Chapter 770

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Carriage of Livestock

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REGULATION OF CARRIAGE OF LIVESTOCK GENERALLY

770.010 Limitations on contracts concerning railroad's liability in transporting livestock. No railroad, as defined in ORS 760.005, shall, by any contract or agreement, except as otherwise provided by regulation or order of the Public Utility Commissioner, change or limit its common law liability in the matter of receiving, handling and delivering of livestock transported or to be transported over its lines between points wholly within this state. All provisions contained in any such contract or agreement shall be just and reasonable.

770.020 Uniform livestock contract to be prescribed by commissioner and used by railroads; penalty for not using. (1) The Public Utility Commissioner shall, after due notice and hearing, prescribe a uniform livestock contract, which shall be just and reasonable, and which shall, within 30 days thereafter, be used by all railroads when shipments of livestock are offered between points wholly within this state.

(2) Any railroad which, after having received due notice from the Public Utility Commissioner, fails to comply with this section, shall, for every day of such failure, forfeit and pay $100, to be recovered in the name of the state in an action brought in the circuit court of the county wherein the shipment originates.

770.030 Livestock to be transported without delay. All railroad companies engaged in the business of common carriers within this state shall transport without unnecessary delay all livestock tendered from the point where it is received either from the shipper or a connecting railroad to the point where it is destined or to be delivered to a connecting carrier.

770.040 Minimum average rate of speed for transporting 10 or more carloads of livestock. (1) Whenever there is tendered at any station for shipment over any railroad, livestock to the amount of 10 carloads or more, or when the total number of cars of livestock on any train is 10 or more cars owned by one or more shippers, destined for delivery at a common destination or point of connection with another railroad or carrier, the railroad shall transport such shipment of livestock over its line from the point where received to the point of destination or delivery to a connecting carrier at an average rate of speed of:

(a) Not less than 13 miles per hour, if the distance between these points is 100 miles or more.

(b) Not less than eight miles per hour when the distance between these points is less than 100 miles.

(2) In computing the average rate of speed the commencement of the period shall be the time the cars are fully loaded for movement, and the end of the period shall be the time the cars are set ready for unloading or delivered to the connecting carrier. The following time shall not be included in computing the average rate of speed:

(a) The necessary time any such shipment is held at a junction point awaiting transfer from one line to another on the same or another connecting railroad, or where stock passes through a division terminal for delivery to a public stockyard and not exceeding two hours.

(b) The time that livestock is held at a junction point after the notice provided for by ORS 770.070 is given.

(c) Time when stock is necessarily held for feeding, rest or otherwise under the requirements or restrictions of the federal laws or laws of this state or municipal regulation or franchise, or is held under the instructions of the shipper for any purpose.

(d) Time which cannot be avoided by reasonable diligence due to public calamity, strikes, washouts, acts of God, the public enemy, mobs, riots, wrecks, fires or accidents.

770.050 Livestock of less than 10 carloads to be transported certain days of the week under the conditions required by ORS 770.040. Any railroad, on at least one day each week, to be designated by the railroad company and posted in a conspicuous place in each of its departments and advertised by public notice, and upon such other days in the week as designated by the order of the Public Utility Commissioner, shall transport livestock tendered in carload lots of less than 10 cars at the minimum rate of speed and under the conditions required by ORS 770.040.

770.060 Prima facie evidence of delay. It is prima facie evidence of unnecessary delay:

(1) If any railroad fails to transport livestock at the rate of speed required by ORS 770.040 and 770.050. The burden of showing any excuse for the failure to trans-

port the livestock at the minimum speed required is upon the carrier.

(2) If any railroad holds livestock after the same is fully loaded for movement for a period of more than two hours at any place or station on its lines, except for the purpose of feeding or resting as required by law, or under the instructions of the shipper for any purpose.

770.070 Circus trains excepted from ORS 770.040 to 770.060. ORS 770.040 to 770.060 do not apply to circus trains moving under special contract or otherwise.

770.080 Stock corrals and yards at junction points; notice of delay to shipper. (1) Every railroad shall provide at the junction points of its main and branch lines, suitable stock corrals and yards. Whenever it is necessary to delay the transportation of stock more than two hours at any junction point, the railroad shall give prompt and accurate notice thereof to the shipper or attendant accompanying the shipment. Thereupon the shipper may at his option unload such livestock for the purpose of resting and feeding.

(2) Any railroad violating this section shall forfeit and pay into the State Treasury a penalty of not less than $25 nor more than $100 for each offense.

TREATMENT OF ANIMALS IN TRANSIT

770.210 Definitions for ORS 770.210 to 770.260. As used in ORS 167.740 and 770.210 to 770.260:

(1) "Animal" includes all brute creatures.

(2) "Owner" or "person" includes corporations as well as individuals.

770.220 Maximum consecutive hours of confinement for animals in transit; lien of transporter for furnishing food and care during transit. (1) No person who carries or transports horses, cattle, sheep, hogs or other livestock within this state shall confine or permit such animals to be confined in or upon any boat, barge, railroad car or other vehicle of transportation for a longer period than 28 consecutive hours without unloading them in a humane manner, into properly equipped pens, for rest, water and feeding for a period of at least five consecutive hours, unless prevented by storm or by other accidental or unavoidable causes which cannot be anticipated or avoided by the exercise of due diligence and foresight. However, upon the written request of the owner or person in custody of a particular shipment, which written request shall be separate and apart from any printed bill of lading, livestock contract or other railroad form, the time of confinement may be extended to 36 hours.

(2) In estimating such confinement, the time consumed in loading and unloading shall not be considered, but the time during which the animals have been confined without such rest, feed or water on connecting boats, barges, cars or vehicles of transportation from which they are received shall be included, it being the intent of this section to prohibit their continuous confinement beyond the period of 28 hours, except upon the contingencies stated in this section.

(3) This section does not require that sheep be unloaded in the nighttime, but where the time expires in the nighttime in the case of sheep, the same may be continued in transit to a suitable place for unloading, subject to the limitation of 36 hours mentioned in subsection (1) of this section.

(4) Animals unloaded shall be properly fed and watered during such rest either by the owner or person having custody thereof, or in case of their default, then by the party or company which transports them, at the reasonable expense to the owner. The party or company transporting the animals shall in such case have a lien upon such animals for food, care and custody so furnished, collectible at their destination in the same manner as the transportation charges are collected, and shall not be liable for any detention of such animals, when such detention is of reasonable duration, to enable compliance with this section.

(5) This section does not prevent the owner or shipper of animals from furnishing food therefor, if he so desires.

(6) When animals are carried in or upon cars, boats or other vessels in which they can and do have proper food, water, space and opportunity to rest the provisions of this section in regard to their being unloaded shall not apply.

(7) Any person failing to comply with this section shall forfeit and pay not less than $100 nor more than $500 for each offense.

770.230 Arrest of violator of ORS 770.220 or 167.740; notice to owner of animals; care for animals; lien for care. (1) Any person violating ORS 770.220 or 167.740 may be arrested and held without warrant, in the same manner as in case of persons found breaking the peace.

(2) The person making the arrest, with or without warrant, shall use reasonable diligence to give notice thereof to the owners of the animals found in the charge of the person arrested, and shall properly care and provide for such animals until the owners or their duly authorized agents take charge of them; provided, such owners or agents shall claim and take charge of the animals within 60 days from the date of said notice.

(3) The person making such arrest shall have a lien upon the animals for the expense of such care and provisions.

770.240 Peace officers to arrest and prosecute violators; disposal of fines. (1) It shall be the duty of any sheriff, deputy sheriff, constable or police officer to arrest and prosecute any violator of ORS 770.020 or 167.740 for any violation which comes to his knowledge or notice.

(2) All fines and forfeitures collected for violations of ORS 770.020 or 167.740 shall be paid into the county treasury of the county in which it is collected, and placed to the credit of the county school fund.

770.250 Knowledge and acts of agent imputed to corporation. The knowledge and acts of agents of persons employed by a corporation in regard to the treatment of animals transported, owned or employed by or in the custody of such corporation shall be held to be acts and knowledge of the corporation.

770.260 Jurisdiction over offenses. Justices of the peace and police judges shall have concurrent jurisdiction over all offenses committed under ORS 167.740 or 770.220.