Chapter 771

1963 REPLACEMENT PART

(1969 reprint)

Liability of Carriers

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CROSS REFERENCES

Bills of lading, Ch. 77

Commercial paper, Ch. 73

Game fish shipped into state, exhibiting to State Game Commission inventory of, 498.640

Livestock, liability in transportation of, 770.010

Ports, issuance of bills of lading by, 778.435

771.010 Duty of carrier to issue bill of lading on intrastate shipments; liability of carrier to holder for damage to shipment. (1) Any common carrier, railroad or transportation company receiving property for transportation wholly within this state, from one point in this state to another point in this state, shall issue in accordance with the applicable provisions of ORS 77.1010 to 77.6040 a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage or injury to such property caused by it, or by any common carrier to which such property may be delivered, or over whose line or lines such property may pass, when transported on a through bill of lading. No contract, receipt, rule, regulation or other limitation of any character whatsoever shall exempt such common carrier, railroad or transportation company from such liability.

(2) Any common carrier, railroad or transportation company so receiving property for transportation wholly within this state shall be liable to the lawful holder of such receipt or bill of lading, or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage or injury to such property caused by it, or by any common carrier to which such property may be delivered, or over whose line such property may pass when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery, or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule or regulation, or in any tariff filed with the Public Utility Commissioner; and any such limitation, irrespective of the manner or form in which it is sought to be made, is unlawful and void.

(3) The provisions of subsection (2) of this section respecting liability for full actual loss, damage or injury, shall not apply:

(a) To baggage carried on passenger trains or boats, or trains or boats carrying passengers.

(b) To property, except ordinary livestock, concerning which the carrier is expressly authorized or required by order of the Public Utility Commissioner to establish and maintain rates dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property. "Ordinary livestock" includes all cattle, swine, sheep, goats, horses and mules, except such as are chiefly used for breeding, racing, show purposes or other special uses.

(4) The commissioner may make the order referred to in paragraph (b) of subsection (3) of this section in cases where rates dependent upon and varying with declared or agreed values would, in his opinion, be just and reasonable under the circumstances and conditions surrounding the transportation. Any tariff schedule filed with the commissioner pursuant to such order shall contain specific reference thereto and may establish rates varying with the value so declared and agreed upon.

[Amended by 1961 c.726 §426]

771.020 Limitations on carrier's power in setting time for filing of claim or starting action. (1) No common carrier, railroad or transportation company referred to in ORS 771.010 shall provide by rule, contract, regulation or otherwise a shorter period than:

(a) Ninety days for giving notice of claims.

(b) Four months for filing of claims.

(c) Two years for the institution of suits. The period for institution of suits shall be computed from the day when notice is given by the carrier to the claimant that the carrier has disallowed all or any part of the claim specified in the notice.

(2) If the loss, damage or injury complained of was due to delay or damage while being loaded or unloaded or damaged in transit by carelessness or negligence, no notice of claim nor filing of claim is required as a condition precedent to recovery.

771.030 [Repealed by 1961 c.726 §427]

771.040 Prohibitions. No common carrier subject to this chapter, its director or officer, receiver, trustee, lessee, agent or person acting for or employed by it, shall, alone or with any other person, wilfully do or cause to be done, or willingly suffer or permit to be done, any act, matter or thing prohibited or declared to be unlawful in this chapter, or aid or abet therein, or wilfully omit or fail to do any act, matter or thing required to be done by this chapter or cause or willingly suffer or permit any act, matter or thing so directed or required by this chapter to be done, or not to be so done, or aid or abet any such omission or failure.

771.050 Existing remedies not affected. Nothing in this chapter shall deprive any

holder of a receipt or bill of lading of any remedy or right of action which he has under existing law.

771.990 Penalty. Violation of ORS 771.040 is punishable, upon conviction, by a fine of not more than $5,000 for each offense.

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