Chapter 773

1991 EDITION

Air Carriers and Air Commerce

773.010 Definitions
773.020 Purpose
773.030 Authority of commission
773.040 Certificate required; separate acts as separate violations
773.050 Application for certificate
773.060 Application and transfer fees; fees nonrefundable
773.070 Effect on air carriers operating on January 1, 1973
773.080 When exemption of air carrier may be granted
773.090 When certificate to be awarded
773.100 Suspension or revocation of certificate
773.110 Prohibited acts
773.120 When service may be discontinued
773.990 Penalties

CROSS REFERENCES

Public Utility Commission, Ch. 756

Use of State Aeronautic Account moneys for air carrier regulation, 835.060

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" has the meaning given the term by ORS 756.010; but the term does not include 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. [1973 c.776 §1; 1977 c.337 §2; 1987 c.834 §18]

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 §2]

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

(1) Fix reasonable rates and routes of air carriers;

(2) Require any air carrier to procure and maintain insurance and performance bonds or irrevocable letters of credit in any amount; and

(3) Authorize such through routes, joint rates and divisions of revenue for persons engaged in air commerce as the commission determines to be in the public interest. [1973 c.776 §3; 1991 c.331 §137]

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 commission or the act is otherwise authorized by the commission'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 §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 commission prescribes. The application shall contain such information as the commission may require. [1973 c.776 §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 commission with the 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 §6]

773.070 Effect on air carriers operating on January 1, 1973. Notwithstanding any other provision of this chapter, the commission 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 commission on or before January 1, 1974. The air carrier may continue such operation until its application is either granted or denied by the commission. [1973 c.776 §7]

773.080 When exemption of air carrier may be granted. The commission may exempt any air carrier from the certificate requirements of ORS 773.040 if the commission 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 §8]

773.090 When certificate to be awarded. The commission 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 commission prescribes. [1973 c.776 §9]

773.100 Suspension or revocation of certificate. The commission 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 commission, or

(4) Has violated any federal or state aircraft or air commerce safety law or regulation. [1973 c.776 §10]

773.110 Prohibited acts. (1) It is unlawful, unless authorized by order of the commission 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 commission may by order authorize such consolidation, merger, purchase, lease, operating control or acquisition of control upon such terms and conditions as the commission shall deem to be in the public interest. [1973 c.776 §11]

773.120 When service may be discontinued. No air carrier shall discontinue any certificated service without authority of the commission, unless such service is unprofitable. Except as otherwise may be provided in the certificate awarded by the commission, unprofitable services may be discontinued 90 days after the carrier gives notice to the commission, and to such other persons as the commission may require, unless within such 90-day period the commission finds that such services are not unprofitable and orders their continuance. [1973 c.776 §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 §13]