Chapter 661

(1963 reprint)

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LABOR ORGANIZATIONS; COLLECTIVE BARGAINING

661.010 Lawfulness of labor unions. Working men and women may organize themselves into, or carry on labor unions for the purpose of lessening the hours of labor, increasing the wages, bettering the conditions of the members of such organizations or carrying out their legitimate purposes as freely as they could do if acting singly.

661.020 Labor not a commodity; employment rights are personal. (1) The labor of a human being is not a commodity or article of commerce.

(2) The right to enter into the relation of employer and employe, to change that relation, to assume and create a new relation for employer and employe or to work and labor as an employe, shall be held and construed to be a personal and not a property right.

661.030 Collective bargaining for lawful purposes is legal. No person shall be indicted, prosecuted or tried in any court of this state for entering into or carrying on any arrangement, agreement or combination between themselves made with a view of lessening the number of hours of labor or increasing wages, bettering the conditions of working men and women or for any act done in pursuance thereof, unless such act is in itself forbidden by law if done by a single individual.

661.040 Limitations on fees charged laborers by collective bargaining agents; access to and inspection of records; accounting. (1) No organization, association or person, legally authorized to act as collective bargaining agent or representative of laboring people, shall make any charge or exaction for initiation fees, dues, fines or other exactions, which will create a fund in excess of the legitimate requirements of such organization, association or person, in carrying out the lawful purpose or activities of such organization, association or person.

(2) Every such organization, association and person shall keep accurate books itemizing all receipts and expenditures and the purpose of such expenditures.

(3) Any member of any labor organization or association is entitled at all reasonable times to inspect the books, records and accounts of such association or organization, or any agent or representative thereof, and to have an accounting of all money and property thereof.

(4) The circuit courts of this state, and the judges thereof, have jurisdiction to enforce this section, including full power to issue restraining orders and temporary and permanent injunctions, and such other and further orders as may be necessary or appropriate to carry out and enforce this section.

661.050 to 661.200 [Reserved for expansion]

UNION LABELS

661.210 Counterfeiting of union label and possession or sale thereof prohibited. Whenever any person or any association or union of workingmen adopts or uses any label, trade-mark, term, design, device or form of advertisement for the purpose of designating, making known or distinguishing any goods, wares, merchandise or other product of labor as having been made, manufactured, produced, prepared, packed or put on sale by such person or association or union of workingmen, or by members of such association or union:

(1) No person shall counterfeit or imitate such label, trade-mark, term, design, device or form of advertisement, or use, sell, offer for sale or in any way utter or circulate any counterfeit or imitation of any such label, trade-mark, term, design, device or form of advertisement;

(2) No person shall keep or have in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor to which or on which any such counterfeit or imitation is printed, painted, stamped or impressed;

(3) No person shall knowingly sell or dispose of any goods, wares, merchandise or other product of labor contained in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed; and

(4) No person shall keep or have in his possession, with intent that the same shall be sold or disposed of, any goods, wares, merchandise or other product of labor, in any box, case, can or package to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed.

661.220 Unauthorized use of label, name or seal of union prohibited. (1) No person shall use or display the genuine label, trade-mark, term, design, device or form of advertisement of any person, association or union in any manner not authorized by such person, union or association.

(2) No person shall in any way use the name or seal of any person, association or union, or officer thereof, in and about the sale of goods, or otherwise, without authorization to do so.

661.230 Procedure for recording union label. (1) Every person, association or union that adopts or uses a label, trade-mark, term, design, device or form of advertisement as provided in ORS 661.210, may file the same for record in the office of the Secretary of State, by leaving two copies, counterparts or facsimiles thereof with the Secretary of State and by filing therewith a sworn application.

(2) The application shall state:

(a) The name of the person, association or union on whose behalf such label, trade-mark, terms, design, device or form of advertisement is filed.

(b) The class of merchandise and a description of the goods to which it has been or is intended to be appropriated.

(c) That the party so filing or on whose behalf such label, trade-mark, term, design, device or form of advertisement is filed, has the right to the use of the same.

(d) That no other person, association or union has the right to such use, either in the identical form, or in any such near resemblance thereto as may be calculated to deceive.

(e) That the facsimile or counterparts filed therewith are true and correct.

(3) There shall be paid for such filing and recording a fee of $1.

661.240 Certificate of recording; effect of record; limitations on filing of similar labels. (1) The Secretary of State shall deliver to any person, association or union filing or causing to be filed any label, trade-mark, term, design, device or form of advertisement under ORS 661.230, as many duly attested certificates of the recording of the same as such person, association or union may apply for, and for each certificate the Secretary of State shall receive a fee of $1.

(2) The certificate of record shall, in all suits and prosecutions under ORS 661.210 to 661.280 be sufficient proof of the adoption of such label, trade-mark, term, design, device or form of advertisement.

(3) The Secretary of State shall not record for any person, union or association any label, trade-mark, term, design, device or form of advertisement that would probably be mistaken for any label, trade-mark, term, design, device or form of advertisement theretofore filed by or on behalf of any other person, union or association, but he shall file and record under ORS 661.210 to 661.280 any label, trade-mark, term, design, device or form of advertisement which may have been previously filed by any person or any association or union of workingmen if the person, association or union seeking to file and record under ORS 661.210 to 661.280 is the same person, association or union that previously filed or recorded the same label, trade-mark, term, design, device or form of advertisement.

661.250 Civil remedies for infringing or counterfeiting. (1) Every person, association or union adopting or using a label, trade-mark, term, design, device or form of advertisement as provided in ORS 661.210 to 661.240, may proceed by suit for damages to enjoin the manufacture, use, display or sale of any counterfeits thereof.

(2) All courts of competent jurisdiction shall grant injunctions to restrain such manufacture, use, display or sale, and award the complainant in any such suit damages resulting from such manufacture, use, sale or display as the court deems just and reasonable, and shall require the defendants to pay to such person, association or union all profits derived from such wrongful manufacture, use, display or sale.

(3) The court shall also order that all such counterfeits or imitations in the possession or under the control of any defendant in such cause be delivered to an officer of the court, or to the complainant, to be destroyed.

661.260 Civil action for misrepresentation to procure filing. Any person who, for himself or on behalf of any other person, association or union, procures the filing of any label, trade-mark, term, design, device or form of advertisement in the office of the Secretary of State under ORS 661.210 to 661.280, by making any false or fraudulent representations or declaration, verbally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence of any such filing, to be re-

covered by or on behalf of the party injured thereby in any court having jurisdiction.

661.270 Who may bring action for unincorporated association or union. In all cases where the association or union is not incorporated, suits under ORS 661.210 to 661.280 may be commenced and prosecuted by an officer or member of the association or union on behalf of and for the use of the association or union.

661.280 Allowance of attorney fees. If the plaintiff is successful in maintaining his action either for damages or for permanent relief by injunction, or for nominal damages only, he shall be entitled to recover a reasonable attorney's fee, to be taxed by the court as a part of the costs, and merged in the judgment.

661.290 to 661.980 [Reserved for expansion]

PENALTIES

661.990 Penalties. (1) Violation of ORS 661.040 is a misdemeanor.

(2) Violation of ORS 661.210 or 661.260 is punishable, upon conviction, by a fine of not more than $500 or by imprisonment for not more than three months, or by both.

(3) Violation of ORS 661.220 is punishable, upon conviction, by a fine of not more than $500 or by imprisonment in the county jail for not more than three months.