

Chapter 174

1999 EDITION

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174.010 General rule for construction of statutes. In the construction of a statute, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all.

174.020 Legislative intent; general and particular provisions and intents. In the construction of a statute the intention of the legislature is to be pursued if possible; and when a general and particular provision are inconsistent, the latter is paramount to the former. So a particular intent shall control a general one that is inconsistent with it.

174.030 Construction favoring natural right to prevail. Where a statute is equally susceptible of two interpretations, one in favor of natural right and the other against it, the former is to prevail.

174.040 Severability. It shall be considered that it is the legislative intent, in the enactment of any statute, that if any part of the statute is held unconstitutional, the remaining parts shall remain in force unless:

- (1) The statute provides otherwise;
- (2) The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional part that it is apparent that the remaining parts would not have been enacted without the unconstitutional part; or
- (3) The remaining parts, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

174.050 [Repealed by 1983 c.740 s.41]

174.060 Effect of amendment of statute adopted by reference. When one statute refers to another, either by general or by specific reference or designation, the reference shall extend to and include, in addition to the statute to which reference was made, amendments thereto and statutes enacted expressly in lieu thereof unless a contrary intent is expressed specifically or unless the amendment to, or statute enacted in lieu of, the statute referred to is substantially different in the nature of its essential provisions from what the statute to which reference was made was when the statute making the reference was enacted.

174.070 Effect of repeal of validating or curative Act. The repeal of a validating or curative Act shall not affect any validation or cure theretofore accomplished.

174.080 Effect of repeal of repealing Act. Whenever a statute which repealed a former statute, either expressly or by implication, is repealed, the former statute shall not thereby be revived unless it is expressly so provided.

174.090 Effect of repeal of repealing constitutional provision. Whenever a constitutional provision which repeals or suspends in whole or in part a former constitutional provision, either expressly or by implication, is repealed, the former constitutional provision so repealed or suspended thereby shall not be revived unless it expressly is so provided.

174.100 Definitions. As used in the statute laws of this state, unless the context or a specially applicable definition requires otherwise:

- (1) "Any other state" includes any state and the District of Columbia.
- (2) "City" includes any incorporated village or town.
- (3) "County court" includes board of county commissioners.
- (4) "Person" includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.
- (5) "State Treasury" includes those financial assets the lawful custody of which are vested in the State Treasurer and the office of the State Treasurer relating to the custody of those financial assets.
- (6) "To" means "to and including" when used in a reference to a series of statute sections, subsections or paragraphs.
- (7) "United States" includes territories, outlying possessions and the District of Columbia.
- (8) "Violate" includes failure to comply. [Amended by 1953 c.145 s.2; 1957 c.360 s.1; 1963 c.213 s.1; 1965 c.518 s.1; 1967 c.409 s.1; 1983 c.327 s.1; 1993 c.73 s.1; 1995 c.93 s.30]

174.102 "Agricultural commodity," "agricultural product" defined; harvesting or baling of straw as farming practice. As used in the statute laws of this state and in any administrative rule adopted pursuant thereto unless the context or a specifically applicable definition requires otherwise:

- (1) The term "agricultural commodity" or "agricultural product" includes straw.
- (2) The harvesting or baling of straw is a farming practice. [1995 c.601 s.1]

174.103 "Armed Forces of the United States" defined; "dependent children" defined; benefits. (1) Officers and enlisted personnel of the Armed Forces of the United States who reside in this state while assigned to duty at any base, station, shore establishment or other facility in this state or while serving as members of the crew of a ship which has an Oregon port or shore establishment as its home port or permanent station and the spouses and dependent children of such officers and enlisted personnel are entitled to the benefits described in subsection (2) of this section.

(2) Members of the Armed Forces of the United States and their spouses and dependent children who are described in subsections (1) and (3) of this section:

(a) Shall be considered resident persons for the purpose of purchasing licenses, tags and permits issued by the State Fish and Wildlife Commission.

(b) Shall be considered resident persons for the purpose of admission to community colleges and institutions of higher education in this state and for the purpose of determining the fees and tuition assessed by the institutions and community colleges.

(3) As used in this section:

(a) "Armed Forces of the United States" includes the Army, Navy, Air Force, Marine Corps and Coast Guard of the United States.

(b) "Dependent children" includes any children of a member of the Armed Forces of the United States who:

(A) Are under 18 years of age and not married, otherwise emancipated or self-supporting; or

(B) Are under 23 years of age, unmarried, enrolled in a full-time course of study in an institution of higher learning and dependent on the member for over one-half of their support. [1987 c.162 ss.1,2; 1989 c.264 s.1]

174.104 "Public notice" defined. As used in the statute laws of this state, unless the context or a specially applicable definition requires otherwise, "public notice" means any legal publication which requires an affidavit of publication as required in ORS 193.070, or is required by law to be published. [Formerly subsection (1) of 193.010]

174.105 "War veteran" defined. As used in the statute laws of this state, unless the context or a specially

applicable definition requires otherwise, “war veteran” includes any citizen of the United States who has been a member of and discharged or released under honorable conditions from the Armed Forces of the United States of America, and:

- (1) Such service was for not less than 90 consecutive days, during any of the following periods:
 - (a) The period between April 6, 1917, and November 11, 1918;
 - (b) The period between November 12, 1918, and April 1, 1920, if the veteran served with the United States military forces in Russia;
 - (c) The period between November 12, 1918, and July 2, 1921, if the veteran served in active service at least one day between April 6, 1917, and November 11, 1918;
 - (d) The period between September 15, 1940, and December 31, 1946;
 - (e) The period between June 25, 1950, and midnight of January 31, 1955; or
- (2) Such service was for not less than 210 consecutive days any part of which was subsequent to January 31, 1955.
- (3) Any such citizen otherwise eligible under this section who was discharged or released, under honorable conditions, on account of service-connected injury or illness prior to the completion of the minimum period of service prescribed in subsections (1) or (2) of this section, shall nevertheless be deemed to be a “war veteran.” Attendance at a school under military orders, except schooling incident to an active enlistment or regular tour of duty, or normal military training as a reserve officer or member of an organized reserve or national guard unit shall not be considered active service within the meaning of this section. [1967 c.409 s.2]

174.107 “Disabled person” defined. (1) As used in the statute law of this state, “disabled person” means any person who:

- (a) Has a physical or mental impairment which substantially limits one or more major life activities;
 - (b) Has a record of such an impairment; or
 - (c) Is regarded as having such an impairment.
- (2) Specific types of disability shall be considered subcategories under the definition of disabled person. [1989 c.224 s.2a]

174.110 Singular or plural number; masculine, feminine or neuter gender. As used in the statute laws of this state:

- (1) The singular number may include the plural and the plural number, the singular.
- (2) Words used in the masculine gender may include the feminine and the neuter.

174.115 Statutes, rules and orders to use sex-neutral terms. It shall be the policy of the State of Oregon that all statutes, rules and orders enacted, adopted or amended after October 3, 1979, be written in sex-neutral terms unless it is necessary for the purpose of the statute, rule or order that it be expressed in terms of a particular gender. [1979 c.391 s.1]

174.120 Computation of time. Except as otherwise provided in ORCP 10, the time within which an act is to be done, as provided in the civil and criminal procedure statutes, is computed by excluding the first day and including the last unless the last day falls upon any legal holiday or on Saturday, in which case the last day is also excluded. [Amended by 1979 c.284 s.118; 1985 c.282 s.2]

174.125 Computation of time period for personal service. Notwithstanding ORCP 10 and ORS 174.120, if a time period is prescribed or allowed for personal service of a document or notice on a public officer or the filing of a document or notice with a public office, and if the last day falls on a day when that particular office is closed before the end of or for all of the normal work day, the last day shall be excluded in computing the period of time within which the document or notice is to be filed. If the last day is so excluded, the time period runs until the close of office hours on the next day the office is open for business. [1983 c.548 s.1]

174.130 Majority can exercise authority given jointly. Any authority conferred by law upon three or more persons may be exercised by a majority of them unless expressly otherwise provided by law.

174.140 Construction of “a surety” or similar words. In any statute requiring a public official to furnish a fidelity bond or bond conditioned upon the faithful performance of the duties of the official, whenever the words “a

surety” or “a corporate insurance company” or words of similar import are used in referring to execution of the bond, the bond may be executed by one or more sureties, or one or more corporate insurance companies, unless the particular statute specifically provides otherwise. [1955 c.289 s.1]

174.150 [1957 c.146 s.1; repealed by 1969 c.292 s.3]

174.160 Mailing methods authorized in place of notice by registered or certified mail. Whenever, for the purpose of giving notice, registered or certified mail, with or without return receipt, is authorized or required by or pursuant to statute, it is sufficient to use in lieu thereof any mailing method that provides for a return receipt. [1969 c.292 s.1]

174.170 Notice by personal service equivalent to notice by mail. Whenever notice by any mailing method is authorized or required by or pursuant to statute, notice given by personal service that meets the requirements for service of a summons is equivalent thereto. [1969 c.292 s.2]

174.510 Statute revision of 1953 enacted as law; Oregon Revised Statutes; citation. (1) The statute laws set forth after section 8 of enrolled House Bill No. 2 of the Forty-seventh Legislative Assembly were enacted as law of the State of Oregon, effective December 31, 1953.

(2) The statute laws described in subsection (1) of this section, together with sections compiled in parts bearing the certificate of the Legislative Counsel pursuant to ORS 171.285, may be cited as Oregon Revised Statutes. In citing a specific section of Oregon Revised Statutes, the designation “ORS (number of section)” may be used. [1953 c.3 ss.1,7; 1961 c.90 s.2]

174.515 Duplicate original of 1953 revision; evidentiary effect. The three volumes entitled “Proposed Oregon Revised Statutes,” consisting of pages 1 through 1,058 in Volume 1, pages 1 through 2,066 in Volume 2 and pages 1 through 1,915 in Volume 3, on file in the office of the Secretary of State on January 1, 1961, are considered to be a duplicate original of the statute laws described in ORS 174.510 (1). A copy of all or any part of these volumes, certified by the Secretary of State, has the same effect as a copy of the same part of the original, certified by the Secretary of State. [1961 c.90 s.1]

174.520 General statutes enacted prior to January 12, 1953, repealed; exceptions. (1) All statute laws of Oregon of a general, public and permanent nature enacted prior to January 12, 1953, were repealed effective December 31, 1953, except as provided in subsection (2) of this section.

(2) If any provision of the statute laws described in ORS 174.510 (1), derived from an Act that amended or repealed a preexisting statute, is held unconstitutional, the provisions of subsection (1) of this section shall not prevent the preexisting statute from being law if that appears to have been the intent of the Legislative Assembly or the people. [1953 c.3 ss.2,6; 1961 c.90 s.3]

174.530 Construction of statutes enacted as part of 1953 revision. The statute laws described in ORS 174.510 (1) are intended to speak for themselves. All sections of the statute laws so described are considered to speak as of the same date, except that in cases of conflict between two or more sections or of an ambiguity in a section, reference may be had to the Acts from which the sections are derived, for the purpose of applying the rules of construction relating to repeal or amendment by implication or for the purpose of resolving the ambiguity. [1953 c.3 s.3; 1961 c.90 s.4]

174.535 Construction of reviser's bills. It is the policy of the Legislative Assembly to revise sections from Oregon Revised Statutes and Oregon law periodically in order to maintain accuracy. However, nothing in chapter 740, Oregon Laws 1983, chapter 565, Oregon Laws 1985, chapter 158, Oregon Laws 1987, chapter 171, Oregon Laws 1989, chapters 67 and 927, Oregon Laws 1991, chapters 18 and 469, Oregon Laws 1993, chapter 79, Oregon Laws 1995, chapter 249, Oregon Laws 1997, or chapter 59, Oregon Laws 1999, is intended to alter the legislative intent or purpose of statutory sections affected by chapter 740, Oregon Laws 1983, chapter 565, Oregon Laws 1985, chapter 158, Oregon Laws 1987, chapter 171, Oregon Laws 1989, chapters 67 and 927, Oregon Laws 1991, chapters 18 and 469, Oregon Laws 1993, chapter 79, Oregon Laws 1995, chapter 249, Oregon Laws 1997, and chapter 59, Oregon Laws 1999, except insofar as the amendments thereto, or repeals thereof, specifically require. [Derived from 1983 c.740 s.1; 1985 c.565 s.1; 1987 c.158 s.1; 1989 c.171 s.1; 1991 c.67 s.1; 1991 c.927 s.1; 1993 c.18 s.1; 1993 c.469 s.1; 1995 c.79 s.1;

1997 c.249 s.1; 1999 c.59 s.1]

174.540 Parts of printed statute editions not to be a part of the law. Title heads, chapter heads, division heads, section and subsection heads or titles, and explanatory notes and cross-references, in the statute laws described in ORS 174.510 (1) and in parts of Oregon Revised Statutes, do not constitute any part of the law. [1953 c.3 s.4; 1961 c.90 s.5]

174.550 Statute revision of 1953 substituted for statutes repealed by ORS 174.520. The provisions of the statute laws described in ORS 174.510 (1) are considered as substituted in a continuing way for the provisions of the prior statute laws repealed by ORS 174.520. [1953 c.3 s.5; 1961 c.90 s.6]

174.560 [1953 c.3 s.8; repealed by 1961 c.90 s.7]

174.580 Oregon Rules of Civil Procedure; citation form. (1) As used in the statute laws of this state, including provisions of law deemed to be rules of court as provided in ORS 1.745, “Oregon Rules of Civil Procedure” means the rules adopted, amended or supplemented as provided in ORS 1.735.

(2) In citing a specific rule of the Oregon Rules of Civil Procedure, the designation “ORCP (number of rule)” may be used. For example, Rule 7, section D, subsection (3), paragraph (a), subparagraph (i), may be cited as ORCP 7 D(3)(a)(i). [1979 c.284 s.4; 1993 c.18 s.30]

174.590 Statutory terminology not intended to preserve procedural distinctions between actions and suits. References in the statute laws of this state, including provisions of law deemed to be rules of court as provided in ORS 1.745, in effect on or after January 1, 1980, to actions, actions at law, proceedings at law, suits, suits in equity, proceedings in equity, judgments or decrees are not intended and shall not be construed to retain procedural distinctions between actions at law and suits in equity abolished by ORCP 2. [1979 c.284 s.5]

CHAPTER 175

[Reserved for expansion]