Chapter 760

1981 REPLACEMENT PART

Railroad Regulation Generally

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DEFINITIONS; GENERAL PROVISIONS

760.005 Definitions. As used in this chapter, unless the context requires otherwise, "railroad" means all corporations, companies, individuals, associations of individuals and their lessees, trustees or receivers, that:

(1) Own, operate by steam, electric or other motive power, manage or control all or part of any railroad or interurban railroad as a common carrier in this state, or cars or other equipment used thereon, or bridges, terminals or sidetracks used in connection therewith, whether owned or operated under a contract, agreement, lease or otherwise.

(2) Are engaged in the ownership, management or control of union depots or terminals in this state (which corporations, companies, individuals and associations hereby are declared to be common carriers) or the transportation of property within this state by express. [Amended by 1971 c 655 §104]

760.010 Companies affected by provisions of ORS chapters 760, 761 and 763. (1) This chapter and ORS chapters 761 and 763 apply to:

(a) The transportation of passengers and property.

(b) The receiving, delivering, switching, storing, elevation and transfer in transit, ventilation, refrigeration or icing, and handling of such property, and all charges connected therewith.

(c) All railroad, union depot, terminal, car, oil, tank line, sleeping car, freight and freight line companies.

(d) All associations of persons, whether incorporated or otherwise, that do business as common carriers upon or over any line of railroad within this state.

(e) Any common carrier engaged in the transportation of passengers or property wholly by rail or partly by rail and partly by water.

(2) This chapter does not apply to logging or other private railroads not doing business as common carriers. [Amended by 1971 c 655 §105, 1975 c 318 §3]

760.015 Reasonable charges and adequate facilities required of railroads. Every railroad shall furnish reasonably adequate service, equipment and facilities; and the charges made for any service rendered or to be rendered in the transportation of passengers or property or for any service in connection therewith, or for the receiving, switching, delivering, storing, elevation and transfer in transit, ventilation, refrigeration or icing or handling of property, or for union depot or terminal facilities, shall be reasonable and just. [Amended by 1971 c 655 §105a]

760.020 [Repealed by 1971 c 655 §250]

760.025 [Repealed by 1971 c 655 §250]

760.027 [1957 c 415 §11, repealed by 1971 c.655 §250]

760.030 [Repealed by 1971 c 655 §250]

760.035 [Repealed by 1971 c 655 §250]

760.040 [Repealed by 1971 c 655 §250]

760.045 [Amended by 1971 c.655 §26; renumbered 756 200]

760.050 [Amended by 1971 c.655 §106, 1973 c 615 §2, renumbered 763 035]

760.055 Peace officer's right to ride train. Every peace officer in this state when actually engaged in the performance of his official duties and upon payment or tender of the legal rate of fare for transportation has the right to ride upon any car or train of any railroad or interurban railroad within this state. This section applies only at stations where regular stops are made.

760.060 Procedure for construction of side lines and extensions. If any railway company owning or operating a railway within this state desires to construct any branch line or side line, or to build an extension of the main line, its board of directors shall adopt a resolution defining the branch, side line or extension, and designating the termini thereof, and shall cause a copy of such resolution, certified by its secretary, to be filed in the office of the Secretary of State, and in the office of each county clerk in or through whose county such branch or side line or extension is to be constructed. Thereupon such corporation has the right to build and construct such branch, side line or extension, and to exercise the right of eminent domain as provided by law, and the termini so designated in such resolution shall be a sufficient designation thereof for the purpose of exercising such right of eminent domain.

INSPECTORS

760.070 Railway inspectors required; powers and duties. (1) The commissioner shall employ at least three full-time railroad inspectors to assist the commissioner as the commissioner may prescribe in:

(a) Inquiring into any neglect or violation of and enforcing any law of this state or any law or ordinance of any municipality thereof relating to railroad safety;

(b) Inquiring into any neglect or violation of and enforcing any rule, regulation, requirement, order, term or condition issued by the commissioner relating to railroad safety; and

(c) Conducting any investigative, surveillance and enforcement activities that the commissioner is authorized to conduct under federal law in connection with any federal law, rule, regulation, order or standard relating to railroad safety.

(2) A railroad inspector may stop and detain any train and the contents thereof that he reasonably believes is being operated in violation of any law, ordinance, rule, regulation, requirement, order, standard, term or condition referred to in subsection (1) of this section. [1973 c 169 §2]

760.075 Qualifications of inspectors. A person employed by the commissioner as a railroad inspector shall:

(1) Have passed an examination, which the commissioner shall prescribe, concerning physical fitness, mental fitness, the rules of the commissioner and the laws of this state relating to railroads; and

(2) Have at least five years of experience as a railroad train service or engine service employe on a class I railroad or a combination of four years of such experience and two years of experience in a nonoperating position in mechanical or maintenance of way. College education with major work in engineering may be substituted for not more than two years of the required experience on the basis of two years of college being equivalent to one year of experience. [1973 c 169 §3]

RATES

760.105 Publishing and filing of schedules; contents of schedules. (1) Every railroad shall print in plain type and file with the commissioner within a time to be fixed by him, schedules, which shall be open to public inspection, showing all rates for the transportation of passengers and property, or use of union depots and terminals, and any service in connection therewith, which it has established and which are in force at the time between all points in this state upon its line, or any line controlled or operated by it.

(2) Such schedules shall plainly state the places upon its line or any line controlled or operated by it in this state between which passengers and property will be carried, and there shall be filed therewith the classification of freight in force.

(3) Every railroad shall publish with and as a part of such schedules all rules and regulations that in any manner affect the rates charged or to be charged for the transportation of passengers or property, also the charges for delay in loading or unloading cars, for tract and car service or rental and for demurrage, switching, terminal or transfer service, or for rendering any other service in connection with the transportation of persons or property.

(4) In addition to the requirements of subsection (1) of this section, each railroad shall keep a copy of its current schedules on file and open for public inspection in at least one other place within this state approved by the commissioner. The schedules and any changes thereto shall be in such form as the commissioner may specify.

(5) When passengers or property are transported over connecting lines in this state operated by more than one railroad, and the several railroads operating such lines establish joint rates, a schedule of joint rates shall in like manner be printed and filed with the commissioner and kept on file in the manner prescribed in subsection (4) of this section.

(6) All tariffs issued by any railroad relating to interstate traffic in this state shall be filed, upon issuance, with the commissioner. [Amended by 1971 c 655 §107]

760.110 Provisions relating to schedule changes. (1) No change shall be made in the rates or any schedule, or in any classification, which has been filed and published by any railroad, except upon 30 days' notice to the commissioner and to the public, which shall state plainly the changes proposed to be made in the schedule then in force and the time when the changed rates will go into effect.

(2) The proposed changes shall be shown by printing new schedules, or shall be indicated plainly upon the schedules in force at the time and kept open to public inspection. Copies of all new schedules shall be filed as provided in ORS 760.105.

(3) The commissioner may, for good cause shown, allow changes upon less than the notice specified in this section, or modify the requirements of this section in respect to publishing, posting and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions. The commissioner may make suitable rules and regulations for the simplification of schedules of rates and classifications and permit in such rules and regulations the filing of an amendment of or change in any rate or classification without filing complete schedules covering rates or classifications not changed, if, in his judgment, not inconsistent with the public interest.

(4) The names of the several carriers which are parties to any joint tariffs shall be provided therein, and each of the parties thereto, other than the one filing the schedule, shall file with the commissioner such evidence of concurrence therein or acceptance thereof, as may be required or approved by the commissioner. Where such evidence of concurrence or acceptance is filed it is not necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties.

(5) On request of the commissioner every railroad shall file with the commissioner copies of all contracts, agreements or arrangements with other common carriers in relation to any intrastate traffic affected by this chapter to which they may be parties.

(6) The schedules filed shall be published and filed in such form and manner as the commissioner, by rule, shall prescribe. The commissioner may reject any schedule filed with him which is not in accordance with this section and with such rules or which does not give lawful notice of the effective date. Any schedule so rejected by the commissioner is void and its use is unlawful.

(7) No railroad, unless otherwise provided by this chapter, shall engage or participate in the transportation of passengers or property, unless the rates upon which the same are transported by such carrier, have been filed and published in accordance with this section and ORS 760.105.

(8) Failure or refusal on the part of any railroad to comply with the terms of any regulation adopted or promulgated, or any order made by the commissioner under this section, makes such carrier liable to a penalty of $500 for each such offense and $25 for every day of the continuance of such offense, which shall accrue to the State of Oregon and may be recovered in civil actions brought by the commissioner in this state. [Amended by 1971 c 655 §108]

760.115 [Repealed by 1971 c 655 §250]

760.120 Railroads required to follow schedules; authority to waive charges. (1) No railroad shall charge, demand, collect or receive a greater or less or different compensation for the transportation of passengers or property or for any service in connection therewith than is specified in such printed tariff schedules, including schedules of joint rates, as may at the time be in force, and the rates named therein shall be the lawful rates until they are changed as provided in ORS 760.110 and 760.130. Except as provided in subsection (2) of this section, no railroad shall refund or remit in any manner or by any means any portion of any such rate.

(2) Upon petition of any railroad, the commissioner may, by ex parte order, after summary investigation but without formal hearing, authorize such railroad to refund, or waive collection of, such part of its charges for intrastate transportation service as shall be found by the commissioner to be in excess of just and reasonable charges for such service. However, no such refund or waiver shall be authorized in respect to charges which accrued more than two years prior to the filing of such petition. [Amended by 1971 c 655 §109]

760.125 [Repealed by 1971 c 655 §250]

760.130 Hearings to determine reasonableness of new schedules; suspension of rates. (1) Whenever any railroad files with the commissioner any schedule stating or establishing a new intrastate rate or regulation, or increasing an existing intrastate rate, or changing or altering any existing regulation, the commissioner may either upon written complaint or upon his own initiative after reasonable notice, conduct a hearing to determine the propriety and reasonableness of such rate or regulation.

(2) At such hearing the burden of showing that the rate or regulation proposed to be established, increased or changed is just and

reasonable is upon the railroad making the same.

(3) The commissioner may, pending such hearing and determination, order the suspension of the rate or regulation proposed to be established, increased or changed. The period of suspension shall not extend more than 120 days beyond the time when such rate or regulation would otherwise go into effect unless the commissioner extends the suspension for a further period not exceeding six months.

(4) After full hearing, whether completed before or after such rate or regulation has gone into effect, the commissioner may make such order in reference thereto as would be proper in a proceeding initiated after such rate or regulation was effective. [Amended by 1971 c.655 §110]

760.135 Requirements as to reasonableness of joint rates. Whenever passengers or property are transported over two or more connecting lines of railroad between points in this state, and the railroad companies have made joint rates for the transportation of the same, such rates and all charges in connection therewith shall be just and reasonable, and every unjust and unreasonable charge is prohibited. However, a lower charge by each of the railroads for its proportion of such joint rate than is made locally between the same points on their respective lines shall not for that reason be construed as a violation of this chapter.

760.140 Special contract rates permitted. This chapter does not prevent concentration, commodity, transit and other special contract rates, but all such rates shall be open to all shippers for a like kind of traffic under similar circumstances and conditions, and shall be subject to the printing and filing requirements of ORS 760.105 and 760.110. All such rates shall be under the supervision and regulation of the commissioner. [Amended by 1971 c 655 §112]

760.142 [Repealed by 1971 c 655 §250]

760.145 Special freight and passenger rates permitted. This chapter does not prevent:

(1) The carriage, storage or handling of freight free, or at reduced rates:

(a) For the United States, the state or any municipality thereof.

(b) For charitable purposes.

(c) To and from fairs and expositions for exhibition thereat.

(d) Consisting of household goods, the property of railway employes, or commodities shipped by such employes for their own exclusive use or consumption.

(2) The issuance of mileage, commutation, party or excursion passengers' tickets, if they are obtainable by all persons applying therefor under like circumstances and conditions. [Amended by 1971 c 655 §113]

760.147 Joint railroad and common carrier rates. (1) Any railroad may establish joint rates for transportation of property with any common carrier whose rates are subject to the regulatory jurisdiction of the commissioner. Participation in joint rates shall be on a voluntary basis only, and may be discontinued by any party thereto upon appropriate tariff publication. The provisions of ORS 760.105 to 760.180 regarding railroad rates are applicable to joint rates authorized by this section. A lower rate by the railroad or common carrier for its portion of such joint rate than is made locally between the same points in providing their respective services shall not for that reason be construed as a violation of this chapter or ORS chapter 767.

(2) As used in subsection (1) of this section, "common carrier" has the meaning for that term provided in ORS 767.005. [1971 c 655 §111]

760.150 Persons permitted to travel at reduced rates. This chapter does not prevent railroads from giving free transportation or reduced rates therefor, to:

(1) Its officers, agents, surgeons, physicians, employes and attorneys at law, or members of their families, or to former railroad employes or members of their families, or to members of families of deceased railroad employes.

(2) State and district officers of the State of Oregon and county commissioners, county judges and sheriffs of the various counties of this state in cases where such transportation is required by law.

(3) Ministers of religion, patients of hospitals and charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work.

(4) The presidents of institutions of higher education under the State Board of Higher Education and the presidents of private non-

profit institutions of higher education operating in Oregon.

(5) Indigent, destitute and homeless persons, and such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation.

(6) Patients of national Veterans' Administration hospitals, including those about to enter and those returning after discharge, and managers of such hospitals.

(7) Employes on sleeping and express cars.

(8) Linemen of telegraph and telephone companies.

(9) Officers of the United States Bureau of Reclamation.

(10) United States livestock inspectors.

(11) Railroad mail service employes, post-office inspectors, custom inspectors and immigration inspectors.

(12) Newsboys on trains, baggage agents, witnesses attending any legal investigations in which the railroad is interested, persons injured in wrecks and physicians and nurses attending such persons. [Amended by 1971 c 655 §114]

760.155 Passes that may be issued by railroads. (1) This chapter does not prevent the interchange of passes for the officers, agents or employes of common carriers and their families, nor prevent any railroad from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitation.

(2) Upon any shipment of livestock, poultry, fruit or other property of such nature as to require the care of an attendant, the railroad may furnish to the shipper or some person designated by him free transportation for such purpose, including return passes to the point at which the shipment originated. There shall be no discrimination in reference thereto between shippers, and the commissioner has power to prescribe regulations in relation thereto.

760.160 Special privileges to military personnel and property. Any railroad may, within this state, transport free or at reduced rates the national guard of any state, or members of the Armed Forces of the United States or military stores, property or equipment, when such transportation is necessary for military purposes, without being guilty of an unjust discrimination or an undue preference. [Amended by 1971 c 655 §115]

760.165 Fixing emergency rates. The commissioner may, when deemed by him necessary to prevent injury to the business or interests of the people or railroads of this state in case of any emergency, temporarily alter, amend or, with the consent of the railroad company concerned, suspend any existing passenger rates, freight rates, schedules and orders on any railroad or part of railroad in this state. Rates so made by the commissioner shall apply on one or more of the railroads in this state or any portion thereof as may be directed by the commissioner, and shall take effect at such time and remain in force for such length of time as may be prescribed by the commissioner. [Amended by 1971 c 655 §116]

760.170 Excessive charges as unjust discrimination. (1) Except as provided in ORS 760.145 to 760.160, no railroad or any agent or officer thereof shall, directly or indirectly, by any special rate, rebate or drawback or by means of any false billing, false classification, false weighing or by any other device, charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered by it for the transportation of persons or property or for any service in connection therewith, than that prescribed in the published tariffs then in force, or established as provided in ORS 760.105 and 760.110, or than it charges, demands, collects or receives from any other person for a like and contemporaneous service under substantially similar circumstances and conditions; nor shall any railroad extend to any person any privilege or facilities in the transportation of passengers or property unless such privileges and facilities are specified in the tariff schedules then in effect.

(2) No railroad shall demand, charge, collect or receive from any person a less compensation for the transportation of property or for any service rendered or to be rendered by the railroad, in consideration of such person furnishing any part of the facilities incident thereto; but this does not prohibit any railroad from renting any facilities incident to transportation and paying a reasonable rental therefor.

(3) Except as provided in subsections (4) and (5) of this section, no railroad shall charge or receive any greater compensation in the aggregate for the transportation of passengers, or of like kind of property, for a shorter

than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates.

(4) A railroad operating over a circuitous line or route may, subject to other requirements of lawfulness provided in this chapter, and without further authorization, meet the rates of another railroad operating over a more direct line or route to or from the competitive points. Any rate thus established over a circuitous line or route shall not be evidence on the issue of the compensatory character of rates involved in other proceedings.

(5) After investigation and for cause shown, the commissioner may permit the collection of a greater sum for a shorter than for a longer distance over the same line. [Amended by 1971 c 655 §117]

760.175 Preferences to particular persons or localities as unjust discrimination. (1) No railroad shall:

(a) Make or give any undue or unreasonable preference or advantage to any particular person.

(b) Subject any particular person or particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect.

(c) Furnish free or reduced transportation to the president of any institution of higher education under the State Board of Higher Education mentioned in ORS 760.150 and not furnish the same free or reduced transportation to the president of any other institution of higher education mentioned in said statute.

(d) Make or give any undue or unreasonable preference or advantage to any particular locality, or subject any particular locality to any undue unreasonable prejudice or disadvantage in any respect.

(2) This section does not prohibit any railroad from giving necessary preference to livestock and perishable freight over other freight.

(3) Any railroad violating this section is guilty of unjust discrimination. [Amended by 1971 c 655 §118]

760.180 Acceptance of rebate prohibited. No person shall knowingly accept or receive any rebate, concession or discrimination in respect to transportation of any passenger or property wholly within this state, or for any service in connection therewith, whereby any property is transported at a less rate than that named in the published tariffs in force, or whereby any service or advantage is received other than is therein specified.

PASSENGER FACILITIES AND SERVICE

760.205 Definitions for ORS 760.210 to 760.250. As used in ORS 760.210 to 760.250, the term:

(1) "Schedule of passenger transportation service" means a complete time schedule of all the passenger transportation service rendered by a railroad between points in this state upon its line or upon any line controlled or operated by it and includes:

(a) The points upon the railroad's line or any line controlled or operated by it in this state between which passenger transportation service is or can be rendered.

(b) The scheduled train arrival and departure times.

(2) "Reduction of passenger transportation service" means:

(a) Any discontinuance or reduction in the frequency of passenger trains per day in either direction over a particular railroad route.

(b) Any discontinuance of a type of car offered for passenger transportation service over a particular railroad route.

(c) Any discontinuance or reduction in the number of stops by passenger trains over a particular railroad route.

(3) "Experimental type of car" means a new and unconventional type of passenger car intentionally offered experimentally for passenger service, either as a part of an existing scheduled passenger train or on an unscheduled basis. [1957 c 415 §1, 1971 c 655 §118a]

760.210 Publishing, filing and posting schedule of passenger transportation service. Every railroad shall keep on file with the commissioner, a schedule of the passenger transportation service which it has established between points in this state upon its line or upon any line controlled or operated by it. A copy of such schedule shall be posted in each station of such line where a train stops to receive passengers, in such form and place as to be accessible to the public for convenient inspection. [1957 c 415 §2, 1971 c 655 §119]

760.215 Notice of proposed reduction of passenger transportation service. A railroad shall give 30 days' notice, unless exempted by the commissioner under ORS 760.225, to the commissioner and to the public, of any proposed reduction of passenger transportation service to any point in this state before such proposed reduction shall become effective. The notice required by this section shall be given in such form and at such times as the commissioner may prescribe to provide adequate notice of the proposed reduction. [1957 c 415 §3; 1971 c.655 §120]

760.220 [1957 c 415 §4; repealed by 1971 c 655 §250]

760.225 Commissioner may allow less notice than otherwise required. The commissioner, upon good cause shown, may, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions, allow reductions of passenger transportation service upon less than the notice specified in ORS 760.215. [1957 c 415 §7(2); 1971 c 655 §121]

760.230 Rejection by commissioner of proposed amendment. The commissioner may reject any amendment to a schedule filed with him which is not in accordance with ORS 760.205 to 760.255 or the rules and regulations of the commissioner or which does not give lawful notice, either to the commissioner or to the public, as set forth in ORS 760.215. Any amendment to such schedule so rejected is void and shall not be considered filed or posted for the purposes of ORS 760.210 to 760.250. [1957 c 415 §5, 1971 c 655 §122]

760.235 Hearings to determine propriety and adequacy of service. (1) Whenever any railroad files with the commissioner any schedule of passenger transportation service the effect of which is to reduce an existing passenger transportation service, the commissioner may, either upon written complaint or upon his own initiative after reasonable notice to the railroad, conduct a hearing to determine the propriety and adequacy of such service.

(2) At the hearing the burden of showing that the proposed passenger transportation service is just, reasonable and adequate is upon the railroad proposing the reduction.

(3) At any time within 20 days after receiving the notice required under ORS 760.215 the commissioner may, pending such hearing and determination, order the suspension of the reduction of passenger transportation service. The period of suspension shall not extend more than 120 days beyond the time when such change would otherwise go into effect.

(4) After full hearing, whether completed before or after the reduction of passenger transportation service has gone into effect, the commissioner may make such order as would be proper in a proceeding initiated after such reduction of service was effective. [1957 c.415 §8, 1971 c 655 §123]

760.240 Experimental types of cars. A railroad may install and discontinue experimental types of cars without compliance with ORS 760.210 and 760.215 after written notice to the commissioner. [1957 c.415 §6; 1971 c.655 §124]

760.245 [1957 c.415 §7(1), repealed by 1971 c.655 §250]

760.250 Temporary changes necessitated by causes beyond control of railroad. ORS 760.210 to 760.240 shall not apply in cases of temporary changes in operating schedules or service necessitated by floods, storms or other acts of God or other causes beyond the control of the railroad. [1957 c 415 §9, 1971 c.655 §124a]

760.255 Provisions supplemental to other laws. The provisions of ORS 760.210 to 760.250 are additional and cumulative to the provisions of any other law for the regulation of railroads, and shall be interpreted as providing additional powers and not in conflict with or exclusive of the provisions of existing laws on the same subject. [1957 c.415 §10; 1971 c 655 §125]

REPORTS AND ACCOUNTS

760.305 Annual report to commissioner. (1) Every railroad shall annually, on or before May 1, unless additional time is granted, file with the commissioner a report verified by a duly authorized officer, in such form and containing such information as the commissioner shall prescribe, covering the year ending December 31 next preceding.

(2) Any railroad failing to make such report shall forfeit to the state, for each day's default, a sum not to exceed $100, to be recovered in a civil action in the name of the State of Oregon. [Amended by 1971 c 655 §126; 1977 c.512 §1]

760.310 [Repealed by 1971 c 655 §250]

760.315 [Repealed by 1971 c 655 §250]

760.320 [Repealed by 1971 c.655 §250]

760.325 Prescribing of uniform system of accounting. The commissioner may prescribe a uniform system of rendering accounts of business transacted in Oregon by all railroads. He may also prescribe the manner in which such accounts may be kept, and the time within such railroads shall adopt such system. All forms of accounts prescribed by the commissioner shall conform as nearly as practicable to similar forms prescribed by federal authority.

760.330 Delivery of copies of contracts to commissioner. Every railroad, whenever required by the commissioner, shall, within a time to be fixed by the commissioner, deliver to him for his use copies of all contracts which relate to the transportation of persons or property, or any service in connection therewith, made or entered into by it with any other railroad, car company, equipment company, express or other transportation company, or any shipper or other person doing business with it.

760.335 [Repealed by 1971 c.655 §250]

760.340 [Repealed by 1971 c.655 §250]

760.345 [Repealed by 1971 c 655 §250]

760.350 [Repealed by 1971 c 655 §250]

760.405 [Repealed by 1971 c 655 §250]

760.410 [Repealed by 1971 c 655 §250]

760.415 [Repealed by 1971 c 655 §250]

760.420 [Repealed by 1971 c 655 §250]

760.425 [Repealed by 1971 c 655 §250]

760.430 [Repealed by 1971 c 655 §250]

760.505 [Repealed by 1971 c.655 §250]

760.510 [Repealed by 1971 c 655 §250]

760.515 [Repealed by 1971 c 655 §250]

760.520 [Amended by 1957 c 416 §1, repealed by 1971 c 655 §250]

SPECIAL ORDERS; ACTIONS AGAINST CARRIERS

760.525 Special orders for joint rates. (1) Whenever the rate ordered substituted by the commissioner under ORS 756.515 is a joint rate or a joint rate is established under subsection (2) of this section, and the railroads party thereto fail to agree upon the apportionment thereof within 20 days after the service of such order, the commissioner may, after a like hearing issue a supplementary order declaring the apportionment of such joint rate, and the same shall take effect of its own force as part of the original order.

(2) Whenever the railroads refuse or neglect to establish a through route or joint rates for the transportation of persons or property, the commissioner may, upon notice to the railroads and after opportunity to be heard as provided in ORS 756.500 to 756.610, fix and establish such through route or joint rates. [Amended by 1971 c 655 §127]

760.530 [Repealed by 1971 c 655 §250]

760.535 Award of damages to persons paying unreasonable rates. If, after hearing on a complaint made as provided in ORS 756.500 and 756.512, with respect to intrastate commerce, the commissioner determines that any party complainant has suffered a pecuniary loss or damage by reason of the imposition or collection by any common carrier, railroad or transportation company, of rates, fares or charges in violation of ORS 760.015 or 760.135, he shall make an order directing the carrier to pay to the complainant on or before the day named the sum found to have been imposed upon or collected from him in violation of said statutes. [Amended by 1971 c 655 §128]

760.540 Enforcement of award by court action; attorney fees. (1) If a common carrier, railroad or transportation company does not comply with an order issued under ORS 760.535 within the limit in such order, the complainants, or any person for whose benefit such order was made, may file in any state court of general jurisdiction, within one year from the date of the order, a petition setting forth briefly the causes for which the petitioner claims damages and the order of the commissioner in the premises.

(2) Such action in the courts of the state shall proceed in all respects like other civil actions for damages, except that:

(a) On the trial of such action the findings and order of the commissioner are prima facie evidence of the facts therein stated; and

(b) The petitioner is not liable for costs in the circuit court nor for costs at any subsequent stage of the proceedings unless they accrue upon appeal by the petitioner.

(3) If the petitioner finally prevails, the petitioner shall be allowed a reasonable attor-

ney fee at trial and on appeal. [Amended by 1981 c 897 §105]

760.545 Limitations on actions by and against carriers. (1) Except as provided in subsection (3) of this section:

(a) All actions at law by any common carrier, railroad or transportation company subject to ORS 760.535 and 760.540, for recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues.

(b) All complaints under the jurisdiction of the commissioner for the recovery of damages shall be filed with him within two years from the time the cause of action accrues, unless the carrier, after the expiration of such two years or within 90 days before such expiration, begins an action for recovery of charges in respect of the same service, in which case such period of two years shall be extended to 90 days from the time such action by the carrier is begun.

(2) For the purposes of subsection (1) of this section, the cause of action in respect of a shipment of property accrues upon delivery or tender of delivery thereof by the carrier.

(3) All actions against common carriers, railroads or transportation companies subject to ORS 760.535 and 760.540 for the recovery of overcharges, shall be begun within two years from the time the cause of action accrues. [Amended by 1971 c 655 §129]

760.550 Joinder of parties in action on award. In suits brought under ORS 760.540, all parties in whose favor the commissioner has made an award for damages by a single order may be joined as plaintiffs, and all the carriers parties to such order may be joined as defendants. Service of process against any one of such defendants found in the state may be made by the sheriff. In case of such joint action, the recovery, if any, may be by judgment in favor of any one of the plaintiffs against the defendant found be liable to such plaintiff.

760.555 [Repealed by 1971 c 655 §250]

760.560 [Repealed by 1971 c 655 §250]

760.565 [Amended by 1957 c.473 §1, repealed by 1971 c 655 §250]

760.570 [Repealed by 1971 c 655 §250]

760.575 [Amended by 1971 c 655 §52; renumbered 756 565]

760.580 [Repealed by 1971 c 655 §250]

760.585 [Repealed by 1971 c 655 §250]

760.590 [Repealed by 1971 c 655 §250]

760.595 [Repealed by 1971 c 655 §250]

760.600 [Repealed by 1971 c 655 §250]

760.605 [Repealed by 1971 c 655 §250]

PENALTIES

760.990 Penalties. (1) Any railroad violating ORS 760.170 (1) is guilty of discrimination and shall, upon conviction, forfeit and pay to the State Treasurer not less than $100 nor more than $10,000 for each offense.

(2) Any agent or officer violating ORS 760.170 (1) shall be punished, upon conviction, by a fine of not less than $100 nor more than $1,000 for each offense.

(3) Violation of ORS 760.180 is punishable, upon conviction, by a fine of not less than $50 nor more than $1,000 for each offense. [Amended by 1971 c 655 §130]