other department or agency of the state government, and shall publish a summary thereof in its reports to the Governor.

(2) No report required by ORS 654.705 shall be used as evidence or used for any purpose against the railroad, public utility or other employer in any suit or action for damages growing out of any matter mentioned in said report.

654.715 Report of accidents to Public Utility Commissioner; investigation; supplemental reports. (1) Every railroad and public utility shall give immediate notice by telegraph, telephone or personally, to the Public Utility Commissioner of Oregon whenever any accident occurs within this state upon its premises, line of railroad, depot grounds or yards, or directly or indirectly arises from or connected with its maintenance or operation, if the accident is attended by loss of human life or limb or serious injury to property.

(2) Every railroad shall also give notice, within 30 days, to the Public Utility Commissioner of Oregon of all other accidents occurring at public highway and private

road crossings in which collision occurs between the person or vehicle of a user of the highway and any locomotive, motor, car, train or other vehicle using the railroad, whether resulting in personal injury or not.

(3) The Public Utility Commissioner may, if he deems the public interest requires it, investigate each such accident forthwith, after giving the railroad or public utility involved reasonable notice of the time and place of such investigation.

(4) The Public Utility Commissioner may adopt and amend rules and regulations governing the form and content of reports to enable him to ascertain relevant facts and circumstances attending such accident and the causes thereof. Whenever the original report is insufficient, in the opinion of the commissioner, he may require the railroad or public utility to file supplemental reports of accidents.

654.720 Public inspection or use of reports as evidence prohibited. No report, or any part thereof, required by ORS 654.715, shall be open to public inspection or be used as evidence in any action for damages in any suit or action arising out of any matter mentioned in the report.

654.725 to 654 985 [Reserved for expansion]

PENALTIES

654.990 Penalties. (1) Every employer, workman or other person who, either individually or acting as an officer, agent or employe of a corporation or other person, violates any safety provision in ORS 654.010 to 654.020 or who, directly or indirectly, knowingly induces another so to do is guilty of a misdemeanor.

(2) Every violation of ORS 654.010 to 654.020, or any part thereof, by any person, firm or corporation is a separate and distinct offense, and, in case of a continuing violation thereof, each day's continuance thereof shall constitute a separate and distinct offense. Violation of ORS 654.010 to 654.020, or any part thereof, or of any lawful order, rule or regulation of the commission adopted or promulgated in accordance with ORS 654.005 to 654.100 is punishable, upon conviction, by a fine of not more than $100, or by imprisonment in the county jail for not more than six months, or by both. Justice and district courts shall have concurrent jurisdiction with the circuit court for the prosecution and punishment of all crimes committed pursuant to or contrary to ORS 654.005 to 654.100.

(3) Violation of any of the provisions of ORS 654.305 to 654.335 is punishable, upon conviction, by a fine of not less than $10 nor more than $1,000, or by imprisonment of not less than 10 days nor more than one year, or by both. Punishment under this subsection does not affect or lessen the civil liability of the offender.

(4) Violation of any of the provisions of ORS 654.405 to 654.430 or failure to provide the necessary and proper illumination provided in such statutes within 30 days after receiving written notice so to do by the Commissioner of the Bureau of Labor is punishable, upon conviction, by a fine of not more than $50. For the purposes of this subsection, each day the violation or refusal continues constitutes a separate and distinct violation.

(5) Violation of ORS 654.605 or 654 610 is punishable, upon conviction, by a fine of not more than $100, or by imprisonment in the county jail for not more than 30 days, or by both.

(6) Failure to make any report required by ORS 654.705 is punishable, upon conviction, by a fine of not less than $5 nor more than $100, or by imprisonment in the county jail for not more than 30 days, or both.

(7) Violation of ORS 654.175 subjects the owner or manager of the street railway line to a fine of $50 for the first offense, and $100 for each subsequent violation. Each car run one day when not equipped as required by ORS 654.175 constitutes a separate violation.

(8) Violation of ORS 654.180 subjects the owner or manager of the street railway line to a fine of $100 for the first offense, and $100 for each subsequent violation. Each car run one day when not equipped as required by ORS 654.180 constitutes a separate violation.

[Amended by 1959 c 516 §5, 1961 c 485 §28]

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 1, 1961.

Sam R Haley
Legislative Counsel