Chapter 764

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764.020 [Repealed by 1971 c.655 §250]

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764.040 [Repealed by 1971 c.655 §250]

764.050 [Repealed by 1971 c.655 §250]

EMPLOYMENT SAFETY REGULATIONS

764.110 Required crews on trains; exception. No person or officer of court operating any railroad or railway in this state engaged as a common carrier in the transportation of freight or passengers shall operate over its road, or any part thereof, in excess of 15 continuous miles, or suffer or permit to be run over the same, outside of yard switching limits, any passenger, mail or express train propelled by any form of motive power and consisting of four or more cars with less than a full passenger crew consisting of one engineer, one fireman, one conductor, one brakeman and one flagman. None of said crew shall be required or permitted to perform the duties of train baggageman or express messenger while on such road. This section shall not apply to operations in which lesser crew requirements are established by agreement between the common carrier and the organizations representing railroad employees. [Amended by 1963 c.172 §1; 1981 c.133 §1]

764.120 [Amended by 1963 c.172 §2; repealed by 1965 c.462 §1]

764.130 Qualification of flagman. The flagman in the crews required under ORS 764.110 shall have had at least six months' experience in train service. [Amended by 1971 c.655 §152]

764.140 Guarding frogs, switches and guardrails. (1) Every person owning or operating a railroad in this state, shall so adjust, fill, block and securely guard the frogs, switches and guardrails of their roads as to protect and prevent the feet of employees and other persons from being caught therein.

(2) Any person owning or operating a railroad in this state shall be liable for any damage caused from a failure to comply with this section.

764.150 Shelter of car repairers. (1) No person owning, controlling or operating any line of railroad in this state shall build, construct, reconstruct or repair railroad car equipment or motive power in the state without first erecting and maintaining at every division terminal, or other point where five employees or more are regularly employed on such work, a shed over a sufficient portion of the tracks used for such work, so as to provide that all employees regularly employed in such work are sheltered and protected from rain and other inclement weather.

(2) This section does not apply at points where fewer than five employees are regularly employed in such work, nor at points where it is necessary to make light repairs only on equipment or motive power, nor to equipment loaded with time or perishable freight, nor to equipment when trains are being held for the movement of equipment. As used in this subsection, "light repairs" does not include repairs usually made in roundhouse, shop or shed upon well-equipped railroads. [Amended by 1991 c.67 §205]

764.160 Conductors and engineers have power of sheriff. Every conductor and engineer of any railroad train, while actually engaged as conductor or engineer of any such train, shall have the power of sheriff in each county through or into which the train upon which the conductor or engineer is employed passes, for the purpose of protecting the public peace and arresting violators thereof on or near such train, and may command the assistance of any person present in performing such duties.

764.170 Railroads to provide first aid training for employees. Every railroad operating in this state shall provide to any employee who is an engineer, conductor or yard foreman a first aid training course that conforms to standards at least equivalent to the American Red Cross eight-hour first aid training course and cardiopulmonary resuscitation course. [1977 c.535 §2]

764.180 Railroads to bear costs of providing first aid training. Railroads shall bear all costs incurred for the first aid training course described in ORS 764.170 and shall pay wages to employees who are attending the course. [1977 c.535 §3]

764.190 Immunity from liability of persons providing first aid treatment. No person may recover in an action against a railroad or employee who has received the first aid training described in ORS 764.170 for any damages directly or indirectly resulting from first aid treatment rendered by such employee unless the complaining party establishes that the treatment violates the standards of reasonable care under the circumstances including the existence of emergency conditions in which the treatment was rendered. [1977 c.535 §4]

764.210 [Repealed by 1971 c.655 §250]

764.220 [Repealed by 1971 c.655 §250]

764.230 [Repealed by 1971 c.655 §250]

PROCEDURE FOR CONTESTED DISCHARGE OF BONDED EMPLOYEES

764.310 [Repealed by 1971 c.655 §250]

764.320 Railroad to furnish bonded employee with statement of discharge. (1) In case of any dispute or disagreement between any bonded employee of any railroad resulting in the discharge or termination of the services of the bonded employee, the railroad shall furnish to the bonded employee so discharged, upon request, a copy of the charges filed against the employee, as a result of which the services of the employee were discontinued.

(2) If no written charges have been filed against the employee, as a result of which the services of the employee were terminated, the railroad shall furnish the employee so discharged with a written statement of the reasons for the discharge of the employee within five days from the date of the termination of the services of the employee.

764.330 Complaint on failure to comply with ORS 764.320; procedure for hearing and investigation; findings. (1) In case of failure by the railroad to comply with ORS 764.320, the employee may complain thereof to the commission for the purpose of determining the reasons for discharge.

(2) In case the bonded employee is charged with any offense involving moral turpitude, upon complaint being made by the employee alleging the cause of discharge to be untrue, the commission shall notify the railroad concerned that complaint has been made.

(3) Ten days after such complaint has been made, the commission shall proceed to investigate it. However, before proceeding to make the investigation, the commission shall give the railroad and the complainant 10 days' notice of the time and place when and where such complaint will be considered and determined.

(4) At the hearing, the parties are entitled to be heard, to have process to enforce attendance of witnesses and to compel the railroad to present before the commission all the documentary evidence in the possession of the railroad bearing upon the complaint filed against it.

(5) If upon such investigation and hearing it appears to the commission that the charge against the employee was untrue, the commission shall make a finding of fact to that effect recommending the reinstatement of the employee and furnish a copy thereof to the complainant.

764.340 Quasi-judicial powers of commission. For the purpose of ORS 764.330, the commission may:

(1) Administer oaths.

(2) Certify to official acts.

(3) Issue subpoenas to compel the attendance of witnesses.

(4) Provide for the production of papers, contracts, books, accounts, documents and testimony.

(5) Provide for the disobedience on the part of any person to comply with the orders of the commission in respect thereto, or any refusal of any witness to testify to any matter regarding which the witness may be lawfully interrogated.

(6) Provide for the fees and mileage of witnesses.

(7) Punish witnesses for the disobedience of any subpoena issued by the commission.

(8) Generally provide for the taking of testimony and for the recording of the proceedings held before the commission in accordance with ORS 764.330.

764.350 Compliance with subpoena required. No person shall neglect or refuse to attend before the commission in accordance with ORS 764.330 and 764.340, and testify or answer any legal inquiry, or to produce books, papers, contracts, accounts or documents within the power of the person to do so, in obedience to the subpoena or lawful requirements of the commission under ORS 764.340.

764.360 Proceedings in case of disobedience of subpoena or refusal to testify. The circuit court of any county of the state, or the judge thereof, on application of the commission, shall compel the attendance of witnesses before the commission in hearings under ORS 764.330 by attachment proceedings, or contempt, as in the case of the disobedience of the requirements of a subpoena issued from said court, or a refusal to testify therein.

PENALTIES

764.900 Civil penalties. (1) In addition to all other penalties provided by law, every person who violates or who procures, aids or abets in the violation of ORS 764.140 (1) or 764.150 (1) or any order, rule or decision of the commission 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 §6]

764.990 Criminal penalties. (1) Violation of ORS 764.110 or 764.130 (1) is punishable, upon conviction, by a fine of not less than $20 nor more than $100 for each offense.

(2) Violation of ORS 764.140 is punishable, upon conviction, by a fine of not less than $500 nor more than $2,000.

(3) Violation of ORS 764.150 by any railroad company or officer or agent thereof, or any other person is punishable, upon conviction, by a fine of not less than $50 nor more than $100. Each day's violation is a separate offense.

(4) Violation of ORS 764.350 is punishable, upon conviction, by a fine of not less than $100 nor more than $1,000, or by imprisonment in the county jail for not more than one year, or both. [Amended by 1971 c.655 §153]

CHAPTERS 765 AND 766

[Reserved for expansion]