

Chapter 773

1973 REPLACEMENT PART

(1975 reprint)

Air Carriers and Air Commerce

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CROSS REFERENCES

Public Utility Commissioner, Ch. 756
Use of State Aeronautic Account moneys for air carrier regulation, 491 150

773.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Aircraft" means any contrivance used or designed for navigation of or flight in the air.

(2) "Air commerce" means all transportation by aircraft of persons or property for compensation between points in this state. However, "air commerce" does not include transportation performed solely in connection with:

- (a) Transportation of U.S. mail,
- (b) Instruction in the operation of aircraft,
- (c) Aerial application of agricultural chemicals,
- (d) Air ambulance services,
- (e) Aerial fire-fighting services,
- (f) Air taxi or charter services,
- (g) Aerial logging operations, or
- (h) Transportation authorized by a certificate of public convenience and necessity issued prior to January 1, 1973, pursuant to section 401 of the Federal Aviation Act of 1958 as amended.

(3) "Air carrier" means any person owning, controlling or operating aircraft engaged in air commerce.
[1973 c.776 s 1]

773.020 Purpose. The purpose of this chapter is to provide regulation of air commerce in order that an orderly, efficient, economical and healthy network of air transportation may be established to the benefit of the people of this state.
[1973 c 776 s 2]

773.030 Authority of commissioner. Within the limits of powers reserved to the state for the regulation of air carriers and air commerce, the commissioner may:

- (1) Fix reasonable rates and routes of air carriers;
- (2) Require any air carrier to procure and maintain insurance and performance bonds in any amount; and
- (3) Authorize such through routes, joint rates and divisions of revenue for persons engaged in air commerce as he determines to be in the public interest.
[1973 c 776 s 3]

773.040 Certificate required; separate acts as separate violations. (1) No person shall perform any act which constitutes air commerce, unless that act is authorized by a valid and effective certificate of public convenience and necessity issued by

the commissioner or the act is otherwise authorized by the commissioner's rule or order.

(2) Each separate act in violation of this section is a separate violation, whether the prohibited acts occur within the same or different days or relate to the same or different aircraft.

[1973 c 776 s 4]

773.050 Application for certificate. A person who desires to obtain a certificate of public convenience and necessity to perform an act of air commerce shall make application therefor in such form as the commissioner prescribes. The application shall contain such information as the commissioner may require.
[1973 c.776 s 5]

773.060 Application and transfer fees; fees nonrefundable. Every person applying for a certificate of public convenience and necessity to perform an act of air commerce shall pay to the commissioner with his application a fee of \$150. A like fee shall accompany an application for transfer of such certificates. The fees collected under this section are not refundable.
[1973 c 776 s 6]

773.070 Effect on air carriers operating on January 1, 1973. Notwithstanding any other provision of this chapter, the commissioner shall issue a certificate of public convenience and necessity to any air carrier for the points in this state between which it was actually operating in good faith and doing business as of January 1, 1973, and continuously thereafter, if application therefor has been filed with the commissioner on or before January 1, 1974. The air carrier may continue such operation until its application is either granted or denied by the commissioner.
[1973 c 776 s 7]

773.080 When exemption of air carrier may be granted. The commissioner may exempt any air carrier from the certificate requirements of ORS 773.040 if he finds that such requirements are contrary to the public interest or would impose an undue burden upon the carrier or a community or area because of the immediate need for service. Such need may include, but is not limited to, conditions of national emergency, national disaster or cessation of existing service by another carrier, except for cessation of service caused by a labor dispute. Exemptions

issued pursuant to this section may be issued for a maximum period of 90 days and may be renewed for the same or for a lesser period.

[1973 c 776 s 8]

773.090 When certificate to be awarded. The commissioner shall award certificates of public convenience and necessity whenever the public convenience and necessity require, taking into consideration the business experience of the applicant, the applicant's financial ability and insurance coverage, the type of aircraft the applicant would employ, the proposed routes and minimum schedules to be established, whether the carrier could economically and adequately serve the communities involved, the need for service and any other factors which may affect the public interest. Such certificates may be awarded subject to whatever terms and conditions the commissioner prescribes.

[1973 c 776 s.9]

773.100 Suspension or revocation of certificate. The commissioner may suspend or revoke any of the rights conferred by a certificate of public convenience and necessity after notice and opportunity for hearing only upon a finding that the holder:

(1) Has abandoned such rights,

(2) Is no longer willing or able to perform all or part of the certificated services,

(3) Has violated any provision of ORS 773.040, 773.110 or 773.120 or any rule, regulation or order of the commissioner, or

(4) Has violated any federal or state aircraft or air commerce safety law or regulation.

[1973 c 776 s 10]

773.110 Prohibited acts. (1) It is unlawful, unless authorized by order of the commissioner as provided in this section:

(a) For two or more air carriers, or for any air carrier and any other common carrier to consolidate or merge their properties or any part thereof into one person for the ownership, management or operation of the properties theretofore in separate ownerships,

(b) For any air carrier or any person controlling an air carrier or any other common carrier to purchase, lease, or contract to operate the properties, or a substantial part thereof, of any air carrier, or

(c) For any air carrier or any person controlling an air carrier or any other common carrier to acquire control of any air carrier in any manner whatsoever.

(2) The commissioner may by order authorize such consolidation, merger, purchase, lease, operating control or acquisition of control upon such terms and conditions as he shall deem to be in the public interest.

[1973 c 776 s 11]

773.120 When service may be discontinued. No air carrier shall discontinue any certificated service without authority of the commissioner, unless such service is unprofitable. Except as otherwise may be provided in the certificate awarded by the commissioner, unprofitable services may be discontinued 90 days after the carrier gives notice to the commissioner, and to such other persons as the commissioner may require, unless within such 90-day period the commissioner finds that such services are not unprofitable and orders their continuance.

[1973 c 776 s 12]

773.990 Penalties. Violation of any provision of ORS 773.040, 773.110 or 773.120 is punishable, upon conviction, by a fine of not more than \$1,000 for each such violation.

[1973 c 776 s.13]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173 170, I, Thomas G Clifford, 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,
November 1, 1973

Thomas G. Clifford
Legislative Counsel

CHAPTERS 774 AND 775

[Reserved for expansion]