Chapter 783

1965 REPLACEMENT PART

(1971 reprint)

Liabilities and Offenses Connected with Shipping and Navigation

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LIENS ON BOATS AND VESSELS

783.010 Claims for which liens accorded. Every boat or vessel used in navigating the water of this state or constructed in this state is liable and subject to a lien:

(1) For wages due to persons employed, for work done or services rendered on board such boat or vessel.

(2) For all debts due to persons by virtue of a contract, expressed or implied, with the owners of a boat or vessel, or with the agents, contractors or subcontractors of such owner, or with any person having them employed to construct, repair or launch such boat or vessel, on account of labor done or materials furnished by mechanics, tradesmen or others in the building, repairing, fitting and furnishing or equipping such boat or vessel, or on account of stores and supplies furnished for the use thereof, or on account of launchways constructed for the launching of such boat or vessel.

(3) For all sums for wharfage, anchorage or towage of such boat or vessel within this state.

(4) For all demands or damages accruing from the nonperformance or malperformance of any contract of affreightment, or of any contract touching the transportation of persons or property, entered into by the master, owner, agent or consignee of the boat or vessel on which such contract is to be performed, and for damages or injuries done to persons or property, by such boat or vessel, and for damages or injuries by such boat or vessel resulting in the death of any person.

783.020 Lien priority. The classes of claims specified in ORS 783.010 shall have priority according to the order in which they are enumerated, and the liens under ORS 783.010 shall have precedence over all other liens and claims against such boat or vessel.

783.030 Right to proceed against boat or vessel directly. Any person having a demand as mentioned in ORS 783.010, instead of proceeding for recovery thereof against the master, owner, agent or consignee of the boat or vessel, may at his option commence an action against such boat or vessel by name.

783.040 Complaint; jurisdiction and venue. Any person wishing to commence an action against a boat or vessel shall file his complaint against such boat or vessel by name with the clerk of the circuit court of the county in which the boat or vessel may lie or be. The complaint shall set forth the plaintiff's demand in all its particulars, and on whose account the same accrued, and shall be verified by the plaintiff or some credible person for him.

783.050 Issuance of warrant for seizure of boat or vessel. Whenever the complaint is filed, the clerk shall issue a warrant thereon, commanding the sheriff to seize the boat or vessel mentioned in the complaint, with her tackle, apparel, and furniture and retain the same until discharged from such custody by due course of law.

783.060 Procedure after return of warrant. Upon the return of any warrant issued as prescribed in ORS 783.050, proceeding shall be had in the circuit court against the boat or vessel seized, in the same manner as if the action had been commenced against the person on whose account the demand accrued.

783.070 Persons authorized to appear for boat or vessel; answer. The master, owner, agent or consignee of the boat or vessel may appear on behalf of the boat or vessel and answer the complaint.

783.080 Judgment by default; proceedings on issue of fact. If in any action commenced under ORS 783.030 and 783.040 the master, owner, agent or consignee does not appear and answer the complaint, the plaintiff may proceed to take judgment in the same manner and under the same restrictions as in a civil action against a natural person. If an issue of fact is joined, the same proceeding shall be had as in other actions.

783.090 Discharge of boat or vessel on giving of undertaking. If the master, owner, agent or consignee, before final judgment in any action commenced in pursuance of ORS 783.030 and 783.040, enters into an undertaking in favor of the plaintiff, with sufficient security, to be approved by the judge or clerk of the court in which the action is pending, conditioned to satisfy the amount which is adjudged due and owing to the plaintiff on determination of the action, together with all costs accruing, such boat or vessel, with its tackle, apparel and furniture, shall be discharged from further detention by the sheriff.

783.100 Return of deposit; disposition of balance. If judgment is for the defendant, any deposit in lieu of an undertaking shall be returned to the person making the same; or if a balance remains after satisfying any judgment in favor of the plaintiff and costs of suit, the balance shall be so returned.

783.110 Order for sale on judgment. If judgment is rendered against any boat or vessel in favor of the plaintiff, the court shall make an order directed to the sheriff, commanding him to sell the boat or vessel, together with its tackle, apparel and furniture, to satisfy the judgment and costs which may have accrued in the cause, which order shall be executed and returned in the same manner as other executions.

783.120 Judgment on undertaking; issuance of execution. If an undertaking with surety was given according to ORS 783.090 and judgment rendered in favor of the plaintiff, a judgment shall also be rendered upon the undertaking, and execution issued for the amount of judgment and costs in favor of the plaintiff, against the principal and security in such undertaking.

783.130 Bill of sale of boat or vessel; effect of previous liens. When any boat or vessel is sold in pursuance of ORS 783.110 to 783.160, the officer making the sale shall execute to the purchaser a bill of sale therefor, and such boat or vessel shall, in the hands of the purchaser and his assigns, be free and discharged from all previous liens and claims under this title.

783.140 Rights of other lien claimants. Any other person having or claiming a lien against any boat or vessel in pursuance of ORS 783.010 may, at any time after the sale upon execution and before payment over of any surplus in the hands of the sheriff, commence an action against such boat by name, as if the same had not been sold, and serve notice thereof upon the former master, owner, agent or consignee. While such action is pending, the sheriff shall not pay over any surplus that may be in his hands to such master, owner, agent or consignee.

783.150 Distribution of proceeds of sale. In the distribution of the proceeds of sale, claims of a prior class shall be paid entire before any payment shall be made upon claims of a subsequent class. When the money to be applied to any class is insufficient to pay all the claims of that class, it shall be apportioned ratably among the claims of that class.

783.160 Sale of appurtenances for fractional share of boat or vessel. If it appears to the court in which the action is pending, or the judge thereof, that the liens against the boat or vessel can be satisfied by a sale of the tackle, apparel and furniture, or a part thereof, or a fractional share in such boat or vessel, the court or judge may modify the order of sale accordingly. If in pursuance of such order a sale is made of a fractional share in such boat or vessel, the purchaser shall hold such share jointly with the other owners.

783.170 Limitation of actions. All actions against a boat or vessel under ORS 783.010 to 783.160 shall be commenced within one year after the cause of action has accrued.

NAVIGATIONAL WRONGS AND REMEDIES

783.310 Destruction or injury of property generally; liability of tort-feasor and employer; lien on vessel. If any person in the control of any steamboat or other watercraft conducts or navigates the same intentionally or negligently so as to destroy or injure the property of another, such person and his employer each shall be liable in damages for the property so injured or destroyed, and the damages shall be a lien on such boat.

783.320 Injuries to person or property ashore; liability in damages; venue. The owner or owners of any boat or vessel which, when navigating the waters of this state or when within the waters of this state, has, through the negligence or misconduct of the owner, agent, master, pilot or employes thereon, caused injury to persons or property upon shore or upon wharves, warehouses, bridges or other structures affixed or contiguous to such shore, wharves, warehouses, bridges or other structures, shall be liable for all damages resulting to such person or to the owners of such property by reason thereof. The persons so injured may recover the same in an action at law in the circuit court of any county within which the boat or vessel may be found.

783.330 Attachment against vessel; motion and undertaking. The person so injured may at the time of filing his complaint, or at any time subsequent thereto, cause an attachment to issue against the vessel. The clerk of the circuit court shall issue a writ of attachment directing the sheriff of the county to levy upon, seize and take the vessel; but such attachment shall only issue upon the filing by the plaintiff of a written motion for such attachment, together with an undertaking in a sum equal in amount to the sum demanded in the complaint. The undertaking shall be executed by one or more sureties, and shall be so conditioned that the signers thereof shall be liable in the sum named therein to the owners of the vessel if the attachment is wrongful or without sufficient cause. The sureties shall in the aggregate justify in double the amount of the undertaking.

783.340 Redelivery of attached vessel. The sheriff shall redeliver the vessel attached to the owner or master thereof upon the owner or master delivering to the sheriff an undertaking, with one or more sufficient sureties approved by the judge of the court, or in case of his absence by the sheriff, which undertaking shall be so conditioned that the obligors therein shall pay to the plaintiff the judgment rendered in the cause. The sureties thereon shall in the aggregate justify in double the amount of the undertaking.

783.350 Nonresident owners, service, judgment, designation. If the owner of the vessel is nonresident of and not within Oregon, service of the summons and complaint shall be made upon the master or person in charge of the vessel, with the same force and effect as though made by publication. In such event the owner shall be required to appear and answer to the complaint within the same time as though he were served personally. In such event no personal judgment against the owner shall be rendered in the action, but only an order of sale of the property attached, or, in event of such property being released upon undertaking, then judgment shall be rendered against the obligors thereon. In the event of the vessel belonging to nonresidents, defects in the names of parties defendant shall not in any respect affect the validity of the proceedings or of any judgment rendered therein.

783.360 Priority of attachment. The attachment provided for in ORS 783.330 shall have priority over any mortgage upon the vessel and over any liens thereon not of a maritime nature.

OFFENSES

783.510 Enticement of seamen to desert or leave ship. No person shall entice, persuade or by any means attempt to persuade, any seaman to desert from, or without permission of the officer then in command thereof to leave or depart therefrom, either temporarily or otherwise, any ship or steamer or other vessel while such ship, steamer or other vessel is within the waters under the jurisdiction of this state or within the waters of the concurrent jurisdiction of this state and Washington.

783.520 Harboring and secretion of seamen. No person shall knowingly and with manifest intention to deprive the owner or master of any ship or vessel of the services of any seaman, harbor or secrete, or by any means aid in harboring or secreting with the intention aforesaid, any seaman mentioned in ORS 783.510.

783.530 Receipt of compensation from seaman for furnishing employment. No person shall demand or receive, either directly or indirectly, from any seaman or apprentice, or from any person seeking employment as a seaman or apprentice, or from any person on his behalf, any remuneration whatever for providing him with employment on board any seagoing vessel.

783.540 [Repealed by 1953 c.113 §2]

783.550 Unauthorized boarding of nonpassenger vessel. No person not acting in an official capacity shall board or attempt to board any ship or other vessel on the Willamette or Columbia River, not engaged in the carrying of passengers for hire, without the consent first obtained of the captain, master or other officer in command thereof at the time.

783.560 Arrest of officers and seamen for debt prohibited. No officer or seaman of a seagoing vessel or ship shall be arrested or imprisoned for debt. No officer shall execute a process of arrest for debt upon such officer or seaman.

783.570 Enforcement officer in Portland and Astoria. The mayor and common council of the cities of Portland and Astoria, severally shall appoint or designate a person or officer to see that ORS 783.510 to 783.560 are not violated and that the provisions thereof are enforced. Such person or officer shall have all the authority and powers of a peace officer, and may make arrests for violation of ORS 783.510 to 783.560. He shall perform such other duties as to the enforcement of those sections as may be enjoined upon him by the respective common council and shall receive such compensation for his services as the common council may by ordinance provide.

783.580 Tugboat operator refusing to tow; discrimination in charges. Any tugboat towing for hire in any of the waters of this state is a common carrier for the business of towing vessels. No master or owner of any such tug shall refuse to tow any vessel of the class usually towed by such a tug, or shall discriminate either in the charges for towing or in time; but they shall tow all such vessels in the order in which they may be announced ready; provided, that towing in or out of a bar harbor may take precedence over towing inside of such harbor.

783.590 Lowering of smokestacks of vessels navigating upper Willamette. Any person or corporation operating any steamboat or other watercraft upon the Willamette River above the City of Portland, shall so construct the smokestacks upon such steamboat or other watercraft with hinges so arranged that the smokestacks thereon can be lowered to a level with the pilot house upon such steamboat or other watercraft when necessary to pass under any bridge at any time constructed across the Willamette River.

783.600 Discharge of ballast in navigable waters. No person, whether an officer of a vessel or not, shall discharge the ballast of any vessel into the navigable portions or channels of any of the bays, harbors or rivers of this state, or within the jurisdiction of this state, so as to injuriously affect such portions or channels of such bays, harbors or rivers, or to obstruct navigation thereof.

783.610 Offenses relating to buoys and beacons; disposition of fines. (1) No person shall moor any vessel of any kind or any name, or any boat, skiff, barge, scow, raft, or part of a raft, to any buoy or beacon placed in the navigable waters of this state, or in any bay, river or arm of the sea bordering upon this state, by the authority of the United States Coast Guard or shall in any manner hang on with any vessel, boat, barge, scow, raft, or part of a raft, to any such buoy or beacon, or shall wilfully remove, damage or destroy any such buoy or beacon, or shall cut down, remove, damage or destroy any beacon or beacons erected on land in this state by authority of the United States Coast Guard.

(2) All fines for violation of this section shall be paid into the county school fund of the county in which the action is tried.
[Amended by 1965 c.539 §5]

PENALTIES

783.990 Penalties. (1) Violation of ORS 783.510 is punishable, upon conviction, before a justice of the peace or circuit court, by a fine of not less than $50 nor more than $200, or by imprisonment in the county jail for not less than one nor more than six months, or both.

(2) Violation of ORS 783.520 is punishable, upon conviction, before a justice of the peace or circuit court, by a fine of not less than $50 nor more than $250, or by imprisonment in the county jail for not less than 60 days nor more than six months.

(3) Violation of ORS 783.530 is punishable, upon conviction, before a justice of the peace or circuit court, by a fine of not less than $20 nor more than $200, or by imprisonment in the county jail for not less than 10 nor more than 100 days.

(4) Violation of ORS 783.550 is punishable, upon conviction, before a justice of the peace or circuit court, by a fine of not less than $20 nor more than $100 or by imprisonment in the county jail for not less than 10 nor more than 100 days, or both.

(5) Violation of ORS 783.560 by any officer is punishable, upon conviction, before a justice of the peace or circuit court, by a fine of not less than $20 nor more than $100.

(6) Violation of ORS 783.580 is punishable, upon conviction, by a fine of not less than $100 nor more than $250, and by imprisonment in the county jail not less than

10 nor more than 25 days. Justices of the peace have jurisdiction of violations of ORS 783.580.

(7) Violation of ORS 783.590 and injury or damage of any bridge across the Willamette River for want of the appliances described in ORS 783.590 is punishable, upon conviction, by a fine of not less than $50 nor more than $500.

(8) Violation of ORS 783.600 is punishable, upon conviction, by a fine of not less than $100 nor more than $500, or by imprisonment in the county jail for not less than three months nor more than one year.

(9) Violation of ORS 783.610 is punishable, upon conviction, by a fine of not less than $100 nor more than $200, or by imprisonment in the county jail not less than one nor more than six months, or both.

[Amended by 1953 c.113 §2]

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 November 15, 1965.

Sam R. Haley
Legislative Counsel

CHAPTER 784 TO ———

[Reserved for expansion]