

Chapter 761

1989 EDITION

Railroad Equipment, Buildings and Tracks; Transportation of Hazardous Materials

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UTILITIES; RAILROADS AND OTHER CARRIERS

761.010 [Repealed by 1971 c.655 §250]

RAILROAD BUILDINGS, TRACKS AND FACILITIES

761.110 Maintenance of adequate passenger and freight depots and facilities.

(1) Every railroad shall provide and maintain adequate depots and depot buildings, and clean and suitable toilet rooms, or buildings, at stations where its trains regularly stop to receive or discharge passengers.

(2) The depot buildings shall be kept clean, well lighted and warmed, for the comfort and accommodation of the traveling public.

(3) All railroads shall keep and maintain adequate and suitable freight depots, buildings, switches, spurs and sidetracks for the receiving, handling and delivering of freight transported or to be transported by such railroads. [Amended by 1971 c.655 §132]

761.120 Inspection of, recommendations on and orders concerning railroad equipment and facilities. (1) Except as provided in subsection (2) of this section, the commission shall examine and inspect the physical condition of all railroad facilities in the state, including roadbeds, stations and equipment. Whenever it appears from such inspection that the safety of the public or the employees of such railroad may be threatened, notice of the condition or practice under investigation shall be given to the railroad and any person responsible for the maintenance or use of the railroad facility. If such condition or practice is not corrected to the commission's satisfaction, the commission shall set the matter for hearing. Following such hearing the commission shall order the railroad or person responsible for the maintenance or use of the railroad facility to make any repairs, alterations, or changes necessary to correct or eliminate any condition or practice found to threaten the safety of the public or the employees of the railroad. Notwithstanding the provisions of ORS 756.512, if in the opinion of the commission a condition or practice is so hazardous as to place the employees of the railroad in immediate danger the commission may issue, after hearing, upon 48 hours' written notice given the railroad, an order prohibiting the use of the facility until such time as necessary repair, alterations or changes are made.

(2) This section does not apply to a penalty imposed under ORS 761.415 or 761.994. [Amended by 1971 c.655 §133; 1973 c.171 §3; 1975 c.318 §2, 1983 c 703 §19]

761.130 [Repealed by 1971 c.655 §250]

761.140 Construction of connections to lateral or branch lines. (1) Any railroad,

upon application, of any lateral or branch line railroad, or any shipper tendering intra-state traffic for transportation, shall construct, maintain and operate upon reasonable terms a switch connection with any lateral or branch line of railroad or private sidetrack which may be constructed, where such connection is reasonably practicable and can be put in with safety and will furnish sufficient business to justify the construction and maintenance of the same, and shall furnish cars and transport, to the best of its ability, any traffic tendered to, over or from such lateral or branch line of railroad or private sidetrack, without discrimination in favor of or against such shipper.

(2) However, this section does not compel a railroad to remove from or deliver on a private sidetrack traffic tendered in less than carload lots.

(3) Shipments of livestock, perishable property and explosives may have precedence over all other classes of merchandise.

761.150 Procedure on failure to construct connections. (1) If any railroad fails to install and operate the connections required by ORS 761.140 on application therefor in writing by the owner of any such lateral or branch line of railroad, or any shipper, the owner of any such lateral or branch line of railroad, or any shipper may make complaint to the commission in the manner provided by ORS 756.500 to 756.610. The commission shall, in the manner provided in said statutes:

(a) Make investigation of the connections.

(b) Determine the safety, practicability and justification of the connections.

(c) Ascertain the items of reasonable cost of making such connections.

(d) Make an order, directing the railroad to comply with ORS 761.140 in accordance with such order.

(2) The order shall be enforced as other orders of the commission fixing a reasonable service are enforced. The railroad shall furnish the rails and fastenings, and the switch, complete with frog and guard rails, and the ties and grading shall be furnished or the expense borne by applicant. [Amended by 1971 c.655 §134]

761.160 When track connections with warehouses required; furnishing freight cars. Whenever any warehouse is built within 150 feet of the main line of any railroad in this state, with sidetrack graded and ties laid down without expense to the company owning or operating said road, and not less than 300 tons of freight stored in said warehouse ready for transportation and the

warehouses are so situated that trains can be started with the same power as in daily use on ordinary straight and level track, then the said railroad company shall:

(1) Lay down the track, with the necessary connections and switches.

(2) From time to time furnish suitable freight cars necessary for the removal of such freight.

(3) Transport freight in carload lots to or from said warehouse in regular order, as other freight is transported on said road, whenever notice is given to the agent of the company or person in charge of the nearest station thereon.

761.170 Recovery of penalty by injured party for failure to comply with ORS 761.160. If any company or corporation owning or operating any railroad in this state fails to comply with ORS 761.160, the person injured by such failure may recover against such railroad company, in any court having jurisdiction, a penalty of \$300 for each week during which such failure continues.

761.180 Track clearances. The commission, upon own motion or upon application of any person, and with or without hearing:

(1) May enter an order prescribing standard track clearances for railroads.

(2) Upon finding good cause, may enter an order granting authority for a railroad to operate at particular points with clearances different from those prescribed as standard track clearances. [1971 c 655 §135]

761.190 Cooperation with federal agencies on matters of safety; disclosure of reports if required by federal law. (1) The commission may cooperate with, make certifications to, and enter agreements with the Secretary of Transportation of the United States, or any other federal agency with jurisdiction over railroads, under the Federal Railroad Safety Act of 1970, as amended through the effective date of that Act.

(2) The commission may assume responsibility for and carry out on behalf of the Secretary of Transportation of the United States, or any other federal agency with jurisdiction over railroads, regulatory jurisdiction over the safety practices applicable to railroad facilities and operations in Oregon not otherwise subject to the jurisdiction of any other agency of this state.

(3) Notwithstanding any other provisions of law to the contrary, the commission shall make public such reports as are required to be made public under the Federal Railroad Safety Act of 1970, as amended through the effective date of that Act and shall provide such information as is required thereunder

to the Secretary of Transportation of the United States. [1973 c 171 §2; 1979 c.82 §4; 1981 c 355 §1; 1987 c 158 §155]

761.200 Walkway standards; variances.

(1) The commission, upon the commission's motion or upon application of any person, by rule shall prescribe standards for walkways alongside railroad tracks where necessary for the safety of railroad employees.

(2) The commission may for good cause shown permit variances from the standards so prescribed. [1973 c.232 §§2, 3; 1983 c 540 §8]

761.205 Track improvement and rehabilitation program. The Department of Transportation may:

(1) Identify segments of railroad track in this state that:

(a) Are abandoned, threatened with abandonment or have physical characteristics that reduce freight service; and

(b) Have the potential for providing renewed, continued or improved rail service that would benefit the state or community beyond the cost involved.

(2) Develop and implement programs to encourage improvement of service over segments of railroad track identified under subsection (1) of this section.

(3) With the prior approval of the Oregon Transportation Commission, enter into agreements with the United States Government, a political subdivision in this state or any person to:

(a) Continue existing rail service on a segment of railroad track identified under subsection (1) of this section;

(b) Acquire a segment of railroad track identified under subsection (1) of this section to maintain existing or provide for future rail service;

(c) Rehabilitate or improve, to the extent necessary to permit more adequate and efficient rail service, railroad property on a segment of railroad track identified under subsection (1) of this section; or

(d) Provide funding for less expensive alternatives to rail service over a segment of railroad track identified under subsection (1) of this section.

(4) Do any act required of this state under rules adopted by the United States Secretary of Transportation under section 1654, title 49, United States Code, for allocation and distribution of funds to any state under section 1654, title 49, United States Code, for preserving or improving rail freight service in this state. [1979 c.851 §1]

Note: 761.205 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 761 or any series therein by legislative

action. See Preface to Oregon Revised Statutes for further explanation.

RAILROAD EQUIPMENT

761.310 Electric headlights for locomotives; liability for damages. (1) Every person operating any class I line of railroad, as classified by the Interstate Commerce Commission, shall maintain and use upon every locomotive power vehicle, power car and other equipment used as the equivalent of or in the place of locomotives which is operated at night, electric front and rear headlights of sufficient candle power, measured with a reflector, to throw a light in clear weather that will enable the operator of the same plainly to discern an object the size of a human at a distance of not less than 800 feet. However, every locomotive, power vehicle, power car or other equipment used as the equivalent of or in place of locomotives shall extinguish the light on the end and to which a car is coupled when used for switching purposes only in a railroad yard.

(2) Any person who violates this section, in addition to the penalty prescribed in ORS 761.990, is liable for all damages resulting, in whole or in part, directly or indirectly from the violation. [Amended by 1971 c 655 §135a]

761.315 First aid kits required on locomotives and caboose cars. Every locomotive and caboose of every railroad operating in this state shall be equipped with a first aid kit. [1977 c.535 §6]

761.320 Equipment required on track motor cars. (1) Every person operating or controlling any railroad which is a common carrier shall equip each of its track motor cars operating during the period 30 minutes before sunset and 30 minutes after sunrise with:

(a) An electric headlight of sufficient candle power to enable the operator of the car to plainly discern any track obstruction, landmark, warning sign or grade crossing at a distance not less than 300 feet.

(b) A red rear electric light with sufficient candle power to be plainly visible at a distance not less than 300 feet.

(c) A windshield equipped with a device, which must be kept in good working order, with which the operator can clean rain, snow and other moisture from the windshield.

(d) A canopy or top adequate to protect the occupants of the car from sun, rain, snow or other inclement weather.

(2) As used in this section, "track motor car" means all power-propelled speeders and motor cars which can be lifted on and off the track by hand.

761.325 Self-propelled vehicles used in yards or terminals. (1) No railroad shall permit or require an employee to use a self-propelled vehicle in its yards or terminals for inspecting trains, equipment or facilities or transporting employees or materials for the repair of trains, equipment or facilities, unless the vehicle is designed, constructed and operated in accordance with the safety orders and regulations adopted under ORS 654.001 to 654.170 and 654.202 to 654.216.

(2) As used in subsection (1) of this section, "railroad" means a railroad as defined by ORS 760.005 and 760.010. [1971 c.586 §§1, 2, 1973 c.833 §47]

Note: 761.325 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 761 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

761.330 [Amended by 1971 c.655 §136, repealed by 1989 c.405 §3]

Note: 761.330 is repealed July 1, 1990. See section 3, chapter 405, Oregon Laws 1989. The text is set forth for the user's convenience.

761.330 (1) All track scales used by railroads within this state to weigh cars or freight offered for shipment in carload lots shall be under the jurisdiction of the commission and subject to the inspection of the commission. The commission may also test other track scales.

(2) The commission shall, from time to time, test and inspect all such scales. No track scale shall be used in determining weights for the purpose of determining freight charges without first obtaining a seal from the commission approving such use.

(3) The commission shall approve a suitable sealing device, and cause all track scales inspected under this section to be officially sealed with such device, when such scales are found or made to be in compliance with the commission's rules.

(4) The commission may procure or otherwise secure the use of the car, apparatus or facilities used for tests and inspections as the commission may require for the purposes of this section. Such car, apparatus or facilities may be used jointly with another state or states to test track scales and for that purpose may be taken beyond the limits of the state under such terms and conditions agreed upon with such other states. The car and apparatus needed to test track scales shall be transported free by every railroad in this state.

761.340 [Amended by 1957 c 459 §9; 1971 c 655 §137; repealed by 1989 c.405 §3]

Note: 761.340 is repealed July 1, 1990. See section 3, chapter 405, Oregon Laws 1989. The text is set forth for the user's convenience

761.340 (1) The commission may ascertain, declare and collect the reasonable cost and expenses of making inspections and tests of track scales, other than those operated by railroads subject to the jurisdiction of the commission. Any person other than said railroads operating such scale shall pay the cost and expense of any inspection to the commission upon demand, which sum shall be paid by the commission into the State Treasury and shall be placed by the State Treasurer to the credit of the Public Utility Commission Account and shall be used only for the purpose of paying the expenses of the commission in the administration of ORS 761.330 to 761.350.

(2) When, in the judgment of the commission, action is deemed necessary to collect any unpaid costs

and expenses upon the neglect or refusal, after demand, of any person to pay such costs and expenses, the commission shall bring such action or take such proceedings as may be necessary in the name of the state in any court of competent jurisdiction and be entitled to recover all such costs and expenses and the costs and disbursements incurred therein, which moneys shall be credited to the Public Utility Commission Account and shall be used only for the purpose of paying the expenses of the commission in the administration of ORS 761.330 to 761.350.

761.350 [Amended by 1971 c.655 §138; repealed by 1989 c.405 §3]

Note: 761.340 is repealed July 1, 1990. See section 3, chapter 405, Oregon Laws 1989. The text is set forth for the user's convenience.

761.350 No person shall break or tamper with or cause to be broken or tampered with, the seal or the track scales after the same has been installed or inspected by the commission or the inspector of the commission.

761.360 [Repealed by 1971 c.655 §250]

761.365 Water quality and sanitation facility standards for locomotives and caboose cars. (1) The commission shall prescribe standards for water quality and sanitation facilities on railroad locomotives and cabooses in this state.

(2) The commission may for good cause shown permit variances from the standards so prescribed. [1979 c.82 §2]

HAZARDOUS MATERIALS

761.370 "Hazardous materials" defined. As used in ORS 761.380 to 761.415 "hazardous materials" means those substances designated by the commission pursuant to ORS 761.400 (1). [1975 c.132 §2, 1977 c.685 §1; 1985 c.565 §119]

761.380 Notice of movement of hazardous materials; confidentiality of notice information. (1) Before transporting hazardous materials into this state or from a railroad terminal located within this state, a railroad shall, as soon as reasonably possible after it has notice of such train movement, provide such notification thereof as the commission determines pursuant to ORS 761.400. If the information necessary for the notification is not available before beginning the train movement, or if hazardous materials are added to the train while en route, notification shall be given as soon as the information is available. For the purposes of this subsection, "train movement" does not include a switching or transfer movement.

(2) Except to the extent that the commission determines is necessary to provide for the safe transportation of the hazardous materials, the commission, an employee of the commission and any person receiving information pursuant to this section shall not divulge or make known the information contained in the notification at any time before or during the transportation of the hazardous

materials for which the notification is provided. [1975 c.132 §3, 1977 c.685 §2]

761.390 [1975 c.132 §4; repealed by 1977 c.685 §8]

761.395 Visual external inspections required on cars standing in rail yards or stations more than two hours. Each railcar containing hazardous materials for which an "Explosives A," "Flammable Gas" or "Poison Gas" placard is required by federal regulation, and which remains in a rail yard or station for more than two hours shall be visually inspected externally by the transporting railroad within two hours of the car's arrival and within two hours prior to the car's departure. [1977 c.685 §6, 1979 c.244 §1]

761.400 Commission to designate hazardous materials and notice requirements. After consultation with the State Fire Marshal the commission shall determine:

(1) What material and quantity thereof the transportation of which is hazardous to public health, safety or welfare and shall designate by rule such materials and quantities as hazardous materials. In defining hazardous materials the commission shall, so far as practicable, adopt definitions in conformity with the federal rules and regulations.

(2) What notification required by ORS 761.380 (1) is necessary to provide for the safe transportation of hazardous materials, including but not limited to the time, content and manner of notification. [1975 c.132 §5, 1977 c.685 §3]

761.405 Notifying Emergency Management Division of reportable incident, derailments and fires; trains required to be equipped with radio gear. (1) Each railroad that gives notice to the United States Department of Transportation of an incident that occurs during the course of transporting hazardous materials as defined by federal regulations shall also give notice of the incident to the Administrator of the Emergency Management Division of the Executive Department.

(2) As soon as reasonably practicable, each railroad shall notify the Administrator of the Emergency Management Division of the Executive Department by telephone or similar means of communication of any derailment or fire involving or affecting hazardous material.

(3) To facilitate expedited and accurate notice to the administrator under this section, each train transporting hazardous materials in this state shall be equipped with at least two radio transmitter-receivers in good working order. In addition, 18 months after October 4, 1977, trains over 2,000 feet in length that are transporting hazardous materials shall be equipped with a radio

handset in good working order capable of communicating with the radio transmitter-receivers. If the equipment required under this section does not function while the train is en route, the train may proceed to the next point of crew change where the equipment shall be replaced or repaired. [1977 c.685 §5]

761.410 [Repealed by 1971 c.655 §250]

761.415 Commission to set standards for safe transportation of hazardous wastes; civil penalty. (1) The commission shall adopt rules setting standards for the safe transportation of hazardous wastes, as defined in ORS 466.005, by all transporters.

(2) The authority granted under this section:

(a) Is in addition to any other authority granted the commission.

(b) Does not supersede the authority of the Energy Facility Siting Council to regulate the transportation of radioactive materials under ORS 469.550, 469.570, 469.603 to 469.621 and 469.992.

(3) In addition to any other penalty for violation of a rule adopted under this section, the commission, after hearing, may impose a civil penalty of not more than \$10,000 for violation of a rule adopted under this section. Each day of noncompliance with a rule is a separate violation.

(4) As used in this section, "transporter" has the meaning given that term in ORS 466.005. [1981 c.680 §6; 1983 c.703 §20; 1989 c.6 §15]

761.420 [Repealed by 1965 c.253 §153]

761.421 Disclosure of hazardous waste reports and information to Environmental Protection Agency. Records, reports and information obtained or used by the commission in administering the hazardous waste program under ORS 761.415 shall be available to the United States Environmental Protection Agency upon request. If the records, reports or information has been submitted to the commission under a claim of confidentiality, the state shall make that claim of confidentiality to the Environmental Protection Agency for the requested records, reports or information. The federal agency shall treat the records, reports or information that is subject to the confidentiality claim as confidential in accordance with applicable federal law. [1983 c.703 §5]

761.430 [Repealed by 1971 c.655 §250]

761.510 [Repealed by 1961 c.726 §427]

761.520 [Repealed by 1961 c.726 §427]

761.530 [Repealed by 1961 c.726 §427]

CABOOSE REQUIREMENTS

761.600 Definitions for ORS 761.605 to 761.640. As used in ORS 761.605 to 761.640:

(1) "Caboose" means any car or coach used on a train to carry a train crew.

(2) "Marker" means any lamp providing illumination by electrical power which is designed to be displayed on a railroad car or coach for safety purposes.

(3) "Terminal" means a system of tracks, the boundaries of which are set by a railroad for the purpose of coupling or uncoupling cars. [1979 c.791 §2]

761.605 Application of requirements. The provisions of ORS 761.605 to 761.640 and 761.992 shall apply to all cabooses except those used in terminal service or in road service for a distance not to exceed three miles, and shall not apply to logging railroads. [1979 c.791 §3]

761.610 [1979 c.791 §4; repealed by 1987 c.433 §2]

761.612 Standards for operation of freight trains without caboose; considerations; variances. (1) The commission, upon its own motion or upon application of any person, by rule, shall prescribe standards for the operation by Class I railroads of freight trains without an occupied caboose as the rear car. In adopting such standards, the commission shall consider the general public safety and welfare, the safety of railroad operating employees and the provisions of collective bargaining agreements between a railroad and its labor unions regarding the use of a caboose on a freight train operated by a Class I railroad.

(2) The commission, for good cause shown, may permit variances from the standards prescribed pursuant to subsection (1) of this section. [1987 c.433 §4]

761.615 [1979 c.791 §8a, repealed by 1987 c.433 §2]

761.620 Electric markers; fire extinguishers. (1) All cabooses shall be equipped with electric markers capable of illumination of not less than 100 nor more than 1,000 candela.

(2) All cabooses shall be equipped with fire extinguishers meeting the following requirements:

(a) Each caboose shall have at least one portable fire extinguisher.

(b) Fire extinguishers may be of a foam, dry chemical or carbon dioxide type.

(c) The fire extinguishers in each caboose shall provide a minimum capacity of one and one-quarter gallons or five pounds. More than one fire extinguisher may be used to comply with the minimum capacity requirement under this paragraph.

(d) Fire extinguishers shall be placed in readily accessible locations.

(e) Fire extinguishers shall be maintained in working order. [1979 c.791 §5; 1981 c.138 §1]

761.625 Exemption from ORS 761.620.

A railroad may apply for a temporary exemption from the provisions of ORS 761.620. The commission will consider the application of the railroad for a temporary exemption when accompanied by a full statement of the conditions existing and the reasons for the exemption. Any exemption so granted will be limited to a stated period of time. [1979 c.791 §8]

761.630 Use of noncomplying caboose prohibited; equipment failure; repair. A caboose shall not be placed in service unless it is in compliance with all of the provisions of ORS 761.605 to 761.640 and 761.992 relating to required equipment and standards of maintenance. In the event a failure of required equipment or standards of maintenance occurs after a caboose has departed from a terminal and a member of the train crew has boarded the caboose, the railroad operating the caboose shall not be deemed to be in violation of ORS 761.605 to 761.640 and 761.992 if such failure of equipment or standard of maintenance is corrected at the first point at which maintenance supplies are available or, in the case of repairs, the first point at which repair facilities are available and repairs can reasonably be made or the defective equipment replaced. [1979 c.791 §6]

761.635 Register for reporting failures of equipment or maintenance standards; rules for use. A register for the reporting of failures of required equipment or standards of maintenance shall be maintained on all cabooses. The register shall contain sufficient space to record the dates and particulars of each failure. The commission shall provide rules for the use of this register, including a requirement that the record of reported failures be maintained not less than 80 days from the date of the most recent failure. [1979 c.791 §7]

761.640 Administrative authority of commission; rules. The commission shall regulate and enforce all sections of ORS 761.605 to 761.640 and 761.992 and shall promulgate all rules necessary for the enforcement of ORS 761.605 to 761.640 and 761.992. [1979 c.791 §9]

PENALTIES

761.900 General civil penalties. (1) In addition to all other penalties provided by law:

(a) Every person who violates or who procures, aids or abets in the violation of ORS 761.110, 761.315, 761.395 or 761.405 or any order, rule or decision of the commission shall incur a penalty of not more than \$1,000 for every such violation.

(b) Every person who violates or who procures, aids or abets in the violation of any order, rule or decision of the commission promulgated pursuant to ORS 761.180 (1), 761.200 (1) or 761.380 (1) shall incur a penalty of not more than \$1,000 for every such violation.

(2) Each such violation shall be a separate offense and in case of a continuing violation every day's continuance is a separate violation. Every act of commission or omission which procures, aids or abets in the violation is a violation under this section and subject to the penalty provided in this section.

(3) Such penalty shall not be imposed except by order following complaint as provided in ORS 756.500 to 756.610. Such proceeding shall be commenced within two years following the date of the violation complained of.

(4) The commission may reduce any penalty provided for in this section on such terms as the commission considers proper if:

(a) The defendant admits the violations alleged in the complaint and makes timely request for reduction of the penalty; or

(b) The defendant submits to the commission a written request for reduction of the penalty within 15 days from the date the penalty order is served.

(5) If the amount of such penalty is not paid to the commission, the Attorney General, at the request of the commission, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the commission. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter. [1979 c.279 §2]

761.905 Civil penalty for water quality or sanitation standard violations. (1) Every person who violates or procures, aids or abets in violation of any order, rule or decision of the commission under ORS 761.365 shall incur a penalty of not more than \$1,000 for every such violation.

(2) Each such violation shall be a separate offense and, in case of a continuing violation, every day's continuance is a separate violation. Every act of commission or omission which procures, aids or abets in the violation is a violation under this section and subject to the penalty provided in this section.

(3) Such penalty shall not be imposed except by order following complaint as provided in ORS 756.500 to 756.610. Such proceeding

shall be commenced within two years following the date of the violation complained of.

(4) The commission may reduce any penalty provided for in this section on such terms as the commission considers proper if:

(a) The defendant admits the violations alleged in the complaint and makes timely request for reduction of the penalty; or

(b) The defendant submits to the commission a written request for reduction of the penalty within 15 days from the date the penalty order is served.

(5) If the amount of such penalty is not paid to the commission, the Attorney General, at the request of the commission, shall bring an action in the name of the State of Oregon in the Circuit Court of Marion County to recover such penalty. The action shall not be commenced until after the time has expired for an appeal from the findings, conclusions and order of the commission. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter. [1979 c.82 §3]

761.990 Criminal penalties. (1) Violation of ORS 761.310 is punishable, upon conviction, by a fine of not less than \$100 and not more than \$500 for each offense.

(2) Violation of ORS 761.320 is punishable, upon conviction, by a fine of not more than \$100 for each offense.

(3) Violation of ORS 761.325 is a misdemeanor.

(4) Violation of ORS 761.380 (1), 761.395 or 761.405 by a railroad is punishable by a fine of not more than \$500.

(5) Violation of ORS 761.380 (2) is punishable by a fine of not more than \$500.

(6) As used in subsection (4) of this section, "railroad" means a railroad as defined by ORS 760.005 and 760.010. [Amended by 1965 c 253 §150; 1971 c.655 §139; subsection (4) enacted as 1971 c 586 §3, 1975 c.132 §6; 1977 c.685 §7; 1989 c.405 §4]

Note: 761.990, as amended by section 4, chapter 405, Oregon Laws 1989, becomes operative July 1, 1990. 761.990 (1987 Replacement Part) is set forth for the users' convenience.

761.990 (1) Violation of ORS 761.310 is punishable, upon conviction, by a fine of not less than \$100 and not more than \$500 for each offense.

(2) Violation of ORS 761.320 is punishable, upon conviction, by a fine of not more than \$100 for each offense.

(3) Violation of ORS 761.330 (2) or 761.350 is a misdemeanor.

(4) Violation of ORS 761.325 is a misdemeanor.

(5) Violation of ORS 761.380 (1), 761.395 or 761.405 by a railroad is punishable by a fine of not more than \$500

(6) Violation of ORS 761.380 (2) is punishable by a fine of not more than \$500.

(7) As used in subsection (5) of this section, "railroad" means a railroad as defined by ORS 760.005 and 760.010.

761.992 Penalty for violation of caboose requirements. Violation of ORS 761.612, 761.620, 761.630 and 761.635 or any rule promulgated pursuant thereto is punishable, upon conviction, by a fine of not less than \$100 nor more than \$500. [1979 c.791 §10; 1987 c 433 §1]

Note: 761.992 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 761 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

761.994 Penalty for unlawful transportation or disposal of hazardous wastes.

(1) A person is subject to the penalties under this section if the person knowingly:

(a) Transports by railroad any hazardous waste listed under ORS 466.005 or rules adopted thereunder to a facility that does not have appropriate authority to receive the waste under ORS 466.005 to 466.385 and 466.890.

(b) Disposes of any hazardous waste listed under ORS 466.005 or rules adopted thereunder without appropriate authority under ORS 466.005 to 466.385 and 466.890.

(c) Materially violates any terms of permit or authority issued to the person under ORS 466.005 to 466.385 and 466.890 in the transporting or disposing of hazardous waste.

(d) Makes any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with requirements under this chapter for the safe transportation of hazardous wastes.

(e) Violates any rules adopted by the commission concerning the transportation of hazardous wastes.

(2) Violation of this section is subject to the penalty of a fine of not more than \$10,000 for each day of violation, imprisonment of not more than six months, or both. [1981 c.680 §7]

CHAPTER 762

[Reserved for expansion]

UTILITIES; RAILROADS AND OTHER CARRIERS
