

Chapter 767

1963 REPLACEMENT PART

Motor Carriers

DEFINITIONS; GENERAL PROVISIONS

- | | | | |
|---------|--|---------|---|
| 767.005 | "Broker," "carrier" or "motor carrier," "combined weight," "commissioner," "common carrier" and "transit type motor vehicle" defined | 767.175 | Issuance and placement of identification plates and receipts; receipt to state combined weight of vehicle; new plates issued biennially |
| 767.010 | "Contract carrier," "extreme miles" or "extreme mileage," "forwarder," "highway commission" and "motor vehicle" defined | 767.180 | Vehicles to be operated only in class for which permit issued; effect of violation |
| 767.015 | "Person," "private carrier," "public highway" and "safe for operation" defined | 767.185 | Transfer of permits and licenses; no franchise or property right in permit or license; exceptions on death of holder |
| 767.020 | Declaration of policy | 767.190 | Cancellation or suspension of permits and licenses |
| 767.025 | Nonapplicability of chapter to school, mail and government transportation | 767.195 | Liability insurance needed by carriers |
| 767.030 | Nonapplicability of chapter to farm transportation | 767.200 | Additional bond and insurance required of intrastate carriers of property |
| 767.035 | Nonapplicability of chapter to vehicles operating within city limits, fire-fighting and towing vehicles, ambulances and vehicles operated on certain roads in connection with removal of forest products | 767.205 | Limitations on cancellation of insurance or bond; suspension of permit on cancellation of insurance or bond |
| 767.040 | Compliance with chapter required | 767.210 | Deposit of securities in lieu of insurance or bond |
| 767.045 | Application of chapter to interstate and foreign commerce | 767.215 | Self-insurance in lieu of insurance or bond |
| 767.050 | Special privileges not affected by this chapter | | |
| 767.055 | When carrier is prima facie common carrier | | |
| 767.060 | Officers' duties as to enforcement of chapter | | |
| 767.065 | Courts to forward copies of record on conviction for violation of this chapter | | |

PERMITS AND LICENSES

- | | | | |
|---------|--|--|--|
| 767.105 | Necessity for permit for commercial transportation of persons or property on public highways | | |
| 767.110 | When permit required for towing operations | | |
| 767.120 | Broker's and forwarder's licenses; necessity for; issuance of; regulations to be observed by licensee | | |
| 767.125 | Applications for permits | | |
| 767.130 | Restrictions on issuance of permits; hearing upon request | | |
| 767.135 | Issuance of common carrier permits; when hearings necessary; findings necessary | | |
| 767.141 | Issuance of permits to contract carriers | | |
| 767.145 | Dispensation of hearing and order requirement for issuance of permit authority covering certain operations | | |
| 767.147 | Application for reissuance of permit for transportation of logs, poles or piling; scope of permit | | |
| 767.150 | Issuance of permits to private carriers | | |
| 767.155 | Issuance of permits to interstate carriers | | |
| 767.165 | Special procedure for permits to transport logs, poles or piling | | |
| 767.170 | Emergency or temporary permits | | |

TAXES AND FEES

- | | |
|---------|---|
| 767.305 | Application fee; transfer fee |
| 767.310 | Plate fees; temporary pass fees; summary revocation of plate or marker |
| 767.315 | Broker's and forwarder's tax |
| 767.320 | Fees for copies of documents and transcripts |
| 767.325 | Motor carrier tax for use of highways |
| 767.330 | Carrier tax tables |
| 767.335 | Substitute taxes for vehicles under 18,000 pounds, towing vehicles, log vehicles and dump trucks |
| 767.340 | Effect of carrier tax law on other taxes |
| 767.345 | Fees required of interstate carriers |
| 767.355 | Due date of fees and taxes; penalty; deficiency assessments; refund of overpayment; limitation on audit |
| 767.360 | Assessment of tax by commissioner upon failure to report tax due |
| 767.365 | Reassessment of taxes upon request |
| 767.370 | Collection of fees, taxes and other moneys |
| 767.375 | Warrant procedure for collection assessment made by commissioner |
| 767.380 | Deposit or bond to secure payment of fees, taxes and penalties |
| 767.385 | Cancellation of taxes, interest, penalties and fees; record and order |

REGULATORY AND ENFORCEMENT PROVISIONS

- | | |
|---------|---|
| 767.405 | Common carriers and forwarders, general regulation of |
| 767.410 | Common carriers and forwarders, regulation of rates and services of |
| 767.415 | Classes of common carriers; rights and duties of each class |
| 767.420 | Contract carriers, regulation of |
| 767.425 | Exemption of certain operations from regulatory provisions |
| 767.430 | Regulation of interstate carriers |

- 767.435 Regulation of charges made by persons transporting property of others as part of a combination of services
- 767.440 Classification and regulation of brokers and forwarders
- 767.445 Commissioner's general authority to prescribe and enforce rules, regulations and classifications
- 767.450 Regulation of motor vehicles
- 767.455 Regulation of hours of service for drivers
- 767.460 Regulation of shipping receipts, changes of vehicles and routes, classification, records, mileage and distinguishing marks
- 767.463 Commissioner's right to inspect books and records and to examine officers or employes of carriers or certain businesses
- 767.465 Injunction and mandamus suits by commissioner; defending suits against state or himself as commissioner; employing attorneys
- 767.470 Civil penalty for violation of chapter or order of commissioner
- 767.475 Appointment of assistants and employes; powers and duties; utilization of State Police in enforcing chapter
- 767.480 Authority of commissioner or his representative to hold hearings; notice; compelling attendance of witnesses and production of papers

- 767.485 Commissioner's orders bind successors of carriers affected
- 767.495 Service of process on nonresident carrier by serving the commissioner

RECORDS, REPORTS AND FUNDS

- 767.600 Daily records and monthly reports by carriers
- 767.605 Carrier's annual report to commissioner; exemptions
- 767.615 Copies of contracts to be filed by carriers
- 767.620 Records, reports and accounts of interstate carriers; inspection
- 767.625 Inspection of broker's and forwarder's records
- 767.630 Motor Carrier Account
- 767.635 Monthly transfer of Motor Carrier Account surplus to State Highway Fund
- 767.640 Restrictions on use of funds
- 767.650 Commissioner's report on administration of chapter
- 767.655 Destruction of old records

PENALTIES

- 767.990 Penalties

CROSS REFERENCES

- Carriage of livestock, Ch. 770
- Fish, transportation of, special requirements for, 509.110
- Health of employes, conditions affecting, inspections, 654.105
- Operators' and chauffeurs' licenses, Ch. 482
- Political contributions, 260.280
- Public Utility Commissioner, Ch. 756
- Registration of vehicles, Ch. 481
- Restrictions on sizes and weights of vehicles and loads, 483.502 to 483.536
- Revocation or suspension of driver's or chauffeur's license, no driving of motor vehicle during, 482.650
- Rules of the road, Ch. 483
- Submitting hay, grain or potatoes to inspection, 616.480
- Transportation of explosives in passenger vehicles prohibited, 480.050, 480.060
 - 767.015
- Operating vehicle on public highway in use of private road, 374.265
 - 767.025
- School busses, 485.010 to 485.060
 - 767.030
- Special license fees for farm vehicles, 481.225
 - 767.035
- Operating vehicle on public highway in use of private road, 374.265
 - 767.060
- State Police, duty to enforce laws relating to operation of vehicles on state highways, 181.040
 - 767.105
- Permits required for large vehicles, 483.520 to 483.528
- Registration and license requirements for vehicles generally, 481.105 to 481.180

- Transportation services provided by Board of Control, 426.360
 - 767.135
- Provisions relating to hearings before the Public Utility Commissioner, 756.505 to 756.610
 - 767.175
- License plates, 481.230 to 481.265
 - 767.190
- Summary revocation of plate or marker, 767.310
 - 767.195
- Financial responsibility law, Ch. 486
 - 767.310
- Vehicle license fees, 481.205 to 481.225
 - 767.325
- Credit against tax, 319.690
- Motor vehicles operated on contract forest roads, taxation of, 376.390
- Operating vehicle on public highway in use of private road, 374.265
 - 767.335
- Credit against tax, 319.690
- Motor vehicles operated on contract forest roads, taxation of, 376.390
- Operating vehicle on public highway in use of private road, 374.265
 - 767.405
- Abandonment of agencies or withdrawal of agents by common carriers by motor vehicle, 757.080 to 757.090
- Motor vehicles used to transport workers, 485.330
 - 767.465
- Attorney General's power to handle state legal business, Ch. 180
 - 767.475
- State Police, duty to enforce laws relating to operation of vehicles on state highways, 181.040
 - 767.480
- Hearings before commissioner, 756.505 to 756.610

DEFINITIONS; GENERAL PROVISIONS

767.005 "Broker," "carrier" or "motor carrier," "combined weight," "commissioner," "common carrier" and "transit type motor vehicle" defined. As used in this chapter the term:

(1) "Broker" means any person not included in the term "motor carrier" or "forwarder" and not a bona fide employe, commission agent or agent of any carrier or forwarder, but who, as principal or agent, sells or offers for sale any transportation subject to this chapter, or negotiates for or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts or arranges for such transportation.

(2) "Carrier" or "motor carrier" means common carrier, contract carrier or private carrier.

(3) "Combined weight" means the weight of the motor vehicle plus the weight of the maximum load which such motor vehicle may carry as declared by the applicant subject to audit and approval by the commissioner. The combined weight of motor busses or bus trailers is the light weight of the vehicle plus the weight of the maximum seating capacity including the driver's seat estimated at 170 pounds per seat, exclusive of emergency seats, except that transit type motor vehicles may use 150 pounds per seat in determining combined weight. In cases where a bus has a seating capacity which is not arranged for separate or individual seats, 18 lineal inches of such capacity shall be deemed the equivalent of a passenger seat.

(4) "Commissioner" means Public Utility Commissioner of Oregon.

(5) "Common carrier" means:

(a) Any person who transports for hire or who holds himself out to the public as willing to transport for hire, compensation or consideration by motor vehicle, persons or property, or both, for those who may choose to employ him; or

(b) Any person who leases, rents or otherwise provides a motor vehicle for the use of others and who in connection therewith in the regular course of business provides, procures or arranges for, directly, indirectly or by course of dealing, a driver or operator therefor.

(6) "Transit type motor vehicle" means any passenger carrying vehicle which does not have a separate compartment or space

provided for the transporting of baggage or express.

[Amended by 1955 c.681 §1; 1959 c.420 §1]

767.010 "Contract carrier," "extreme miles" or "extreme mileage," "forwarder," "highway commission" and "motor vehicle" defined. As used in this chapter the term:

(1) "Contract carrier" means any person engaged in the transportation by motor vehicle of persons or property, or both, for compensation, under special and individual agreements, leases or other arrangements, and not included in the term "common carrier."

(2) "Extreme miles" or "extreme mileage" means the total miles operated by a vehicle over the public highways, except the extra miles necessarily operated over in traversing detours or temporary routes on account of road blockades in excess of the number of miles that would otherwise be required to make the trip by usual highway route.

(3) "Forwarder" means any person, except motor carriers and bona fide employes or agents of motor carriers, who, as principal or agent, is engaged in securing, accepting or assembling, for compensation directly or indirectly, property not owned by him to be transported by motor carrier.

(4) "Highway commission" means State Highway Commission.

(5) "Motor vehicle" means any self-propelled or motor-driven vehicle, or any train or combination of vehicles, used or capable of being used upon any public highway in this state in the transportation of persons or property, except vehicles operating wholly on fixed rails or tracks and electric trolley busses.

[Amended by 1959 c.420 §2]

767.015 "Person," "private carrier," "public highway" and "safe for operation" defined. As used in this chapter the term:

(1) "Person" means an individual, firm, partnership, corporation, company or association or the assignees, vendees, lessees, trustees or receivers of any of them.

(2) "Private carrier" means any person not included in the term "common carrier" or "contract carrier" who operates a motor vehicle over the public highways for the purpose of transporting property in connection with a noncarrier commercial enterprise in which such person is engaged. Ownership of

the property transported shall not be accepted as sufficient proof of a private carrier operation, if the carrier is in fact engaged in the transportation of property for hire, compensation or remuneration, or if such transportation operations are conducted for profit and not merely in furtherance and within the scope of a noncarrier commercial enterprise in which such person is engaged.

(3) "Public highway" means every street, alley, road, highway and thoroughfare in this state used by the public or dedicated or appropriated to public use.

(4) "Safe for operation" means mechanical safety and compliance with such regulations regarding equipment and operation as shall be specified by law or by rule of the commissioner.

[Amended by 1959 c.420 §3; 1961 c.161 §1]

767.020 Declaration of policy. (1) The business of operating as a motor carrier of persons or property for hire upon the highways of this state is declared to be a business affected with the public interest, and that regulated competition is desirable when it is deemed to be in the public interest.

(2) The rapid increase of motor carrier traffic and the fact that under existing law many motor trucks, trailers and busses are not effectively regulated, have increased the dangers and hazards on public highways and make it imperative that:

(a) More stringent regulations should be employed, to the end that the highways may be rendered safer for the use of the general public;

(b) The wear of such highways be reduced;

(c) Minimum of inconvenience to other users of the highways be effected;

(d) Minimum hindrance and stoppage to other users of the highways compatible with needs of the public for adequate transportation service, be effected;

(e) The highways be safeguarded from improper or unnecessary usage;

(f) Operation by irresponsible persons or any other operation threatening the safety of the public or detrimental to the general welfare be prevented;

(g) Discrimination in rates charged be eliminated;

(h) Congestion of traffic on the highways be minimized;

(i) The various transportation agencies of the state be adjusted and correlated so

that public highways may serve the best interest of the general public; and

(j) Statutes be passed to provide a method of assessing privilege taxes to enable the further construction of highways and to provide for the operation, preservation and maintenance of highways already built.

(3) The legislature hereby declares that to effect the ends and purposes listed in this section, this chapter is adopted.

767.025 Nonapplicability of chapter to school, mail and government transportation. This chapter, except ORS 767.990, does not apply to persons or motor vehicles:

(1) When operated by, or under contract with, any school board, district or person responsible for the administration of school activities, and engaged exclusively in transporting students or their instructors to or from school or authorized school activities or functions.

(2) When regularly operating over a rural or star route and engaged exclusively in the transportation of United States mail under contract with, or when such person is an employe of, the Post Office Department. Such person may, in addition thereto, transport property for consideration in such vehicle over his rural or star mail route not to exceed 200 pounds in weight for any one delivery, when not in competition with a regular route common carrier.

(3) When used exclusively in the transportation of United States mail as a substitute or supplement for rail transportation.

(4) When owned and operated by the United States, the State of Oregon, any county, city, town or municipality in this state, or any department of any of them except when owned or operated as a carrier for hire.

[Amended by 1959 c.497 §1; 1961 c.175 §1]

767.030 Nonapplicability of chapter to farm transportation. (1) This chapter, except ORS 767.990, does not apply to a motor vehicle owned by a farmer when used exclusively in any one or more of the following operations:

(a) Transporting his own agricultural commodities, agricultural products or livestock (including the products of such commodities, products or livestock that were packed, processed or manufactured on his farm) that were originally grown or raised by him on his farm, or when used in any

transportation which is incidental to the regular operation of his farm, or when used to transport supplies, equipment or materials to his farm that are consumed or used on his farm.

(b) Transporting the perishable raw, or perishable unprocessed, farm-produced products of another farmer from the point of production to the primary market if such transportation is immediately necessary to preserve either the quantity or the quality, or both, of such products.

(c) Transporting forest products to his own farm, or transporting for any purpose such products originating on his farm.

(d) Transporting from the farm of another farmer, on an exchange of labor basis or for a nominal consideration, the agricultural commodities, agricultural products or livestock (including the products of such commodities, products or livestock that were packed, processed or manufactured on such farm and those products indicated in paragraph (c) of this subsection) that were originally grown or raised on such farm.

(e) Transporting supplies, equipment or materials to another farmer on an exchange of labor basis or for a nominal consideration if such supplies, equipment or materials are to be used or consumed on the other farmer's farm, or are directly related to the operation of such farm.

(2) As used in this section:

(a) "Farm" includes one or more farms, orchards or ranches, but does not include a tree farm unless part of a farm operation.

(b) "Farmer" means a person who is engaged, either as owner or renter, in a farm operation of a size to reasonably require the use of the motor vehicle or vehicles claimed under the exemption provided by this chapter and ORS 481.225, but does not include cooperative corporations or associations organized under ORS chapter 62.

(3) As used in this section, "forest products" means forest materials originating on a farm or as an incident to the regular operation of a farm, but piling, poles over 30 inches in circumference at the large end, and logs over eight feet six inches in length, or logs over eight feet six inches but not over 16 feet six inches in length when transported on any motor vehicle having a gross weight in excess of 16,000 pounds shall not be considered forest products, agricultural commodities or agricultural products within the

meaning of this section.

[Amended by 1957 c.667 §1; 1959 c.497 §2]

767.035 Nonapplicability of chapter to vehicles operating within city limits, fire-fighting and towing vehicles, ambulances and vehicles operated on certain roads in connection with removal of forest products. This chapter, except ORS 767.990, does not apply to persons or motor vehicles:

(1) While being used in the transportation of persons for hire in vehicles having a seating capacity of more than five persons and operating wholly within the incorporated limits of a city in Oregon and within a radius of three airmiles beyond the corporate limits of such city. When the three airmile radius of a city in which the original starting point of such vehicle is located extends into the corporate limits of another city and both of the cities are served by the same carrier, the two cities shall be considered for the purpose of this subsection as one city if the service proposed may be rendered by a vehicle which at no time on such movement operates beyond the three airmile radius of both cities. If provisions of this chapter do not apply to any persons or vehicles because of the provisions of this subsection, such persons and vehicles shall be subject to regulations of the city or town in which they operate.

(2) When a passenger vehicle of not exceeding a five-passenger seating capacity is engaged in a taxicab operation, either transporting passengers between points in Oregon or transporting property in single shipments that do not exceed 10 pounds in weight, consisting of:

(a) Drugs or medical, dental or optical supplies;

(b) News or advertising matter, or matter to be used in producing news or advertising, including but not limited to art work, copy, photographs, film (still, movie, or video or audio tape), engravings, reproductions, plates or proofs;

(c) Food, clothing, flowers or personal effects;

(d) Papers in envelopes;

(e) General commodities moving between the hours of 6:30 p.m. and 7:30 a.m. on week days and Saturdays, or at any time on Sundays or legal holidays;

(f) Data processing matter not exceeding five pounds per shipment;

(g) Brief cases and hand-carried luggage, regardless of weight;

when moving between a single consignor and a single consignee in on-call service wholly within the corporate limits of a city in Oregon and within a radius of three airmiles beyond the corporate limits of such city in which the starting point of such vehicle is located, when transported at charges prescribed by the commissioner under this chapter; provided, however, that such shipments of property shall be transported under a shipping document consisting of three parts, one to be supplied to the shipper, one to the consignee at the time of delivery and one to be retained by the carrier and kept available for inspection for two years. Said shipping document shall contain the address of the consignor and consignee, a brief, accurate description of the property transported and the charge therefor. Such persons and vehicles shall be subject to regulations of the city in which they operate.

(3) When used for the transportation of property by private carrier by means of a single vehicle or combination of vehicles the combined weight of which vehicle and load, vehicles or vehicles and load does not exceed 6,000 pounds.

(4) When operated exclusively for the purpose of transporting persons or property in connection with the patrolling of forests for the prevention or fighting of forest fires.

(5) When engaged in operating implements of husbandry, temporarily drawn, moved or otherwise propelled.

(6) Used in servicing and towing disabled motor vehicles and not otherwise used in transporting goods and merchandise for compensation, if the vehicle:

(a) Is specially constructed for such use; or

(b) Has a combined weight not exceeding 6,000 pounds.

(7) When operated as a hearse or ambulance.

(8) When operating over any road or thoroughfare in private ownership.

(9) When using any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products as defined in ORS 321.005 or for the construction or maintenance of such road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with:

(a) An agency of the United States;

(b) The State Board of Forestry;

(c) The State Forester; or

(d) A licensee of an agency named in paragraph (a), (b) or (c) of this subsection. [Amended by 1953 c.333 §2; 1955 c.638 §1; 1959 c.179 §1; 1959 c.497 §3; 1961 c.250 §1; 1963 c.362 §1]

767.040 Compliance with chapter required. No common carrier, contract carrier or private carrier shall operate any motor vehicle for the transportation of persons or property, or both, on any public highway in this state, and no person shall act as a broker or forwarder, except in accordance with the provisions of this chapter.

767.045 Application of chapter to interstate and foreign commerce. This chapter applies to interstate and foreign commerce, except in so far as it may be in conflict with the provisions of the Constitution and the laws of the United States.

767.050 Special privileges not affected by this chapter. This chapter does not prevent:

(1) Common carriers or contract carriers from transporting within this state at free or reduced rates:

(a) Themselves or their officers, agents or employes, or dependent members of the families of such individuals, or the personal effects or household goods of such individuals.

(b) Ministers of religions, inmates of hospitals and charitable and eleemosynary institutions and individuals exclusively engaged in charitable and eleemosynary work.

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

(d) Witnesses attending legal investigations in which the carrier is interested.

(e) Persons injured in wrecks and physicians and nurses attending such persons.

(2) The interchange of passes by common carriers with other common carriers and their officers, agents and employes, and their families, or officers, agents or employes of railway common carriers, and their families.

(3) Any common carrier or contract carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitation.

(4) The issuance of mileage, commutation, party or excursion passenger tickets,

if they are obtainable by all persons applying therefor under like circumstances and conditions.

767.055 When carrier is prima facie common carrier. Evidence that any carrier holds or has obtained at any time, in his own name or for his benefit, contracts for the transportation of property with more than five shippers or consignees, is prima facie evidence that such carrier is, in fact, a common carrier. Showing may be made to the contrary by, for or on behalf of such carrier by evidence overcoming such prima facie evidence.

767.060 Officers' duties as to enforcement of chapter. The Attorney General, Secretary of State, district attorneys of the several counties of the state, and all state, county, and city police officers shall assist the commissioner in the administration and enforcement of this chapter, and they, as well as the commissioner, his assistants and employes, shall inform against and diligently prosecute all persons whom they have reasonable cause to believe guilty of violation of this chapter or of the rules, regulations, orders, decisions or requirements of the commissioner made pursuant thereto.

[Amended by 1953 c.338 §4]

767.065 Courts to forward copies of record on conviction for violation of this chapter. The courts having jurisdiction of this chapter shall, upon a conviction of anyone for violation of this chapter, immediately forward a certified copy of the record of such conviction to the office of the commissioner.

767.070 to 767.100 [Reserved for expansion]

PERMITS AND LICENSES

767.105 Necessity for permit for commercial transportation of persons or property on public highways. (1) No person shall operate any motor vehicle, whether loaded or empty, on any highway in this state as a common carrier, contract carrier or private carrier in the transportation of persons or property or both without first applying for and obtaining, in addition to any license required by any other law, a permit from the commissioner covering the proposed operation.

(2) Every person who engages for compensation to perform a combination of ser-

vices which includes transportation of property of others upon the public highways is subject to the jurisdiction of the commissioner as to such transportation and shall not engage upon the same without first having obtained a common carrier or contract carrier permit to do so.

[Amended by 1959 c.206 §1]

767.110 When permit required for towing operations. No person shall tow any motor vehicle or vehicle for hire upon any public highway of this state by means of any other motor vehicle, whether or not the towing motor vehicle is exempt from the provisions of this chapter, until a permit has been obtained from the commissioner; provided, no such permit is required for towing operations conducted by the use of motor vehicles specially constructed for and used for towing wrecked and disabled motor vehicles.

767.115 [Repealed by 1961 c.110 §1]

767.120 Broker's and forwarder's licenses; necessity for; issuance of; regulations to be observed by licensee. (1) No person shall act as a forwarder or broker unless he holds a forwarder's or broker's license, issued by the commissioner, to engage in such transactions.

(2) A brokerage or forwarding license shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that:

(a) The applicant is fit, willing and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules and regulations of the commissioner thereunder; and

(b) The proposed service, to the extent to be authorized by the license, is or will be consistent with the public interest.

(3) No such license shall be issued or remain in force unless the applicant furnishes a bond or other security approved by the commissioner, in such form and amount as will insure financial responsibility and the supplying of authorized transportation in accordance with contracts, agreements or arrangements therefor.

(4) The commissioner shall prescribe reasonable rules and regulations for the protection of travelers or shippers by motor vehicle, to be observed by any person holding a brokerage or forwarding license.

767.125 Applications for permits. (1) The commissioner shall prescribe forms of applications for permits for the use of applicants and shall make regulations for the filing thereof.

(2) In the case of common carriers and contract carriers, the application shall state:

(a) The ownership, financial condition, equipment to be used and the combined weight thereof;

(b) The physical property of the applicant;

(c) Character of service, whether transportation of property or of persons;

(d) The district or territory in which the operation is to be conducted, and if upon regular route, the termini thereof; and

(e) Such other information as the commissioner may require.

(3) If the applicant is a private carrier, the application shall state the ownership, equipment to be used, the combined weight thereof, character of property to be transported and such other information as the commissioner may require.

[Amended by 1961 c.111 §1]

767.130 Restriction on issuance of permits; hearing upon request. (1) No permit shall be granted to any person:

(a) If the commissioner has reasonable grounds to believe that he is not capable of conducting the transportation service contemplated, in compliance with the law and rules and regulations of the commissioner; or

(b) Who has been an habitual or intentional violator thereof; or

(c) If the commissioner has reasonable grounds to believe that the information contained in the application for permit pertaining to ownership, possession or control of the equipment or operation to be conducted is false.

(2) No person whose application for permit has been denied shall be eligible to renew the application for a period of six months or to operate or participate directly or indirectly in the proposed operation for a period of six months from the date application has been denied.

(3) Any person who has been denied a permit under subsection (1) of this section shall upon request be granted a hearing. After hearing the commissioner shall grant or deny the permit in conformity with the findings.

[Amended by 1961 c.50 §1]

767.135 Issuance of common carrier permits; when hearings necessary; findings necessary. (1) When a person files with the commissioner an application for a permit to operate as a common carrier, for the extension of an existing permit, or for the transfer of a common carrier permit, the commissioner shall serve notice of the application upon every person who has an application filed and pending before the commissioner to serve the territory proposed to be served by the applicant, or who holds a common carrier permit to serve that territory.

(2) If any person desires to protest the issuance, extension or transfer of the permit or requests a hearing, he may file notice thereof with the commissioner within 10 days from the date of service of the notice of application. The commissioner thereupon shall fix a time and place for a hearing upon the application, and shall serve notice of the hearing upon the applicant and any person who has filed a notice of protest or request for a hearing. For the purpose of properly and fully informing himself, the commissioner may hold a hearing on an application although no notice of protest or request for a hearing is filed.

(3) If no person protests or requests a hearing, within the period specified in the notice that an application has been filed, the commissioner may order the issuance or transfer of the permit without a hearing, if the applicant shows compliance with paragraphs (a), (b), (d), (f), (g) and (h) of subsection (4) of this section.

(4) If the application for issuance or transfer of a permit is the subject of a hearing, the commissioner shall issue the permit if the applicant has complied with this chapter and the rules and regulations of the commissioner, and if the commissioner finds from the record and the evidence that:

(a) If the applicant, if an intrastate operator, is financially responsible and adequately equipped to perform the service proposed;

(b) The applicant has certified that the vehicles listed on the application are in such operating order and so equipped as to comply with all Oregon laws, rules and regulations covering vehicle safety and operations and will be so maintained;

(c) The operation proposed is in the public interest;

(d) The operation proposed is in the public interest;

(d) The service proposed will not be attended with substantial damage to the highways or danger to other users thereof or to the public;

(e) The granting of a permit will not result in the impairment of the ability of existing operators adequately to serve the public;

(f) The rates, schedules or contracts proposed by the applicant, if an intrastate operator, are approved by the commissioner;

(g) The applicant can and will furnish and file the insurance, bond or substitute security or qualify as self-insurer as provided in this chapter;

(h) The applicant has agreed to pay the privilege taxes provided for in this chapter, to comply with the provisions of this chapter, and to obey all the rules and regulations of the commissioner.

(5) If the application for issuance or transfer of a permit is the subject of a hearing, and if the commissioner does not find that all the conditions provided in subsection (4) of this section are satisfied, he may deny the application or he may order that issuance of the permit be deferred pending compliance by the applicant with those conditions provided in subsection (4) of this section specified in the order.

(6) If the applicant fails to appear at the time and place fixed for the hearing, the application may be denied.

[Amended by 1957 c.263 §1; 1959 c.412 §1; 1961 c.117 §1]

767.140 [Repealed by 1959 c.412 §2 (ORS 767.141 enacted in lieu of ORS 767.140)]

767.141 Issuance of permits to contract carriers. (1) Applications for permits to operate as a contract carrier shall be disposed of in the same manner as provided in ORS 767.135 for common carriers.

(2) No applicant for a permit to serve as a contract carrier shall be required to serve as a common carrier.

[1959 c.412 §3 (enacted in lieu of ORS 767.140)]

767.145 Dispensation of hearing and order requirement for issuance of permit authority covering certain operations. Hearing and order are not required for the issuance of permit authority to:

(1) Common or contract carriers engaged exclusively in the transportation of rough or planed lumber, including shingles, from point of origin to mill, retail yard or shipping point.

(2) Common or contract carriers en-

gaged exclusively in the transportation of cordwood in long or short lengths or sawdust or hog fuel.

(3) Common or contract carriers engaged exclusively in transportation of sand, gravel, rock, dirt, debris, cinders or asphaltic concrete mix.

(4) Common or contract carriers engaged exclusively in transporting metallic ores or concentrates, or raw nonmetallic products, whether crushed or otherwise, from mines, pits or quarries.

(5) Common or contract carriers engaged exclusively in transporting fish scrap from fish processing plants to rendering or reduction plants.

(6) Regular route common carriers desiring to operate over redesignated or relocated public highways provided:

(a) The new route has the same numerical designation as permittee's presently authorized route; and

(b) Not less than 10 days prior to the institution of such service such person file with the commissioner time schedules properly reflecting such service; and

(c) No service is to be performed to, from or between points on such redesignated or relocated public highway otherwise than in accordance with such person's existing permit; and

(d) Such time schedules and service otherwise is in compliance with this chapter.

[Amended by 1957 c.263 §2; 1961 c.169 §1; 1961 c.403 §1]

767.147 Application for reissuance of permit for transportation of logs, poles or piling; scope of permit. (1) Every common or contract carrier, who has obtained a permit under subsection (1) of ORS 767.145 for the transportation of logs, poles or piling, shall make application for reissuance of such permit, in accordance with subsection (3) of this section, within 90 days after January 1, 1962, or the commissioner shall summarily cancel the permit.

(2) Permits issued pursuant to ORS 767.135 or 767.141 prior to January 1, 1962, shall not be construed to include authority to transport logs, poles or piling; provided, however, an application for reissuance of such permit may be made in accordance with subsection (3) of this section.

(3) Except where the commissioner has commenced a proceeding for cancellation of the permit under ORS 767.190, if upon application filed pursuant to subsection (1) or (2)

of this section, the commissioner finds that the permittee was engaged in providing service under the permit during the year ending February 1, 1961, the commissioner at once shall cancel and reissue the permit to conform with operations conducted. If the commissioner finds that the permittee was not so engaged, the commissioner shall summarily cancel the permit.

[1961 c.403 §3]

767.150 Issuance of permits to private carriers. Upon receipt of the information in writing required by the application form for permits in that class and in compliance with the law and the rules and regulations of the commissioner, permits shall be issued to private carriers, conditioned that the proposed operation will not be attended with substantial damage to the highway or danger to the users thereof, to adjacent property or facilities or to the public. The applicant is entitled to a hearing by the commissioner if his application has been declined by the commissioner.

767.155 Issuance of permits to interstate carriers. (1) Common carriers and contract carriers engaged or to engage exclusively in interstate operations shall apply to the commissioner for a permit. The commissioner shall issue a permit to them without a hearing and as a matter of course if they file with the commissioner a copy of the authority issued them by the Interstate Commerce Commission of the United States, if such authority is required, and furnish evidence of coverage by public liability and property damage insurance policy or qualify as self-insurer as required by this chapter.

(2) No common or contract carrier engaged or to engage exclusively in interstate operations shall perform any transportation service for compensation upon the public highways of this state without first having applied for and secured a permit in compliance with subsection (1) of this section.

[Amended by 1963 c.177 §1]

767.160 [Repealed by 1961 c.110 §1]

767.165 Special procedure for permits to transport logs, poles or piling. (1) Authority may be issued by the commissioner to common carriers, contract carriers or private carriers for the transportation of logs, poles or piling over public highways only upon a showing by the carrier before the commissioner justifying the issuance of the permit.

(2) If the highways over which such applicant proposes to operate:

(a) Are state highways, the commissioner shall call upon the highway commission to submit in writing such recommendations or suggestions that in its opinion should be imposed for the protection of the highways and for the best interest of the general public.

(b) Are county highways, the applicant shall first secure a recommendation from the county court or board of county commissioners that he be permitted to use the county highways over which he proposes to operate.

(c) Are streets of an incorporated city, the applicant shall first secure a recommendation from the governmental authority of such city that he be permitted to use the city streets over which he proposed to operate.

(3) All authority issued to such carriers is temporary and shall be revoked or suspended upon receipt, by the commissioner, of resolutions of the highway commission with respect to state highways, the county court or board of county commissioners with respect to county highways and the municipal authority with respect to city streets, reciting that in the judgment of such officials such revocation or suspension is required in order to preserve the highways, county roads or city streets involved.

[Amended by 1959 c.87 §1]

767.170 Emergency or temporary permits. (1) If any condition or emergency arises requiring relief in cases of general epidemic, pestilence or other calamitous visitation in the state or any community therein, wherein the public or community interest or the transportation of any persons or property requires, in the opinion of the commissioner, the issuance of a permit for a temporary transportation service, the commissioner may issue a temporary permit therefor, without hearing, the term of which shall be limited to a reasonable time to be determined by the commissioner under the circumstances.

(2) The commissioner may issue a temporary contract carrier permit without hearing to transport agricultural or horticultural products from the field at time of harvest to point of processing or storage if such transportation is immediately necessary to preserve either the quantity or quality, or both, of such products. The term of such permit

shall be limited to a reasonable time to be determined by the commissioner under the circumstances.

(3) The commissioner may issue a temporary contract carrier permit without hearing to transport dairy products from farm to dairy if such transportation is immediately necessary to preserve either the quantity or quality, or both, of such products. Such permit will be issued for a period not to exceed 30 days.

(4) The commissioner may issue a temporary contract carrier permit without hearing to transport logs when the number of carriers and their equipment in an area having proper operating authority under ORS 767.147 is temporarily insufficient, or the weather or other forest conditions require, to transport expeditiously the commodity from the point of origin to storage, mill or shipping point and meet the marketing needs of the logging industry. Such permit will be issued for a period not to exceed 30 days.

(5) The emergency or temporary authority issued under this section will not convey any right to permanent authority or be evidence of a need for permanent authority.

[Amended by 1961 c.112 §1; 1961 c.403 §4]

767.175 Issuance and placement of identification plates and receipts; receipt to state combined weight of vehicle; new plates issued biennially. (1) The commissioner shall, with respect to each vehicle, issue an identification plate or marker, and a receipt stating therein the combined weight of each vehicle involved.

(2) The receipt shall be carried with the vehicle at all times, and no person shall load any motor vehicle in excess of its combined weight permit rating thus determined except as variations may necessarily result in passenger loading.

(3) The identification plate or marker must be fastened or placed on the vehicle to which it is issued in a manner prescribed by the commissioner by rule.

(4) Commencing January 1, 1958, and biennially thereafter, the commissioner shall by general order revoke all outstanding identification plates or markers and issue new identification plates or markers for all vehicles subject to this chapter.

[Amended by 1957 c.561 §1]

767.180 Vehicles to be operated only in class for which permit issued; effect of violation. (1) The commissioner shall, in issu-

ing permits, classify the applicants as to their proper class under the law and no carrier shall operate in a different class without permit from the commissioner.

(2) No vehicle shall be operated in more than one of the classes covered by this chapter except that:

(a) Vehicles carrying persons may also carry baggage and express or be operated as charter cars.

(b) A trailer under private carrier permit, when used for the transportation of equipment in connection with highway construction, may be attached to a truck equipped with a dump body bearing a common carrier or contract carrier identification plate or marker.

(c) A common or contract carrier may use any or all of his motor vehicles and equipment to transport property of which he is the owner, if he applies for and receives a permit authorizing such use. The provisions of ORS 767.135 shall apply to the issuance of such a permit.

(3) Common or contract carriers may interchange equipment upon which an identification plate or marker has been issued by the commissioner and such identification plate or marker thereon may remain on the equipment and no transfer of registration with either the Department of Motor Vehicles or the commissioner shall be required, provided that such interchange shall be permitted only in accordance with rules and regulations as prescribed by the commissioner pertaining to insurance coverage, accounts, records, reports, operations and practices thereof.

(4) If, after notice and hearing, the commissioner finds that any carrier is operating any vehicle in a class other than that for which the permit is issued, he shall revoke or suspend the permit, or order the carrier to cease and desist the illegal or irregular practices found.

[Amended by 1955 c.79 §1; 1957 c.561 §2]

767.185 Transfer of permits and licenses; no franchise or property right in permit or license; exceptions on death of holder. (1) No permit issued under this chapter or any prior law shall be assigned or otherwise transferred except after hearing as provided in ORS 767.135.

(2) No license issued under this chapter shall be assigned or otherwise transferred without the written approval of the commissioner that such assignment or transfer

is consistent with the public interest and conforms with ORS 767.120.

(3) No such permit or license shall be construed to be a franchise or irrevocable or exclusive or to confer any property right upon the holder thereof; provided, however, upon the death of an individual holding a permit or license, the executor or administrator may continue the operation thereunder, for the purpose of transferring the permit or license, for a period of not to exceed two years from the date of death. An application for the transfer of the license or permit must be filed within 12 months of the date of death, otherwise the permit or license shall be deemed revoked automatically. In determining the scope of authority to be transferred under this subsection, as evidence of past use under the license or permit, the commissioner shall only consider the services furnished during the two-year period immediately preceding the death of the permittee. If the license or permit is not transferred or canceled within two years of the date of death, said permit or license shall be deemed revoked automatically.

[Amended by 1961 c.249 §1]

767.190 Cancellation or suspension of permits and licenses. (1) Permits when issued shall be valid until revoked. If at any time after notice to the permittee and a hearing before the commissioner, the continued operation is found by him to be against the public interest, unduly congesting the highway or fraught with substantial danger to users of the highway, to adjacent property or facilities or to the public, or inflicting substantial damage to the highway, the commissioner shall cancel the permit so investigated or condition the operation thereunder as conditions require.

(2) Permits or licenses may be suspended or canceled by the commissioner after notice and hearing based upon his own or other complaint when the permittee or licensee:

(a) Is delinquent in the payment of any fees or taxes due under the law, if written demand for payment and notice of hearing for suspension or cancellation of permit have been served upon him by the commissioner, at least 10 days before the hearing.

(b) Or his agents or employes have repeatedly violated this chapter or other highway or motor laws of this state.

(c) Has repeatedly and intentionally vio-

lated or avoided any order, rule or regulation of the commissioner.

(d) Has intentionally made unlawful rebates.

(e) Has repeatedly refused or has repeatedly failed, after having been requested to do so, to furnish service authorized by permit or granted by license. The commissioner in such cases may also, in his discretion, restrict the permit or license to conform with operations conducted.

(f) Has not, except for reasons beyond his control, furnished service authorized by his permit or license for a period exceeding six consecutive months immediately preceding the filing of the complaint in the proceeding; or, in the case of a common or contract carrier authorized to transport logs, poles or piling, has not, except for reasons beyond his control, furnished service authorized by his permit or license to transport logs, poles or piling for a period exceeding 12 consecutive months immediately preceding the filing of a complaint in the proceeding. The commissioner in such cases may also, in his discretion, restrict the permit or license to conform with operations conducted.

(g) Has refused, or has failed, within the time provided, to file the annual report required by ORS 767.605.

(h) Has failed to appear for hearing after notice that his permit or license is under investigation.

(i) Has filed with the commissioner an application which is false with regard to the ownership, possession or control of the equipment being used or the operation being conducted.

[Amended by 1957 c.263 §3; 1959 c.86 §1; 1961 c.120 §1; 1963 c.210 §1]

767.195 Liability insurance needed by carriers. (1) Except as provided in ORS 767.215, no permit shall be issued to any person to operate as a motor carrier until he has filed with the commissioner a policy of public liability and property damage issued by an insurance company or reciprocal insurance exchange authorized to transact business as such within this state, and in accordance with the policies, forms and manuals on file with the State Insurance Commissioner, for the following minimum limits of liability:

(a) Bodily injury liability, limit for each person, \$10,000,

(b) Bodily injury liability, subject to

above limit for any one person, limit for each accident, \$20,000,

(c) Property damage liability, limit for each accident, \$10,000, and upon such terms, conditions and provisions as the commissioner may determine to be necessary for the reasonable indemnification of the patrons of the applicant and of the public against damage and injury for which the applicant may be liable by reason of the operation of any motor vehicle. However, the insurance policy required of a carrier or persons engaged solely in interstate commerce need not provide for the protection of their patrons.

(2) In lieu of such policy of insurance, any carrier subject to this chapter may file a certificate of insurance coverage based upon a policy approved by the State Insurance Commissioner, if said policy by its terms fulfills the requirements as to coverage required by this section, and the rules and regulations of the commissioner.

(3) In fixing the amount of the insurance policy the commissioner shall give due consideration to the character and amount of traffic and number of persons involved and the degree of danger which the proposed operation involves.

[Amended by 1953 c.582 §1; 1959 c.412 §4]

767.200 Additional bond and insurance required of intrastate carriers of property.

(1) Common and contract carriers of property intrastate must file, in addition to the policy under ORS 767.195, a satisfactory bond in a sum to be fixed by the commissioner, conditioned that such carrier shall make compensation to shippers or consignees for all property shipped collect on delivery, or money collected therefor, belonging to shippers or consignees and coming into the possession of such carrier in connection with its transportation business.

(2) No permit shall be issued to any person to operate intrastate as a common or contract carrier of freight or express until he has filed with the commissioner, in addition to such coverage, cargo insurance in such penal sum as the commissioner may deem necessary to protect adequately the interests of the public. This policy shall bind the assurer for loss of, or damage to, property carried in, upon or attached to the motor vehicles or other equipment operated by, for or under the control of the assured, or while in the care or custody of the assured.

(3) The commissioner may waive the filing of such bond or cargo insurance for any carrier whose service is limited to commodities not subject to material damage or loss through ordinary transportation hazards, or any carrier who does not engage in transporting collect on delivery shipments.

767.205 Limitations on cancellation of insurance or bond; suspension of permit on cancellation of insurance or bond. (1) No insurance policy, collect on delivery bond furnished under this chapter or bond filed pursuant to ORS 767.380 may be canceled or otherwise terminated at any time prior to its expiration until the indemnity or surety company or reciprocal insurance exchange which executed the same, has filed with the commissioner a notice of cancellation as provided in such bond or policy. Such cancellation shall be effective not less than 15 days from the date of receipt, and no agreement between the parties thereto shall operate to avoid this restriction upon cancellation.

(2) If any such insurance policy, collect on delivery bond or bond filed pursuant to ORS 767.380 becomes inoperative, the authority under the permit involved shall cease and be suspended, in so far as it pertains to any affected vehicles, until an insurance policy or collect on delivery bond meeting the requirements of ORS 767.195 and 767.200 or bond filed pursuant to ORS 767.380 becomes effective and is filed with and accepted by the commissioner.

[Amended by 1963 c.119 §1]

767.210 Deposit of securities in lieu of insurance or bond.

(1) The holder of any permit may furnish, file and deposit with the commissioner, in lieu of the insurance policy or surety bond, as the case may be, provided for in ORS 767.195 and 767.200, money or bonds, negotiable by delivery, of the State of Oregon, school districts therein of the first class, or of any county therein, or obligations of the United States, or obligations for which the faith of the United States is pledged for the payment of both the principal and interest, equal in amount to the amount of the insurance policy or bond required by the commissioner.

(2) So long as the deposit remains unincumbered the depositor is entitled to collect the interest upon such securities.

(3) The commissioner shall hold the securities upon such terms as he shall designate and approve pursuant to the provisions

of this chapter, and shall deliver such securities to the State Treasurer, who shall receive and hold them subject to the lawful orders of the commissioner. The State Treasurer and his surety shall be liable upon his official bond for their safekeeping. The depositors shall reimburse the State Treasurer for any expenses incurred by him in the mailing, insuring, shipping or delivering of any such securities, or of the interest coupons attached thereto as they mature.

(4) Such substituted security shall be subject to the liabilities imposed by the terms of the policy of insurance or surety bond then currently used by the commissioner.

(5) If the securities provided for in this section are furnished in lieu of an insurance policy or bond, they shall not be subject to withdrawal or assignment by the holder of the permit, either voluntarily or by operation of law, until the expiration of one year after the holder of the permit, in connection with which they are furnished has:

(a) Substituted therefor a policy of insurance or surety bond as provided in ORS 767.195 and 767.200; or

(b) His permit canceled; or

(c) Surrendered such permit to the commissioner for cancellation and has ceased operation thereunder.

(6) If any such securities become impaired in value, the commissioner shall require additional protection by insurance, bond or substitute security to the extent that the value of the securities, or any of them, may have become impaired.

767.215 Self-insurance in lieu of insurance or bond. (1) Any common carrier, engaged in interstate or interstate and intrastate operations within the State of Oregon, which is or becomes qualified as a self-insurer with the Interstate Commerce Commission of the United States in accordance with laws of the United States applicable to self-insurance by motor carriers, is exempt, so long as such qualification remains effective, from the provisions of ORS 767.195 to 767.210.

(2) The commissioner may require proof of the existence and continuation of such exempt status to be made by affidavit of the carrier in such form and at such times as the commissioner may prescribe.

[Amended by 1957 c.368 §1]

767.220 to 767.300 [Reserved for expansion]

TAXES AND FEES

767.305 Application fee; transfer fee. In addition to the other fees and taxes prescribed in this chapter, every person applying for a permit under ORS 767.135 or 767.141 shall pay to the commissioner with his application a fee of \$25. A like fee shall accompany an application for transfer of such permits. If an application under any other provision of this chapter is set for hearing, a \$25 fee shall be paid before such hearing. The fees collected under this section are not refundable.

[Amended by 1961 c.44 §1]

767.310 Plate fees; temporary pass fees; summary revocation of plate or marker.

(1) In addition to other fees prescribed in this chapter, each carrier holding or obtaining a permit under this chapter shall pay to the commissioner a fee of \$2.50 for each identification plate or marker issued to identify and be attached to each self-propelled or motor-driven vehicle and each trailer or semi-trailer operated or to be operated in connection with such permit. This fee shall be known as a plate fee to be paid in advance of the issuance of the identification plate or marker.

(2) In cases of emergency when, because of single trip or short time operation not exceeding 10 days, it is impractical to assign and have an identification plate or marker attached to a vehicle, the commissioner may issue a temporary pass identifying the vehicle. For this pass a fee of \$1 for each vehicle shall be paid.

(3) An identification plate or marker may be summarily revoked by the commissioner whenever the vehicle to which it is issued is suspended from operation or removed from permit. In such case no refund of fees shall be allowed for the unexpired term of such identification plate or marker.

[Amended by 1957 c.561 §3]

767.315 Broker's and forwarder's tax. Brokers and forwarders shall pay to the commissioner a fee or tax of six percent of the gross revenues earned, less any freight charges paid by forwarders, from intrastate business. On or before the twentieth day of each month, each broker or forwarder shall pay the amount of the fees or taxes due from them for the preceding calendar month. If payment is not made on or before such date, there shall be added for each month overdue a sum equal to one and one-half percent of the amount of the original fee.

767.320 Fees for copies of documents and transcripts. Except when required by law to be furnished free of charge, the commissioner shall collect a fee for all copies of orders, documents or transcripts, or other instruments prepared by him or on file in his office, in accordance with the following schedule:

- (1) Transcripts per page 8½ x 13, double spaced, 25 cents.
- (2) Copies of all other documents, per folio, each 10 cents.
- (3) Photostatic copies of documents, cost.
- (4) Certified copies of documents, per certificate, 50 cents.

767.325 Motor carrier tax for use of highways. (1) In addition to the license fees and taxes otherwise imposed by law upon common carriers, contract carriers and private carriers there shall be assessed against and collected from every such carrier a tax for the use of the highways, to apply on the cost of administration of this chapter and for the maintenance, operation, construction and reconstruction of public highways. A carrier responsible for the construction of any highway under contract with the State Highway Commission or an agency of the United States, or a subcontracting carrier of such contractor, is exempt during the construction period from the provisions of ORS 767.325 to 767.345 for mileage traveled within the immediate construction project as described in the governmental agency contract by vehicles used for work described in the contract.

(2) The tax rate which shall apply to each motor vehicle shall be based upon the declared combined weight of the motor vehicle and in accordance with the weight group tax rates as shown in the tables set forth in ORS 767.330, except that the tax rate which shall apply to each passenger motor vehicle weighing more than 12,000 pounds and not more than 30,000 pounds and having an overall length not in excess of 35 feet shall be two mills less than the fee rates per mile set forth in tables "A" and "B."

(3) For the purpose of computing the tax due:

(a) Tables "A" and "C" apply to motor vehicles using motor vehicle fuel as defined in ORS 319.010.

(b) Tables "B" and "D" apply to motor vehicles using motor vehicle fuel as defined in ORS 319.520.

(c) Table "B" or "D" applies to motor vehicles used upon the public highways in this state that use motor vehicle fuel of any description purchased outside this state.

(d) Table "A" or "B," or both, apply to motor vehicles used upon the public highways of this state that use motor vehicle fuel as defined in ORS 319.010, purchased part inside and part outside this state, but in no event shall table "A" be applied in the computation of any tax to more than the maximum miles which could be traveled in this state on such motor vehicle fuel purchased within the state.

(e) Table "D" shall be used by persons paying taxes on the flat fee basis in arriving at the fee payable on motor vehicles which use motor vehicle fuel as defined in ORS 319.010, when insufficient such fuel is purchased in Oregon to propel the motor vehicles the extreme miles traveled within this state.

(f) The declared combined weight, except as provided in paragraph (g) of this subsection, shall be the combined weight declared in the application for permit under ORS 767.105, subject to audit and approval by the commissioner.

(g) The declared combined weight, for weights over 76,000 pounds authorized pursuant to ORS 483.528, shall be the actual weight of the motor vehicle and its load with respect to each trip subject to the tax, determined by scale weights when so weighed, records required by this chapter or any regulation issued thereunder, or from any other information available to the commissioner.

(4) All carriers who use tables "A," "A" and "B" or "C" in the computation of the tax or fee due under this section shall maintain records and purchase documents to substantiate and justify the use of such tables. The failure of any carrier to so keep such records and documents or to disclose them to the commissioner or his duly authorized representative is prima facie evidence that the tax or fee should have been computed by using tables "B" or "D."

(5) The tax for each motor vehicle when tables "A" or "B," or both, are used shall be computed by multiplying the extreme mileage of travel in Oregon by the appropriate weight group tax rate as it appears in the table or, for each passenger motor vehicle weighing more than 12,000 pounds and not more than 30,000 pounds and having an overall length not in excess of 35

feet, by the tax rate determined by subtracting two mills per mile from the appropriate weight group tax rate as it appears in the table set forth in ORS 767.330. A minimum charge of \$1 shall accompany each monthly fee report where the tax reported is computed by using tax rate tables "A" or "B" and the tax computed is less than \$1.

[Amended by 1953 c.337 §3; 1961 c.553 §1; 1963 c.380 §1; 1963 c.466 §1]

767.330 Carrier tax tables.

MILEAGE TAX RATE TABLE "A"	
Declared Combined Weight Groups (Pounds)	Fee Rates Per Mile (Mills)
0 to 6,000.....	1.5
6,001 to 8,000.....	2.5
8,001 to 10,000.....	3.5
10,001 to 12,000.....	4.5
12,001 to 14,000.....	5.5
14,001 to 16,000.....	6.5
16,001 to 18,000.....	8.0
18,001 to 20,000.....	9.0
20,001 to 22,000.....	10.5
22,001 to 24,000.....	11.5
24,001 to 26,000.....	13.0
26,001 to 28,000.....	14.0
28,001 to 30,000.....	15.0
30,001 to 32,000.....	16.5
32,001 to 34,000.....	17.5
34,001 to 36,000.....	18.5
36,001 to 38,000.....	20.0
38,001 to 40,000.....	21.5
40,001 to 42,000.....	22.5
42,001 to 44,000.....	24.0
44,001 to 46,000.....	25.5
46,001 to 48,000.....	26.5
48,001 to 50,000.....	28.0
50,001 to 52,000.....	29.0
52,001 to 54,000.....	30.5
54,001 to 56,000.....	31.5
56,001 to 58,000.....	32.5
58,001 to 60,000.....	34.0
60,001 to 62,000.....	35.0
62,001 to 64,000.....	36.0
64,001 to 66,000.....	36.5
66,001 to 68,000.....	37.5
68,001 to 70,000.....	38.0
70,001 to 72,000.....	38.5
72,001 to 74,000.....	39.0
74,001 to 76,000.....	39.5
76,001 and over	Add 0.5 mill per ton or fraction of ton

MILEAGE TAX RATE TABLE "B"	
Declared Combined Weight Groups (Pounds)	Fee Rates Per Mile (Mills)
0 to 6,000.....	5.5
6,001 to 8,000.....	7.0
8,001 to 10,000.....	8.5
10,001 to 12,000.....	10.5
12,001 to 14,000.....	12.0
14,001 to 16,000.....	14.0
16,001 to 18,000.....	15.5
18,001 to 20,000.....	17.5
20,001 to 22,000.....	19.0
22,001 to 24,000.....	21.0
24,001 to 26,000.....	22.5
26,001 to 28,000.....	24.0
28,001 to 30,000.....	25.5
30,001 to 32,000.....	27.5
32,001 to 34,000.....	29.0
34,001 to 36,000.....	30.5
36,001 to 38,000.....	32.0
38,001 to 40,000.....	33.5
40,001 to 42,000.....	35.0
42,001 to 44,000.....	36.5
44,001 to 46,000.....	38.0
46,001 to 48,000.....	40.0
48,001 to 50,000.....	41.5
50,001 to 52,000.....	43.0
52,001 to 54,000.....	45.0
54,001 to 56,000.....	46.5
56,001 to 58,000.....	48.0
58,001 to 60,000.....	49.0
60,001 to 62,000.....	50.0
62,001 to 64,000.....	51.0
64,001 to 66,000.....	52.0
66,001 to 68,000.....	53.0
68,001 to 70,000.....	54.0
70,001 to 72,000.....	55.0
72,001 to 74,000.....	55.5
74,001 to 76,000.....	56.5
76,001 and over	Add 1.0 mill per ton or fraction of ton

FLAT FEE TABLE "C"	
Declared Combined Weight Groups (Pounds)	Flat Fee
0 to 6,000.....	\$ 35
6,001 to 8,000.....	50
8,001 to 10,000.....	65
10,001 to 12,000.....	75
12,001 to 14,000.....	90
14,001 to 16,000.....	115
16,001 to 18,000.....	140

FLAT FEE TABLE "D"

Declared Combined Weight Groups (Pounds)	Flat Fee
0 to 6,000.....	\$125
6,001 to 8,000.....	150
8,001 to 10,000.....	175
10,001 to 12,000.....	205
12,001 to 14,000.....	230
14,001 to 16,000.....	255
16,001 to 18,000.....	290

[Amended by 1963 c.380 §2]

767.335 Substitute taxes for vehicles under 18,000 pounds, towing vehicles, log vehicles and dump trucks. (1) In lieu of the fees prescribed in ORS 767.325, carriers may pay an annual fee on each motor vehicle operated by them the combined weight of which does not exceed 18,000 pounds. The fees may be paid on a quarterly basis on or before the first day of each quarter. Quarterly periods shall commence January 1, April 1, July 1 and October 1. For operations commencing after the beginning of a quarter one-third the amount of the quarterly payment shall be paid for each month or partial month remaining in the quarter. The fees shall be determined by finding the fee rate applicable to the appropriate combined weight group appearing in flat fee tables "C" and "D."

(2) A carrier may be relieved from payment of the fee provided in subsection (1) of this section for any quarter on a motor vehicle which is not operated, if the identification plate or marker for the motor vehicle is surrendered to the commissioner on or before the fifth day of the quarter for which relief is sought.

(3) In lieu of the fees provided for in ORS 767.305, 767.310 and 767.325, persons conducting towing operations requiring a permit under ORS 767.110 may pay to the commissioner a flat fee of \$7.50 for each motor vehicle for each such operation.

(4) In lieu of other fees provided in ORS 767.325, carriers engaged in operating motor vehicles in the transportation of logs, poles or piling, or in the operation of motor vehicles equipped with dump bodies and used exclusively in the transportation of sand, gravel, rock, dirt, debris, cinders or asphaltic concrete mix in connection with highway or other construction projects, may pay annual fees for such operation computed as follows:

(a) Ninety-nine cents for each 100

pounds of declared combined weight on motor vehicles using as a propulsion fuel gasoline on which has been paid to the State of Oregon the gasoline tax provided by law.

(b) One dollar and sixty-five cents for each 100 pounds of declared combined weight on those motor vehicles using as a propulsion fuel any fuel other than gasoline on which has been paid to the State of Oregon the gasoline tax provided by law.

(5) The annual fees provided in subsection (4) of this section must be paid in advance but may be paid on a monthly basis on or before the first day of the month. Any carrier electing to pay fees under this method may not change his election during the same calendar year in which the election is made, but may be relieved from the payment due for any month on a motor vehicle which is not operated, if the identification plate or marker for the motor vehicle is surrendered to the commissioner on or before the fifth day of the first month for which relief is sought.

[Amended by 1953 c.337 §3; 1955 c.653 §1; 1957 c.561 §4; 1959 c.180 §1; 1961 c.378 §1; 1963 c.380 §3]

767.340 Effect of carrier tax law on other taxes. (1) The fees or taxes listed in ORS 767.325 to 767.335 shall be in addition to, and not in lieu of, other fees and taxes of the state, county or municipality which may be imposed, levied, assessed or collected against the business or property of such carrier. This section does not authorize the imposition of license fees by municipalities upon intercity carriers, or deprive any city within which a passenger motor vehicle, having a seating capacity of not more than seven passengers, is principally operated for hire, from imposing and collecting license fees upon and from such motor vehicle, or the owner or operator thereof, as to such portion of its operations as are wholly within the corporate limits of such city.

(2) ORS 319.510 to 319.880 do not apply to vehicles or fuels used therein when the vehicles are subject to, and report and pay, the tax for the use of Oregon highways based upon the combined weight of the vehicle and in accordance with the weight group rates prescribed in ORS 767.325 to 767.335.

767.345 Fees required of interstate carriers. A person engaged exclusively in the conduct of interstate transportation shall currently pay to the commissioner the

road tax mileage fees prescribed by ORS 767.325 to 767.340 and 767.355 to 767.365.

767.350 [Repealed by 1961 c.110 §1]

767.355 Due date of fees and taxes; penalty; deficiency assessments; refund of overpayment; limitation on audit. (1) On or before the last day of each month, except for the time of payment provided in ORS 767.335, all persons shall report and pay to the commissioner the amount of taxes due from them for the preceding calendar month. If payment is not made on or before such date, there shall be added as a penalty a sum equal to 10 percent of the unpaid amount of the tax.

(2) Whenever practicable, and in no event later than three years after a report is filed, the commissioner shall audit it if the commissioner deems such audit practicable. If the commissioner is not satisfied with the report filed or amount of tax paid to the state by any person, he may make a proposed assessment of additional tax due from such person based upon any information available to him.

(3) Every such additional assessment shall bear interest at the rate of one-half of one percent per month, or fraction thereof, from the last day of the month following the close of the month for which the additional assessment is imposed until paid.

(4) If any part of the deficiency for which the additional assessment is imposed is found to have been occasioned by negligence, a penalty of 10 percent of the amount of the additional assessment shall be added thereto.

(5) If any part of the deficiency for which the additional assessment is imposed is found to have been occasioned by fraud or an intent to evade this chapter, or rules and regulations adopted under this chapter, a penalty of 25 percent of the amount of the additional assessment shall be added thereto in addition to any 10 percent penalty provided in subsection (4) of this section.

(6) The commissioner shall give to the person concerned written notice of such additional assessment. Notice shall be served personally or by certified mail. If by certified mail, service shall be made by depositing such notice in the United States postoffice postage prepaid, addressed to the person at his address as it appears in the records of the commissioner.

(7) The commissioner shall refund to

any person the amount of any overpayment caused by any incorrect report.

(8) No report may be opened for audit three years after it has been filed unless the commissioner is satisfied that the taxpayer fraudulently or with intent to evade taxation destroyed, concealed or withheld any books, accounts, papers, records or memoranda required to be maintained by the taxpayer pursuant to this chapter or the rules and regulations of the commissioner.

[Amended by 1953 c.336 §2; 1957 c.564 §1; 1963 c.234 §1]

767.360 Assessment of tax by commissioner upon failure to report tax due. (1) If any person neglects or refuses to make a report as required by this chapter, the commissioner shall make a proposed assessment, based upon any information available to him, for the period with respect to which such person failed to make a report, of the amount of tax due for the period for which such proposed assessment is made.

(2) Each such assessment shall bear interest at the rate of one-half of one percent per month, or fraction thereof, from the last day of the month for which the assessment is imposed until paid.

(3) There shall be added to every such assessment a penalty of 25 percent of the amount thereof.

(4) If the neglect or refusal to make a report as required by this chapter is found to have been occasioned by fraud or an intent to evade this chapter or rules and regulations adopted under this chapter, a penalty of 25 percent of the amount of such assessment shall be added thereto in addition to the 25 percent penalty provided in subsection (3) of this section.

(5) The commissioner shall give to such person written notice of such assessment, such notice to be served as provided in subsection (6) of ORS 767.355.

(6) Whenever the commissioner has made an assessment pursuant to this section which has become final the commissioner may not reopen or reassess such taxes, interest or penalties unless the commissioner is satisfied that the taxpayer fraudulently or with intent to evade taxation destroyed, concealed or withheld any books, accounts, papers, records or memoranda required to be maintained by a person subject to this chapter or the rules and regulations of the commissioner.

[Amended by 1957 c.564 §2; 1963 c.234 §2]

767.365 Reassessment of taxes upon request. (1) Any person against whom an assessment is made under ORS 767.355 or 767.360, may petition the commissioner for a reassessment thereof within 30 days after service upon the person of notice thereof. If such a petition is not filed within the 30-day period, the assessment becomes final at the expiration thereof. If a petition for reassessment is filed within the 30-day period the commissioner shall reconsider the assessment and, if the person has so requested in his petition, shall grant such person a hearing and give the person 10 days' notice of the time and place thereof. The commissioner has power to continue the hearing from time to time as may be necessary. The decision of the commissioner upon a petition for reassessment shall become final 30 days after service upon the person concerned of notice thereof.

(2) Every assessment made by the commissioner under ORS 767.355 to 767.365 becomes due and payable at the time it becomes final and if not paid to the commissioner when due and payable there shall be added thereto a penalty of 10 percent of the amount of the tax.

(3) Any notice required by this section shall be served as provided in subsection (6) of ORS 767.355.

[Amended by 1957 c.564 §3]

767.370 Collection of fees, taxes and other moneys. All fees, taxes and charges imposed by this chapter, all claims and penalties payable by any person under this chapter and all moneys collected under this chapter, are the property of the state. The commissioner shall collect and receive all fees, taxes, penalties and moneys due or to become due to the state under this chapter and, to that end, shall bring such actions or take such proceedings, including attachment and garnishment proceedings, in the name of the State of Oregon, as may be necessary.

[Amended by 1957 c.564 §4]

767.375 Warrant procedure for collection assessment made by commissioner. (1) If any assessment made by the commissioner under ORS 767.355 to 767.365, including any penalties therein imposed, is not paid in full when final the commissioner shall issue a warrant under his official seal directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the taxpayer found within his county, for payment of the amount

thereof, with the added penalties, interest and the cost of executing the warrant, and to return such warrant to the commissioner and pay to him the money collected by virtue thereof by a time to be specified therein, not less than 60 days from the date of the warrant.

(2) The sheriff shall, within five days after the receipt of the warrant, file with the clerk of his county a copy thereof, and thereupon the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant, and in appropriate columns the amount of the tax or portion thereof and penalties for which the warrant is issued and the date when such copy is filed. Thereupon the amount of the warrant so docketed shall become a lien upon the title to and interest in property of the taxpayer against whom it is issued in the same manner as a judgment duly docketed in the office of such clerk.

(3) The sheriff thereupon shall proceed upon the same in all respects, with like effect and in the same manner prescribed by law in respect to executions issued against property upon judgment of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be added to and collected as a part of the warrant liability.

(4) In the discretion of the commissioner, a warrant of like terms, force and effect to levy upon funds of the taxpayer in possession of the State Tax Commission may be issued and directed to any agent authorized by him to collect taxes payable under this chapter, and in the execution thereof the agent shall have all of the powers conferred by law upon sheriffs but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(5) If a warrant is returned not satisfied in full, the commissioner shall have the same remedies to enforce the claim for taxes against the taxpayer as if the people of the state had recovered judgment against the taxpayer for the amount of the tax.

[1957 c.564 §5; 1963 c.23 §1]

767.380 Deposit or bond to secure payment of fees, taxes and penalties. (1) If the commissioner finds it necessary in order to insure the collection of any fees, taxes or penalties imposed upon a carrier pursuant to this chapter, he may at the time and as a

condition of granting a permit or as a condition of continuing a permit require a carrier to deposit and keep on deposit with the commissioner a sum equal to the estimated fees or taxes due the commissioner for a period of not to exceed three months. In determining the necessity for an applicant or carrier to maintain a deposit the commissioner shall consider the applicant or carrier's financial capability and responsibility and the commissioner's prior experience, if any, in collecting fees, taxes or penalties from the applicant, carrier or any person having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the permit.

(2) The commissioner may accept in lieu of such deposit a bond to secure payment of sums payable by the carrier. The total amount of the deposit or bond shall be determined by the commissioner in such manner as he shall deem proper, taking into account the nature and scope of the carrier's operations and the amount may be increased or reduced at any time.

(3) If a carrier ceases to be a carrier under this chapter, the commissioner, upon receipt of all payments due, shall refund to the carrier all deposits remaining to the carrier's credit and shall release the surety on any bond given under this section.

(4) Any applicant or carrier required under this section to make a deposit to secure the payment of fees, taxes or penalties may by proper petition demand a hearing on the necessity of such deposit or the reasonableness of the amount required. A hearing shall be granted and held within 10 days after the demand therefor. The decision of the commissioner shall become final 10 days after service of the order upon the applicant or carrier concerned. Notice shall be served personally or by certified mail addressed to the applicant or carrier at his address as it appears in the records of the commissioner.

[1961 c.190 §2]

767.385 Cancellation of taxes, interest, penalties and fees; record and order. (1) Any tax, interest, penalty or fee, or portion thereof, owed by any person subject to the provisions of this chapter may be canceled by the commissioner if he finds that all reasonable efforts have been made to effect collection and, in addition, that:

(a) Such taxes, interest, penalty or fee have been delinquent for 10 or more years

and the taxpayer cannot be located or is dead; or

(b) The liability accrued prior to the date of the bankruptcy of a natural person who was subsequently granted a discharge and not less than two years elapsed since the discharge was granted; or

(c) The administrative and collection costs involved would not warrant collection of the amount due.

(2) Each such cancellation shall be evidenced by an order signed by the commissioner evidenced by a written record in the files of the commissioner which file shall set forth:

(a) The name of the taxpayer against whom the liability was assessed;

(b) The amount of the assessed liability;

(c) The amount of the liability paid;

(d) The amount of the liability canceled; and

(e) A sworn statement, when available, of the taxpayer or his representative setting forth the complete financial responsibility of the taxpayer or his estate, and containing a full disclosure of all matters bearing upon the ability of the taxpayer or his estate to pay the full amount of the liability assessed.

(3) No cancellation shall be allowed if the liability for the tax or any portion thereof is assessed with penalties for fraud.

(4) Upon making the order the commissioner shall cause to be canceled or released any lien which the commissioner may have for the liability canceled.

(5) A full and true copy of the record and order of each canceled liability, certified as sent by the commissioner, shall be filed with the Secretary of State as a public record.

[1963 c.140 §2]

767.390 to 767.400 [Reserved for expansion]

REGULATORY AND ENFORCEMENT PROVISIONS

767.405 Common carriers and forwarders, general regulation of. Except as provided in ORS 767.425, the commissioner shall supervise and regulate all common carriers of persons or property, or both, and forwarders, and with respect thereto shall:

(1) After hearing, fix, alter, regulate, determine, declare and prescribe just, fair and reasonable rates, fares, charges, classifications and practices.

(2) Prescribe the kind and form of accounts, manifests, receipts and records to be used and kept pertaining to operation,

and the method and manner of keeping them, require their preservation for such time as the commissioner may determine proper, and have access thereto with right of audit and inspection thereof at all reasonable times.

(3) Require the filing of such periodical or other reports or data of such carriers and forwarders, as the commissioner deems necessary.

(4) Require reasonably adequate service and facilities.

(5) Regulate operating time schedules of regular route common carriers so as to meet the needs of any community served and so as to prevent unnecessary duplication by regular route common carriers of the transportation services afforded by other regular route common carriers.

(6) Prescribe and require reasonable precautions for safety of operation of motor vehicles subject to this chapter, to the end that uniformity between state and federal motor carrier safety regulations shall be established and maintained in so far as practicable.

(7) Relieve the highways of all undue burdens and safeguard traffic thereon by promulgating and enforcing reasonable rules, regulations and orders designed and calculated to prevent serious highway congestion, and minimize the dangers attending transportation on the public highways of all commodities including explosives or highly inflammable or combustible liquids, fluids, substances or gases.

767.410 Common carriers and forwarders, regulation of rates and services of. Except as provided in ORS 767.425:

(1) All rates, fares and charges made by and all rules, regulations and practices adopted by each common carrier or forwarder shall:

(a) Be plainly stated in tariff schedules and classifications available to the public at such carrier's or forwarder's office and filed with the commissioner before they become effective.

(b) Be just, reasonable and fair and shall not be unduly discriminatory, prejudicial or preferential.

(2) No common carrier or forwarder shall:

(a) Charge, demand, collect or receive a greater, less, or different remuneration for the transportation of passengers or property, or both, or for any service in connection

therewith, than the rates, fares and charges which have been legally established and filed with the commissioner.

(b) Refund or remit in any manner or by any device any portion of the rates, fares and charges required to be collected by its tariffs on file with the commissioner.

(3) The commissioner shall check the records of carriers and forwarders for the purpose of discovering all discriminations and rebates. The commissioner, upon his own motion, may, and upon the complaint of any aggrieved person, shall, pursuant to written notice served upon any such common carrier or forwarder, investigate the rates, fares, charges, classifications, rules, regulations and practices, made or exacted for the transportation of persons or property by the common carrier or forwarder, or for any service in connection therewith. To the extent that same are found by the commissioner to be unreasonable, exorbitant, unlawful, unfair or unduly discriminatory, preferential or prejudicial, the commissioner shall, by orders based upon the evidence, fix in lieu thereof just, fair, lawful and reasonable rates, fares, charges, classifications, rules, regulations and practices. Such carrier or forwarder shall forthwith comply with such orders.

(4) The commissioner may suspend a time schedule or tariff that he believes will impair the ability of carriers or forwarders to serve the public or appears to be unjust, unfair, unreasonable, prejudicial, discriminatory or otherwise unlawful.

(5) No common carrier will be permitted to restrict its services to paying schedules on passenger routes or on high-class commodities with a low rate in competition with a common carrier giving complete service. However, this subsection does not apply to the transportation of commodities requiring special equipment or to the transportation of express or any special or particular commodity which because of its character or use requires rapid transit.

(6) Notwithstanding subsection (5) of this section, the commissioner may, upon application and hearing, or upon his own motion, permit two or more common carriers authorized to serve the same point or points to enter into an agreement for the pooling or division of traffic, or of service, or of gross or net earnings, or any portion thereof as to such service point or points whenever it appears that such agreement will be in the in-

terest of better service to the public, of economy of operation and will not unduly restrain competition. The commissioner may, subject to the governing policies of this chapter, prescribe rules and regulations and impose such terms and conditions in such cases as are found to be just and reasonable.

[Amended by 1961 c.548 §1]

767.415 Classes of common carriers; rights and duties of each class. Except as provided in ORS 767.425:

(1) Common carriers shall be classified, and the classification shall be shown on the common carrier's permit when issued or reissued by the commissioner, as follows:

(a) Regular route, scheduled service, including sightseeing tours.

(b) Irregular route.

(c) Local cartage service.

(2) A carrier operating in the regular route, scheduled service class is any person who undertakes to transport persons or property, or both, or any class of property, by motor vehicle for compensation between fixed termini and over a regular route upon established or fixed schedules. Such carriers shall file a schedule setting forth the termini between which service is rendered, the hours of departure and arrival, and tariffs and classifications governing rates. Sightseeing tours may be offered to the public as regular route, scheduled services, subject to the following modifications: Routes, time schedules, tariffs of transportation rates and offerings of special services filed with the commissioner shall be accepted and placed in effect only if they are such as to render the sightseeing tours noncompetitive with other regular route, scheduled carriers of passengers over the same, similar or a combination of routes. Transportation rates and charges shall be stated separately from other rates and charges. Schedules of sightseeing tours may be seasonal in nature, and individual schedules may be canceled owing to inclement weather or other conditions rendering the service impractical.

(3) A carrier operating in the irregular route class is any person who undertakes to transport persons or property, or both, or any class of property, by motor vehicle for compensation over irregular routes. Such carriers shall file tariffs and classifications governing rates. Irregular route carriers of persons shall be limited to providing vehicles on an hourly or a mileage basis, and the tariffs of such carriers shall clearly state the

hourly or mileage charge for each vehicle on its permit. Irregular route common carriers shall serve indiscriminately the territory which they are authorized to serve, and their service shall be on call, coincidental, nonscheduled, unperiodical, itinerant and ambulatory in nature. Such carriers shall not:

(a) By solicitation, advertisement, or by a course of dealing or practice, or otherwise, hold themselves out to render regular service between any particular points or over any particular routes, or lead shippers to believe or understand that they may rely upon a continuous regularity of service by such carriers between particular or specified points or over any particular or specified route.

(b) In the solicitation of business or the advertising of their service restrict or limit such solicitation or advertising to traffic moving between any particular or specified points or over any particular or specified routes.

(c) Operate with continuing regularity under a predetermined plan of operation or time schedule or approximate time schedule, between any particular points or over any particular route, but this paragraph shall not apply to or prohibit repeated movements by such carriers over the same route or between the same points in instances where the character or volume of the traffic requires more or less continued and repeated movements over the same route for such reasonable periods of time as may be necessary to meet the demands of a particular shipper in particular instances.

(4) A local cartage carrier is any person who undertakes to transport any class of property by motor vehicle for compensation when such transportation is performed wholly within an incorporated city or within a zone adjacent to and commercially a part of such incorporated city. The commissioner shall, after hearing, determine what territorial limits will be included within the commercial area adjacent to the limits of any incorporated city. Such carriers shall file tariffs and classifications governing rates.

[Amended by 1957 c.675 §1]

767.420 Contract carriers, regulation of. (1) The commissioner shall supervise and regulate all contract carriers of persons or of property, or both, and, with respect thereto, exercise and perform all the powers and duties stated as subsections (1), (2),

(3), (6) and (7) of ORS 767.405, except that he shall not require contract carriers to be or become common carriers.

(2) No contract carrier shall give or cause any undue or unreasonable advantage or preference to those whom he serves as compared with patrons of any common carrier, or subject the patrons of any common carrier to any undue or unreasonable discrimination or disadvantage, or by unfair competition destroy or impair the service or business of any common carrier or the integrity of the state's regulation of any such service or business.

(3) To the end that the commissioner may enforce these provisions, each contract carrier, except carriers engaged exclusively in transporting logs, poles or piling, shall file with the commissioner copies of his contract, immediately upon the making of such contract, including the rates, fares, charges and practices called for or contemplated in the performance of the contract, for review and revision and approval or modification as to rates, fares, charges and practices by the commissioner. No contract carrier shall enter upon the performance of any contract contemplated by this section, until approval of such contract has been given by the commissioner.

(4) The commissioner has jurisdiction over said rates, fares, charges and practices to the same extent as is required by ORS 767.410, in the case of common carriers, and ORS 767.410 is by this reference made applicable to contract carriers and the commissioner shall apply and enforce the same accordingly; provided, the commissioner has no authority to fix rates on agricultural, horticultural, poultry, dairy, livestock, timber or livestock products in the transportation from the point of origin to packing or processing plants, or from the point of origin or from packing or processing plants to the nearest market or shipping points, when not transported in competition with common carriers or railroads.

767.425 Exemption of certain operations from regulatory provisions. ORS 767.405 to 767.415, with the exception of subsections (2), (3), (4), (6) and (7) of ORS 767.405, do not apply to:

(1) Common or contract carriers engaged exclusively in the transportation of logs, poles or piling or rough or planed lumber, including shingles, from point of origin to mill, retail yard or shipping point.

(2) Common or contract carriers engaged exclusively in the transportation of cordwood in long or short lengths or sawdust or hog fuel.

(3) The operation of motor vehicles engaged exclusively in the transportation of sand, gravel, rock, dirt, debris, cinders or asphaltic concrete mix.

(4) The operation of motor vehicles engaged exclusively in transporting metallic ores or concentrates, or raw nonmetallic products, whether crushed or otherwise, from mines, pits or quarries.

(5) Carriers engaged exclusively in transporting fish scrap from fish processing plants to rendering or reduction plants.

[Amended by 1961 c.440 §1]

767.430 Regulation of interstate carriers. A person engaged exclusively in the conduct of interstate transportation shall:

(1) Observe and comply with the laws of this state regulating traffic on its highways, or the operation of motor vehicles thereon, or limiting the size, weight or speed of motor vehicles; and

(2) Observe and comply with the laws of this state and with the orders, rules and regulations of the commissioner, the highway commission, county courts, boards of county commissioners and municipal authorities to protect the highways from substantial damage and to promote safety to other users thereof, to adjacent property and facilities and to the public.

767.435 Regulation of charges made by persons transporting property of others as part of a combination of services. Every person engaging for compensation to perform a combination of services which includes transportation of property of others upon the public highways shall advise the commissioner what portion of the consideration is intended to cover the transportation service. If the agreement covering the combination of services is in writing, the rate and charge for such transportation shall be set forth therein. The rates or charges for the transportation services included in such combination of services shall be subject to control and regulation by the commissioner in the same manner that the rates and charges of common and contract carriers are controlled and regulated.

767.440 Classification and regulation of brokers and forwarders. (1) The commissioner may, from time to time, establish

such just and reasonable classifications of brokers or forwarders as the special nature of the services performed by such brokers or forwarders requires, and such just and reasonable rules, regulations and requirements, consistent with this chapter, to be observed by the brokers or forwarders so classified or grouped, as the commissioner deems necessary or desirable in the public interest.

(2) To regulate brokers and forwarders, as provided in this chapter, the commissioner may establish reasonable requirements with respect to licenses, financial responsibility, accounts, records, reports, operations and practices of any such person.

767.445 Commissioner's general authority to prescribe and enforce rules, regulations and classifications. (1) The commissioner shall, by general order or otherwise, prescribe and enforce rules and regulations in conformity with this chapter to better accomplish the enforcement of its provisions, which shall cover and include common carriers, contract carriers and private carriers and their operations.

(2) The commissioner may make such subdivisions of the carriers, as classified in this chapter, as in his opinion may work to the efficient administration of this chapter and shall do all things necessary to carry out and enforce its provisions.

(3) All rules and regulations made by the commissioner pursuant to this chapter and filed in his office have the force and effect of law.

(4) This section does not restrict the powers of the highway commission or the county courts or boards of county commissioners under existing laws and amendments thereof.

(5) Without restricting the general powers conferred upon the commissioner to prescribe and enforce rules and regulations, the commissioner is vested with special authority with respect to the matters listed in ORS 767.450 and 767.460.

767.450 Regulation of motor vehicles. The commissioner may:

(1) Require the weighing of motor vehicles loaded and empty at reasonably frequent intervals;

(2) Inspect and require proper equipment and markings of motor vehicles and insure the making of necessary repairs, to promote efficient and safe operation; and

(3) Prescribe the character of appliances to be used on motor vehicles to establish correct mileage traveled by such vehicles and require the installation and proper repair and inspection of such appliances.

767.455 Regulation of hours of service for drivers. (1) The commissioner may, after public notice and hearing, adopt rules and regulations to protect and safeguard the health and safety of all employes, passengers and the public by prescribing the limit of hours that drivers or operators of motor vehicles may remain on duty at any time, and the number of hours of release from duty required; provided, however, that uniformity between state and federal motor carrier regulation shall be established and maintained in so far as practicable.

(2) Venue for prosecution for the violation of this section lies in the county of the residence of the defendant.

(3) The commissioner may revoke the permit of any person for repeated violation of the laws or rules governing hours of service.

(4) This section also applies to owner-drivers and helpers.
[Amended by 1963 c.184 §1]

767.460 Regulation of shipping receipts, changes of vehicles and routes, classification, records, mileage and distinguishing marks. The commissioner may:

(1) Require every person operating as a common or contract carrier of property, except carriers carrying dairy products from farm to factory and carriers engaged exclusively in transporting logs, poles or piling to issue a receipt in triplicate for freight received for shipment, which shall contain the name of the truck operator, date and place received, name of consignor, name of consignee, destination, description of shipment, weight, rate and charges, and signature of the carrier or his agent; one of said receipts to be delivered to the consignor, one to consignee and one to be retained by carrier in its files.

(2) Prescribe rules governing amendments of permits covering additions to and withdrawals of vehicles and the extension or contraction of routes, and the filing of applications therefor.

(3) Classify and reclassify carriers in accordance with subsection (5) of ORS 767.005, subsection (1) of ORS 767.010 and subsection (2) of ORS 767.015.

(4) Prescribe forms of accounts and records to be kept, reports to be made and blanks to be used by common and contract carriers in transportation operations, and matters incidental thereto.

(5) Prescribe such methods and means as he determines to be necessary for checking, verifying and ascertaining the number of miles traveled by each motor vehicle operated by common carrier, contract carrier and private carrier and insure that the mileage charged for is computed on basis of extreme mileage traveled.

(6) Prescribe distinguishing marks, such as signs, colors, lights, tags and plates as may be convenient or necessary for distinguishing classes of carriers or for protective or regulatory purposes; but not inconsistent with ORS chapter 483.

767.463 Commissioner's right to inspect books and records and to examine officers or employes of carriers or certain businesses.

(1) The commissioner, or any person employed by him for that purpose, shall, upon demand, have the right to inspect the books, accounts, papers, records and memoranda of any motor carrier or other business subject to his regulatory jurisdiction under this chapter whether or not such books, accounts, papers, records and memoranda are required to be maintained by any act administered by the commissioner or any rules adopted by him pursuant thereto and to examine, under oath, any officer, agent or employe of such motor carrier or any business subject to his regulatory jurisdiction under this chapter in relation to its business. Any person other than the commissioner, who makes such demand for access to such books, accounts, papers, records and memoranda, shall upon request therefor produce a certificate under the seal of the commissioner showing his authority to make such inspection.

(2) The commissioner may require, by order or subpoena to be served 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, accounts, papers or records kept by any motor carrier or other business subject to his regulatory jurisdiction under this chapter in any office or place without this state, or verified copies in lieu thereof, if the commissioner so orders, in order that an examination thereof may be made by the commissioner or under his di-

rection. Any motor carrier or other business subject to the regulatory jurisdiction of the commissioner under this chapter failing or refusing to comply with any such order or subpoena shall, for each day it so fails or refuses, forfeit and pay into the State Treasury a sum of not less than \$50 nor more than \$500.

(3) The powers conferred upon the Public Utility Commissioner under this section are in addition to and not in lieu of the powers conferred upon the Public Utility Commissioner by any other statute administered by him.

(4) Nothing in this section shall authorize the commissioner to use any information developed thereunder for any purpose inconsistent with any other statute administered by him or to make a disclosure thereof for other than regulatory purposes. [1959 c.498 §2]

767.465 Injunction and mandamus suits by commissioner; defending suits against state or himself as commissioner; employing attorneys. (1) Whenever it appears to the commissioner that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of this chapter, or of any rule, regulation or order issued under this chapter, he may bring an action in the proper circuit court in the State of Oregon to enjoin such acts or practices and to enforce compliance with such chapter, rule, regulation or order. Upon a proper showing, a permanent or temporary injunction, decree or restraining order shall be granted without bond.

(2) Upon application of the commissioner, the circuit courts of the State of Oregon have jurisdiction to issue writs of mandamus commanding any person to comply with this chapter or any rule, regulation or order of the commissioner thereunder.

(3) The commissioner shall, in the name of the State of Oregon, defend any action, suit or proceeding brought against the state or himself, as commissioner, involving this chapter or its administration or enforcement.

(4) The commissioner may employ such attorneys as he finds necessary for proper legal aid and service of the commissioner or his agents in the conduct of their work, or for the proper representation of the public interest in investigations made by him, or cases or proceedings pending before him, either at the commissioner's own instance

or upon complaint, or to appear for and represent the commissioner in any case in court.

767.470 Civil penalty for violation of chapter or order of commissioner. (1) In addition to all other penalties provided by law, every person who violates or who procures, aids or abets in the violation of this chapter or any order, rule, regulation or decision of the commissioner shall incur a penalty of \$100 for every such violation.

(2) Each such violation shall be a separate offense and in case of a continuing violation every day's continuance is a separate violation. Every act of commission or omission which procures, aids or abets in the violation is a violation under this section and subject to the penalty provided in this section.

(3) Such penalty shall not be imposed except by order following complaint and hearing as provided in ORS 756.520 to 756.570. Such proceeding may only be commenced within two years following the date of the violation complained of.

(4) The commissioner may, upon written petition therefor received within 15 days after the penalty order is served, mitigate any penalty provided for in this section or discontinue any action at law to recover the same upon such terms as he deems proper.

(5) If the amount of such penalty is not paid to the commissioner, the Attorney General shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the commissioner. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter.

[Amended by 1957 c.263 §4]

767.475 Appointment of assistants and employes; powers and duties; utilization of State Police in enforcing chapter. (1) The commissioner shall appoint and deputize two assistants, who shall have immediate charge, under the supervision of the commissioner, of the administration and enforcement of this chapter, and, with the approval of the commissioner, may appoint and employ such auditors and other help as may be necessary to enable them at all times properly to administer this chapter. The commissioner shall extend to such assistants, inspectors and employes such

duties and authority, within the provisions of this chapter, as the commissioner determines to be necessary efficiently to administer and enforce the chapter.

(2) However, the commissioner shall call upon the State Police for all police service or police assistance necessary or required for the proper and efficient policing of carriers operating under this chapter, and shall utilize the State Police wherever and whenever activities are necessary to the end that there may be no duplication of service or expense. Within the meaning of this section all field work, weighing of loads and such other field service pertaining to operation of vehicles on the public highways other than auditing and inspection of books, records and accounts are police functions and duties.

[Amended by 1953 c.338 §4]

767.480 Authority of commissioner or his representatives to hold hearings; notice; compelling attendance of witnesses and production of papers. (1) Hearings may be conducted by the commissioner or his designated representatives at any place in Oregon.

(2) In all cases wherein a hearing is contemplated or provided for under this chapter, at least 10 days' written notice thereof shall be served by the commissioner by mail or otherwise upon the party or parties involved. However, the commissioner may, if such action is warranted, hold hearings upon shorter notice to be prescribed by his order.

(3) The commissioner or his representatives may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses, the giving of testimony by them and by the parties, and the production by witnesses and by the parties of papers, bills of lading, shipping receipts, tariffs, waybills, contracts, books, accounts and documents.

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

(5) No person shall neglect or refuse to attend and testify or to answer any lawful inquiry or to produce any papers, bills of lading, shipping receipts, tariffs, waybills, contracts, books, accounts or documents, if in his power so to do, in obedience to the subpoena or lawful requirement of the commissioner.

(6) The State of Oregon is not liable for witness fees, mileage, or in any respect to any party, person or witness attending, or required by the commissioner to attend, any hearing conducted by the commissioner or by any representative designated by him, wherein the administration or enforcement of this chapter or any provision or part thereof is involved, when the hearing is held in the county in which the carrier has his residence or principal place of business; provided, the State of Oregon is liable in case of witnesses who have in obedience to a subpoena issued by the commissioner attended such hearing.

[Amended by 1953 c.338 §4]

767.485 Commissioner's orders bind successors of carriers affected. All orders made by the commissioner shall remain in force and bind the successors in interest, grantees, lessees or assigns of any carrier affected thereby until set aside as provided by law.

[Amended by 1957 c.263 §5]

767.490 [Repealed by 1953 c.478 §2]

767.495 Service of process on nonresident carrier by serving the commissioner.

(1) The commissioner is the true and lawful attorney upon whom all process, summons or notices in any action, suit or proceeding against each motor carrier residing or having its principal place of business outside this state may be served, when such action, suit or proceeding is caused by or relates to the operation of motor vehicles of or by such carrier within the state.

(2) The service of process, summons or notice upon such carrier may be made by leaving a copy thereof, together with a copy of the complaint or order, in the office of the commissioner. The commissioner shall forthwith notify such carrier of such service by letter directed to it at its residence or place of business as shown by the records of the commissioner.

767.500 to 767.595 [Reserved for expansion]

RECORDS, REPORTS AND FUNDS

767.600 Daily records and monthly reports by carriers. (1) Every common carrier, contract carrier and private carrier shall keep daily records, upon forms prescribed by the commissioner, of all vehicles used during the current month.

(2) On or before the last day of the month following, they shall certify to the commissioner, upon forms prescribed therefor, the true and correct summaries of their daily records which shall show the extreme miles traveled in this state during the preceding month, the amount of fuel tax paid to the state during the preceding month, and such other information as the commissioner may require.

(3) The daily records shall be kept on file in the office of the carrier and thereafter preserved until written permission for their destruction is given by the commissioner.

[Amended by 1953 c.337 §3]

767.605 Carrier's annual report to commissioner; exemptions. (1) On or before April 1 of each year, every motor carrier shall file with the commissioner a report, verified under oath by its chief officer, agent or owner, in such form as the commissioner prescribes, covering the year ending December 31 next preceding; provided, however, carriers operating as follows shall be exempt from making this report:

(a) Private carriers.

(b) Carriers engaged exclusively in transporting logs, poles or piling.

(c) Carriers engaged exclusively in the transportation of cordwood in long or short lengths or sawdust or hog fuel.

(d) Carriers engaged exclusively in the transportation of sand, gravel, rock, dirt, debris, cinders or asphaltic concrete mix, to the extent of those operations.

(e) Carriers engaged exclusively in the transportation of metallic ores or concentrates, or raw nonmetallic products, whether crushed or otherwise, from mines, pits or quarries, to the extent of those operations.

(f) Carriers engaged exclusively in transporting fish scrap from fish processing plants to rendering or reduction plants.

(g) Carriers engaged exclusively in interstate operations.

(2) A corporation filing the report required by subsection (1) of this section shall show in detail:

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

(b) The dividends paid and the surplus fund, if any.

(3) All motor carriers filing the report required by subsection (1) of this section shall show in detail:

(a) The cost and value of the property, franchises and equipment of the reporting company;

(b) The number of employes and officers;

(c) The amount expended for improvements, additions and additional equipment, how expended, and the kind and character of such improvements, additions and additional equipment;

(d) The gross earning from each branch of business and from all other sources;

(e) The operating and other expenses;

(f) The balance of profit or loss;

(g) A statement of the indebtedness of the reporting motor carrier and a complete exhibit of the financial operations of the year, with an annual balance sheet;

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

(i) Agreements, arrangements or contracts with other motor carriers and other common carriers;

(j) The operation, revenues, expenditures and all intrastate business of such carrier as distinguished from its interstate operations; and

(k) Such other matters pertaining to its operation as the commissioner may require.

[Amended by 1961 c.440 §2]

767.610 [Repealed by 1961 c.110 §1]

767.615 Copies of contracts to be filed by carriers. Every common carrier and contract carrier, whenever required by the commissioner, shall file with the commissioner, within a time fixed by him, copies of all contracts which relate to the transportation of persons or property, or any service in connection therewith, made or entered into by such carrier with any other common carrier, contract carrier or transportation company or carrier, or any shipper, consignee or other person doing business with such common carrier or contract carrier.

767.620 Records, reports and accounts of interstate carriers; inspection. (1) Except as provided in subsection (2) of this section, all carriers engaged in interstate transpor-

tation shall keep and maintain, within this state, full and complete records, reports and accounts of all business done in and all operations carried on within this state.

(2) The commissioner may authorize a carrier engaged in interstate transportation to keep and maintain outside this state the records, reports and accounts required by subsection (1) of this section; and, when such records, reports and accounts are kept and maintained outside this state, the carrier shall reimburse the commissioner for all expenses incurred by him in making out-of-state audits and examinations of such records, reports and accounts.

(3) The records, reports and accounts required by this section to be kept and maintained shall at all reasonable times be open to the inspection of the commissioner.

[Amended by 1957 c.431 §1]

767.625 Inspection of broker's and forwarder's records. The commissioner and his special agents and examiners have the same authority as to accounts, reports and records, including inspection and preservation thereof, with respect to any person holding a brokerage or forwarding license issued under this chapter, as in the case of motor carriers.

767.630 Motor Carrier Account. (1) All fees, taxes, charges and other sums collected by the commissioner under this chapter shall be paid into the State Treasury and shall be by the State Treasurer placed to the credit of the General Fund to an account to be known as the Motor Carrier Account.

(2) The commissioner may purchase the necessary supplies and equipment and provide for all necessary and incidental expenses incurred by him in administering and enforcing this chapter.

(3) The Secretary of State shall audit all claims, duly approved by the commissioner, which have been incurred in pursuance of law, and draw his warrants on the State Treasurer for the payment thereof, payable out of the Motor Carrier Account of the General Fund.

767.635 Monthly transfer of Motor Carrier Account surplus to State Highway Fund. On the tenth day of each month the Secretary of State shall certify to the State Treasurer the balance of all money in excess of \$50,000 remaining in the Motor Carrier Account of the General Fund as of the close of business on the fifth day of such month,

after deducting sums disbursed by warrants drawn under ORS 767.630. The State Treasurer shall thereupon transfer the balance from the General Fund to the State Highway Fund.

767.640 Restrictions on use of funds. No part of the funds produced by this chapter shall be used by the commissioner directly or indirectly:

(1) For the purpose of investigating the rules, charges, practice or service of any carrier by rail.

(2) In his administration or enforcement of any law or authority over any carrier by rail.

(3) To investigate any public utility other than motor carriers.

(4) To investigate motor carriers beyond the appropriation made in this chapter.

767.645 [Repealed by 1957 c.431 §2]

767.650 Commissioner's report on administration of chapter. Annually on or before December 31 of each year, the commissioner shall make to the Governor a report of his administration of this chapter which shall include, among other things, facts and

statistics relating to the effect of the administration of this chapter upon the classes of carriers affected thereby.

767.655 Destruction of old records. With the exception of tariffs and annual reports, the commissioner may destroy motor carrier records and documents covering permits, audits, records, applications and documents and records pertaining thereto, that have been in his custody more than six years and that, in his opinion, are or may become obsolete and of no value.

767.660 to 767.985 [Reserved for expansion]

PENALTIES

767.990 Penalties. Every person who violates or procures, aids or abets violation of this chapter and any person who refuses or fails to obey any order, decision, rule or regulation, made under or pursuant to this chapter, shall be punished, upon conviction, by a fine of not less than \$10 nor more than \$1,000 or by imprisonment in the county jail for not more than three months, or by both. Circuit courts, district courts and justices of the peace shall have concurrent jurisdiction of offenses punishable under this section.

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, 1963.

Sam R. Haley
Legislative Counsel

