Chapter 783

2009 EDITION

Liabilities and Offenses Connected With Shipping and Navigation; Shipbreaking; Ballast Water

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LIENS ON BOATS AND VESSELS

783.010 Claims for which liens accorded. Every boat or vessel used in navigating the water of this state or constructed in this state is liable and subject to a lien:

(1) For wages due to persons employed, for work done or services rendered on board such boat or vessel.

(2) For all debts due to persons by virtue of a contract, expressed or implied, with the owners of a boat or vessel, or with the agents, contractors or subcontractors of such owner, or with any person having them employed to construct, repair or launch such boat or vessel, on account of:

(a) Labor done or materials furnished by mechanics, tradesmen or others in the building, repairing, fitting and furnishing or equipping of such boat or vessel;

(b) Stores and supplies furnished for the use thereof;

(c) Premiums for insurance placed on or with respect to such boat or vessel; or

(d) Launchways constructed for the launching of such boat or vessel.

(3) For all sums for wharfage, anchorage or towage of such boat or vessel within this state.

(4) For all demands or damages accruing from the nonperformance or malperformance of any contract of affreightment, or of any contract touching the transportation of persons or property, entered into by the master, owner, agent or consignee of the boat or vessel on which such contract is to be performed, and for damages or injuries done to persons or property, by such boat or vessel, and for damages or injuries by such boat or vessel resulting in the death of any person. [Amended by 1981 c.548 §1; 2005 c.22 §511]

783.020 Lien priority. (1) The classes of claims specified in ORS 783.010 shall have priority according to the order in which they are enumerated.

(2) The liens under ORS 783.010 shall have precedence over all other liens and claims against such boat or vessel, except the following liens, claims and security interests, whether or not the following liens, claims or security interests have arisen or been perfected before or after liens under ORS 783.010:

(a) Liens and claims arising under those portions of the Ship Mortgage Act, 1920, that appear in sections 921 to 954 and 971 to 975 of title 46 of the United States Code.

(b) Security interests perfected under ORS chapter 79.

(c) Security interests on certificates of title perfected under ORS chapter 830. [Amended by 1981 c.548 §2]

783.030 Right to proceed against boat or vessel directly. Any person having a demand as mentioned in ORS 783.010, instead of proceeding for recovery thereof against the master, owner, agent or consignee of the boat or vessel, may at the person's option commence an action against such boat or vessel by name.

783.040 Complaint; jurisdiction and venue. Any person wishing to commence an action against a boat or vessel shall file the complaint against such boat or vessel by name with the clerk of the circuit court of the county in which the boat or vessel may lie or be. The complaint shall set forth the plaintiff's demand in all its particulars, and on whose account the same accrued, and shall be verified by the plaintiff or some credible person for the plaintiff.

783.050 Issuance of warrant for seizure of boat or vessel. Whenever the complaint is filed, the clerk shall issue a warrant thereon, commanding the sheriff to seize the boat or vessel mentioned in the complaint, with the tackle, apparel and furniture of the boat or vessel and retain the same until discharged from such custody by due course of law.

783.060 Procedure after return of warrant. Upon the return of any warrant issued as prescribed in ORS 783.050, proceeding shall be had in the circuit court against the boat or vessel seized, in the same manner as if the action had been commenced against the person on whose account the demand accrued.

783.070 Persons authorized to appear for boat or vessel; answer. The master, owner, agent or consignee of the boat or vessel may appear on behalf of the boat or vessel and answer the complaint.

783.080 Judgment by default; proceedings on issue of fact. If in any action commenced under ORS 783.030 and 783.040 the master, owner, agent or consignee does not appear and answer the complaint, the plaintiff may proceed to take judgment in the same manner and under the same restrictions as in a civil action against a natural person. If an issue of fact is joined, the same proceeding shall be had as in other actions.

783.090 Discharge of boat or vessel on giving of undertaking. If the master, owner, agent or consignee, before final judgment in any action commenced in pursuance of ORS 783.030 and 783.040, enters into an undertaking in favor of the plaintiff, with sufficient security, to be approved by the

judge or clerk of the court in which the action is pending, conditioned to satisfy the amount which is adjudged due and owing to the plaintiff on determination of the action, together with all costs accruing, such boat or vessel, with its tackle, apparel and furniture, shall be discharged from further detention by the sheriff.

783.100 Return of deposit; disposition of balance. If judgment is for the defendant, any deposit in lieu of an undertaking shall be returned to the person making the same; or if a balance remains after satisfying any judgment in favor of the plaintiff and costs of suit, the balance shall be so returned.

783.110 Order for sale on judgment. If judgment is rendered against any boat or vessel in favor of the plaintiff, the court shall make an order directed to the sheriff, commanding the sheriff to sell the boat or vessel, together with its tackle, apparel and furniture, to satisfy the judgment and costs which may have accrued in the cause, which order shall be executed and returned in the same manner as other executions.

783.120 Judgment on undertaking; issuance of execution. If an undertaking with surety was given according to ORS 783.090 and judgment rendered in favor of the plaintiff, a judgment shall also be rendered upon the undertaking, and execution issued for the amount of judgment and costs in favor of the plaintiff, against the principal and security in such undertaking.

783.130 Bill of sale of boat or vessel; effect of previous liens. When any boat or vessel is sold in pursuance of ORS 783.110 to 783.160, the officer making the sale shall execute to the purchaser a bill of sale therefor, and such boat or vessel shall, in the hands of the purchaser and the purchaser's assigns, be free and discharged from all previous liens and claims under this title.

783.140 Rights of other lien claimants. Any other person having or claiming a lien against any boat or vessel in pursuance of ORS 783.010 may, at any time after the sale upon execution and before payment over of any surplus in the hands of the sheriff, commence an action against such boat by name, as if the same had not been sold, and serve notice thereof upon the former master, owner, agent or consignee. While such action is pending, the sheriff shall not pay over any surplus that may be in the sheriff's hands to such master, owner, agent or consignee.

783.150 Distribution of proceeds of sale. In the distribution of the proceeds of sale, claims of a prior class shall be paid entire before any payment shall be made upon claims of a subsequent class. When the money to be applied to any class is insufficient to pay all the claims of that class, it shall be apportioned ratably among the claims of that class.

783.160 Sale of appurtenances for fractional share of boat or vessel. If it appears to the court in which the action is pending, or the judge thereof, that the liens against the boat or vessel can be satisfied by a sale of the tackle, apparel and furniture, or a part thereof, or a fractional share in such boat or vessel, the court or judge may modify the order of sale accordingly. If in pursuance of such order a sale is made of a fractional share in such boat or vessel, the purchaser shall hold such share jointly with the other owners.

783.170 Limitation of actions. All actions against a boat or vessel under ORS 783.010 to 783.160 shall be commenced within one year after the cause of action has accrued.

NAVIGATIONAL WRONGS AND REMEDIES

783.310 Destruction or injury of property by watercraft; liability of tortfeasor and employer; lien on vessel. If any person in control of any watercraft conducts or navigates the watercraft intentionally or negligently so as to destroy or injure the property of another, the person and the person's employer each shall be liable in damages for the property so injured or destroyed, and the damages shall be a lien on the watercraft. [Amended by 2005 c.22 §512]

783.320 Injuries to persons or property ashore; liability in damages; venue. The owner or owners of any boat or vessel which, when navigating the waters of this state or when within the waters of this state, has, through the negligence or misconduct of the owner, agent, master, pilot or employees thereon, caused injury to persons or property upon shore or upon wharves, warehouses, bridges or other structures affixed or contiguous to such shore, wharves, warehouses, bridges or other structures, shall be liable for all damages resulting to such person or to the owners of such property by reason thereof. The persons so injured may recover the same in an action at law in the circuit court of any county within which the boat or vessel may be found.

783.330 Attachment against vessel; motion and undertaking. The person so injured may at the time of filing the complaint, or at any time subsequent thereto, cause an attachment to issue against the vessel. The clerk of the circuit court shall issue a writ of attachment directing the sheriff of the county to levy upon, seize and take the vessel; but such attachment shall

only issue upon the filing by the plaintiff of a written motion for such attachment, together with an undertaking in a sum equal in amount to the sum demanded in the complaint. The undertaking shall be executed by one or more sureties, and shall be so conditioned that the signers thereof shall be liable in the sum named therein to the owners of the vessel if the attachment is wrongful or without sufficient cause. The sureties shall in the aggregate justify in double the amount of the undertaking.

783.340 Redelivery of attached vessel. The sheriff shall redeliver the vessel attached to the owner or master thereof upon the owner or master delivering to the sheriff an undertaking, with one or more sufficient sureties approved by the judge of the court, or in case of the judge's absence by the sheriff, which undertaking shall be so conditioned that the obligors therein shall pay to the plaintiff the judgment rendered in the cause. The sureties thereon shall in the aggregate justify in double the amount of the undertaking.

783.350 Nonresident owners; service; judgment; designation. If the owner of the vessel is nonresident of and not within Oregon, service of the summons and complaint shall be made upon the master or person in charge of the vessel, with the same force and effect as though made by publication. In such event the owner shall be required to appear and answer to the complaint within the same time as though the owner were served personally. In such event no personal judgment against the owner shall be rendered in the action, but only an order of sale of the property attached, or, in event of such property being released upon undertaking, then judgment shall be rendered against the obligors thereon. In the event of the vessel belonging to nonresidents, defects in the names of parties defendant shall not in any respect affect the validity of the proceedings or of any judgment rendered therein.

783.360 Priority of attachment. The attachment provided for in ORS 783.330 shall have priority over any mortgage upon the vessel and over any liens thereon not of a maritime nature.

SHIPBREAKING ACTIVITIES

783.400 Shipbreaking; shipwrecks; ship repair; definitions. (1) As used in this section:

(a) "Dry dock" means a graving dock or a floating dry dock.

(b) "Floating dry dock" means a vessel or structure that can be flooded to allow a ship to be floated in and drained to allow the ship to come to rest on a dry platform.

(c) "Fouling communities" means the matrix consisting of:

(A) Native or nonnative species attached to the hull of a ship including, but not limited to, barnacles, bivalves, bryozoans, tunicates and seaweeds; and

(B) Native or nonnative mobile species such as crustaceans, sea stars and worms that may be unattached to the hull, but that inhabit a fouling community or inhabit protected recesses and crevices in the hull, such as sea chests.

(d) "Fouling organisms" means native or nonnative species that attach to the hull of a ship including, but not limited to, sessile bottom-dwelling invertebrates, algae and microorganisms such as bacteria and diatoms.

(e) "Graving dock" means a paved excavation in the ground that can be flooded to allow a ship to be floated in and drained to allow that ship to come to rest on a dry platform.

(f) "Hazardous materials" includes, but is not limited to, asbestos, polychlorinated biphenyls, oil, fuel, bilge and ballast water, paint and lead.

(g) "Ocean shore" has the meaning given that term in ORS 390.605.

(h) "Ship" means a vessel that weighs in excess of 200 gross tons and operates upon navigable waterways.

(i) "Shipbreaking" means the process of dismantling a ship for scrap or disposal.

(j) "Shipwreck" means a ship that has been stranded or destroyed by being driven ashore or onto the rocks or the shoal.

(k) "Waters of this state" has the meaning given that term in ORS 196.800.

(2) In the State of Oregon, a person:

(a) May perform shipbreaking activities only in a dry dock.

(b) May not perform shipbreaking activities in a manner that allows hazardous materials, fouling communities or fouling organisms that are in or on the ship to enter the waters of this state or the ocean shore.

(3) Notwithstanding subsection (2) of this section, a person may in the waters of this state:

(a) Dismantle for removal a ship that has been shipwrecked if the Department of State Lands determines, in consultation with others as the department finds appropriate including, but not limited to, other state agencies, the United States Coast Guard and the shipowner, that it is physically impracticable to move the shipwreck to a dry dock.

(b) Partially dismantle a ship as may be required in the process of ship repair.

(4) Subsection (2) of this section does not apply to the shipbreaking of a flat-bottomed barge that is not self-propelled and that operates in the waters of this state.

(5) This section does not relieve a person from compliance with other state or local laws that apply to shipbreaking, shipwrecks or ship repair including, but not limited to, laws relating to hazardous materials, fouling communities or fouling organisms. [2007 c.150 §1; 2007 c.816 §3]

OFFENSES

783.510 Enticement of seamen to desert or leave ship. No person shall entice, persuade or by any means attempt to persuade, any seaman to desert from, or without permission of the officer then in command thereof to leave or depart therefrom, either temporarily or otherwise, any ship or steamer or other vessel while such ship, steamer or other vessel is within the waters under the jurisdiction of this state or within the waters of the concurrent jurisdiction of this state and Washington.

783.520 Harboring and secretion of seamen. No person shall knowingly and with manifest intention to deprive the owner or master of any ship or vessel of the services of any seaman, harbor or secrete, or by any means aid in harboring or secreting with the intention aforesaid, any seaman mentioned in ORS 783.510.

783.530 Receipt of compensation from seaman for furnishing employment. No person shall demand or receive, either directly or indirectly, from any seaman or apprentice, or from any person seeking employment as a seaman or apprentice, or from any person on behalf of the seaman or apprentice, any remuneration whatever for providing the seaman or apprentice with employment on board any seagoing vessel.

783.540 [Repealed by 1953 c.113 §2]

783.550 Unauthorized boarding of nonpassenger vessel. No person not acting in an official capacity shall board or attempt to board any ship or other vessel on the Willamette or Columbia River, not engaged in the carrying of passengers for hire, without the consent first obtained of the captain, master or other officer in command thereof at the time.

783.560 Arrest of officers and seamen for debt prohibited. No officer or seaman of a seagoing vessel or ship shall be arrested or imprisoned for debt. No officer shall execute a process of arrest for debt upon such officer or seaman.

783.570 Enforcement officer in Portland and Astoria. The mayor and common council of the cities of Portland and Astoria, severally shall appoint or designate a person or officer to see that ORS 783.510 to 783.560 are not violated and that the provisions thereof are enforced. Such person or officer shall have all the authority and powers of a peace officer, and may make arrests for violation of ORS 783.510 to 783.560. The person or officer shall perform such other duties as to the enforcement of those sections as may be enjoined upon the person or officer by the respective common council and shall receive such compensation for services as the common council may by ordinance provide.

783.580 Tugboat operator refusing to tow; discrimination in charges. Any tugboat towing for hire in any of the waters of this state is a common carrier for the business of towing vessels. No master or owner of any such tug shall refuse to tow any vessel of the class usually towed by such a tug, or shall discriminate either in the charges for towing or in time; but they shall tow all such vessels in the order in which they may be announced ready; provided, that towing in or out of a bar harbor may take precedence over towing inside of such harbor.

783.590 Lowering of smokestacks of vessels navigating upper Willamette. Any person or corporation operating any steamboat or other watercraft upon the Willamette River above the City of Portland, shall so construct the smokestacks upon such steamboat or other watercraft with hinges so arranged that the smokestacks thereon can be lowered to a level with the pilot house upon such steamboat or other watercraft when necessary to pass under any bridge at any time constructed across the Willamette River.

783.600 [Amended by 2001 c.722 §8; renumbered 783.620 in 2001]

783.610 Offenses relating to buoys and beacons; disposition of fines. (1) No person shall moor any vessel of any kind or any name, or any boat, skiff, barge, scow, raft, or part of a raft, to any buoy or beacon placed in the navigable waters of this state, or in any bay, river or arm of the sea bordering upon this state, by the authority of the United States Coast Guard or shall in any manner hang on with any vessel, boat, barge, scow, raft, or part of a raft, to any such buoy or beacon, or shall willfully remove, damage or destroy any such buoy or beacon, or shall cut down, remove, damage or destroy any beacon or beacons erected on land in this state by authority of the United States Coast Guard.

(2) All fines for violation of this section shall be paid into the county school fund of the county in which the action is tried. [Amended by 1965 c.539 §5]

BALLAST WATER

783.620 Discharge of ballast in navigable waters. Except as provided in ORS 783.635, a person may not discharge the ballast of any vessel into the navigable portions or channels of any of the bays, harbors or rivers of this state, or within the jurisdiction of this state, so as to injuriously affect such portions or channels of such bays, harbors or rivers, or to obstruct navigation thereof. [Formerly 783.600]

783.625 Definitions for ORS 783.625 to 783.640. As used in ORS 783.625 to 783.640, unless the context requires otherwise:

(1) "Ballast water" means any water used to manipulate the trim and stability of a vessel.

(2) "Cargo vessel" means a ship in commerce that is equipped with ballast tanks, other than a tank vessel or a vessel used solely for commercial fish harvesting, of 300 gross tons or more.

(3) "Coastal exchange" means exchanging the ballast water taken onboard at a North American coastal port at a distance of at least 50 nautical miles from land and at a depth of at least 200 meters.

(4) "Department" means the Department of Environmental Quality.

(5) "Oil" means oil, gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse and any other petroleum related product.

(6) "Open sea exchange" means a replacement of ballast water that occurs in an area no less than 200 nautical miles from any shore.

(7) "Passenger vessel" means a ship of 300 gross tons or more carrying passengers for compensation.

(8) "Sediment" means any matter that settles out of ballast water.

(9) "Ship" means any boat, ship, vessel, barge or other floating craft of any kind.

(10) "Tank vessel" means a ship that is constructed or adapted to carry oil in bulk as cargo or cargo residue other than:

(a) A vessel carrying oil in drums, barrels or other packages;

(b) A vessel carrying oil as fuel or stores for that vessel; or

(c) An oil spill response barge or vessel.

(11) "Vessel" means a tank vessel, cargo vessel or passenger vessel.

(12) "Voyage" means any transit by a vessel destined for any Oregon port.

(13) "Waters of this state" means natural waterways including all tidal and nontidal bays, intermittent streams, constantly flowing streams, lakes, wetlands and other bodies of water in this state, navigable and nonnavigable, including that portion of the Pacific Ocean that is in the boundaries of Oregon. [2001 c.722 §1; 2003 c.692 §1; 2005 c.62 §2; 2007 c.816 §2]

783.630 Application; exclusions. (1) ORS 783.625 to 783.640 apply to all vessels carrying ballast water into the waters of this state from a voyage, except a vessel that:

(a) Discharges ballast water only at the location where the ballast water originated, if the ballast water is not mixed with ballast water from areas other than open sea waters;

(b) Does not discharge ballast water in waters of this state;

(c) Traverses only the internal waters of this state;

(d) Traverses only the territorial sea of the United States and does not enter or depart an Oregon port or navigate the waters of this state;

(e) Discharges ballast water that originated solely from waters located between the parallel 40 degrees north latitude and the parallel 50 degrees north latitude on the west coast of North America; or

(f) Discharges ballast water that has been treated to remove organisms in a manner that is approved by the United States Coast Guard.

(2) ORS 783.625 to 783.640 do not authorize the discharge of oil or noxious liquid substances in a manner prohibited by state, federal or international laws or regulations. Ballast water containing oil or noxious liquid substances shall be discharged in accordance with the requirements applicable to those substances.

(3) Nothing in this section:

(a) Requires an open sea or coastal exchange if the owner or operator in charge of a vessel determines that performing an open sea or coastal exchange would threaten the safety or stability of the vessel or the safety of the vessel's crew or passengers because of any extraordinary condition, including but not limited to adverse weather, vessel design limitations or equipment failure.

(b) Exempts the owner or operator in charge of a vessel from the reporting requirements under ORS 783.640, whether or not ballast water is carried or discharged in the waters of this state. [2001 c.722 §2; 2003 c.692 §2; 2005 c.62 §5]

783.635 Discharge of ballast water prohibited; exemption; rules; aquatic invasive species. (1) Except as authorized by this section, the discharge of ballast water in the waters of this state is prohibited.

(2) An owner or operator of a vessel may discharge ballast water in the waters of this state:

(a) If the owner or operator has conducted a complete open sea or coastal exchange of ballast water prior to entering the waters of this state. The open sea or coastal exchange must be performed using either of the following methods:

(A) Flow-through exchange. A flow-through exchange occurs when an amount of ocean water equal to or exceeding three times the capacity of the vessel's ballast water tank is pumped into an opening in the ballast water tank while the existing ballast water is discharged through another opening.

(B) An empty and refill exchange. An empty and refill exchange occurs when a ballast water tank is pumped empty to the point that the pump loses suction and then is refilled with ocean water.

(b) Without performing an open sea exchange or a coastal exchange of ballast water if:

(A)(i) The owner or operator reasonably believes that an exchange would threaten the safety of the vessel; or

(ii) The exchange is not feasible due to vessel design limitations or equipment failure; and

(B) The vessel discharges only the amount of ballast water that is operationally necessary.

(c) If the ballast water is discharged in a manner consistent with standards and procedures adopted by the Environmental Quality Commission under subsection (4) of this section.

(3) An owner or operator who discharges ballast water in the waters of this state under subsection (2)(b) of this section is subject to the reporting requirements under ORS 783.640.

(4)(a) The Environmental Quality Commission may adopt by rule standards and procedures that the commission considers necessary to carry out the provisions of ORS 783.625 to 783.640. The standards and procedures must minimize the risk of introducing aquatic invasive species into the waters of this state and must be based on the availability of treatment technology. Rules adopted under this subsection include, but are not limited to:

(A) Standards for the discharge of ballast water into the waters of this state and appropriate timelines for the implementation of the standards. In adopting the standards, the commission shall consider the extent to which treatment technology is feasible, practicable and commercially available, or expected to be available, by the proposed implementation timelines.

(B) Emergency response procedures for managing high-risk ballast water. The rules must define high-risk ballast water in light of the source of the water and other applicable factors. The procedures must establish notification and consultation requirements, as well as feasible alternative ballast water management strategies.

(C) Procedures for implementing alternative ballast water management strategies for the exemptions specified in subsection (2)(b) of this section.

(b) To the extent practicable, the commission shall adopt rules under this subsection consistent with relevant rules adopted by the States of California and Washington. [2001 c.722 §3; 2005 c.62 §3; 2009 c.148 §1]

(Temporary provisions relating to Shipping Transport of Aquatic Invasive Species Task Force)

Note: Sections 2 to 4, chapter 148, Oregon Laws 2009, provide:

Sec. 2. In adopting rules under ORS 783.635, the Environmental Quality Commission shall consult with the Shipping Transport of Aquatic Invasive Species Task Force created under section 3 of this 2009 Act. [2009 c.148 §2]

Sec. 3. (1)(a) There is created the Shipping Transport of Aquatic Invasive Species Task Force.

(b) The President of the Senate and the Speaker of the House of Representatives shall each appoint two members from among members of the Legislative Assembly to serve in an advisory capacity to the task force.

(c) The Director of the Department of Environmental Quality may appoint members to the task force to provide equitable representation from individuals who represent the interests of this state and federal, State of Washington, maritime industry, environmental and academic interests.

(2) The purpose of the task force is to study and make recommendations:

(a) For combating the introduction of aquatic nonindigenous species associated with shipping-related transport into the waters of this state;

(b) For identifying sources of funding to support and maintain the ballast water program established in ORS 783.625 to 783.640; and

(c) For changes to the ballast water program established in ORS 783.625 to 783.640, including but not limited to the following considerations:

(A) Shipping industry compliance with ORS 783.625 to 783.640;

(B) Practicable and cost-effective ballast water treatment technologies;

(C) Appropriate standards for discharge of treated ballast water into the waters of this state;

(D) The compatibility of ORS 783.625 to 783.640 with new laws enacted by the United States Congress, regu-

lations promulgated by the United States Coast Guard and ballast water management programs established by the States of Alaska, California and Washington and the Province of British Columbia;

(E) Practicable and cost-effective techniques to combat the introduction of aquatic nonindigenous species associated with shipping-related transport into the waters of this state; and

(F) Appropriate regulations and standards to combat the introduction of aquatic nonindigenous species associated with shipping-related transport into the waters of this state.

(3) The Department of Environmental Quality may provide staff support or coordination assistance to the task force.

(4) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

(5) A majority of the members of the task force constitutes a quorum for the transaction of business.

(6) Official action by the task force requires the approval of a majority of the members of the task force.

(7) The task force shall elect one of its members to serve as chairperson.

(8) The task force shall submit a report, including recommendations for legislation, to an interim committee of the Legislative Assembly related to natural resources no later than June 1, 2010.

(9) Notwithstanding ORS 171.072, members of the task force who are members of the Legislative Assembly are not entitled to mileage expenses or a per diem and serve as volunteers on the task force. Other members of the task force are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(10) As used in this section:

(a) "Aquatic nonindigenous species" means any species or other viable biological material that enters an ecosystem beyond its historic range.

(b) "Waters of this state" has the meaning given that term in ORS 783.625. [2009 c.148 §3]

Sec. 4. Section 3 of this 2009 Act is repealed on January 2, 2012. [2009 c.148 §4]

783.640 Reporting of ballast water management. (1) Owners or operators of vessels regulated under ORS 783.625 to 783.640 must report ballast water management information to the Department of Environmental Quality:

(a) For voyages greater than 24 hours in length, at least 24 hours prior to entering the waters of this state; or

(b) For voyages less than 24 hours in length, prior to departing the port or place of departure.

(2) The department may work with maritime associations and any national ballast information clearinghouse to establish the manner and form of the reporting required under this section.

(3) The department may verify compliance with ORS 783.625 to 783.640 by:

(a) Relying on tests conducted by the United States Coast Guard or on other tests determined to be appropriate by the department.

(b) Boarding and inspecting vessels regulated under ORS 783.625 to 783.640 and collecting samples of ballast water as part of the inspection. [2001 c.722 §4; 2005 c.62 §4; 2009 c.144 §1]

PENALTIES

783.990 Penalties. (1) Violation of ORS 783.510 is punishable, upon conviction, in a justice or circuit court, by a fine of not less than $50 nor more than $200, or by imprisonment in the county jail for not less than one nor more than six months, or both.

(2) Violation of ORS 783.520 is punishable, upon conviction, in a justice or circuit court, by a fine of not less than $50 nor more than $250, or by imprisonment in the county jail for not less than 60 days nor more than six months.

(3) Violation of ORS 783.530 is punishable, upon conviction, in a justice or circuit court, by a fine of not less than $20 nor more than $200, or by imprisonment in the county jail for not less than 10 nor more than 100 days.

(4) Violation of ORS 783.550 is punishable, upon conviction, in a justice or circuit court, by a fine of not less than $20 nor more than $100 or by imprisonment in the county jail for not less than 10 nor more than 100 days, or both.

(5) Violation of ORS 783.560 by any officer is a Class D violation.

(6) Violation of ORS 783.580 is punishable, upon conviction, by a fine of not less than $100 nor more than $250, and by imprisonment in the county jail not less than 10 nor more than 25 days. Justices of the peace have jurisdiction of violations of ORS 783.580.

(7) Violation of ORS 783.590 and injury or damage of any bridge across the Willamette River for want of the appliances described in ORS 783.590 is a Class A violation.

(8) Violation of ORS 783.620 is punishable, upon conviction, by a fine of not less than $100 nor more than $500, or by imprisonment in the county jail for not less than three months nor more than one year.

(9) Violation of ORS 783.610 is punishable, upon conviction, by a fine of not less than $100 nor more than $200, or by imprisonment in the county jail not less than one nor more than six months, or both. [Amended by 1953 c.113 §2; 1997 c.249 §224; 1999 c.1051 §227]

783.992 Civil penalties. (1) Except as provided in subsection (2) of this section, the Director of the Department of Environmental Quality may impose a civil penalty on the

owner or operator of a vessel for failure to comply with the requirements of ORS 783.625 to 783.640. The penalty imposed under this section may not exceed $5,000 for each violation. In determining the penalty imposed, the director shall consider whether the violation was intentional, negligent or without any fault and shall consider the quality and nature of risks created by the violation. The owner or operator of a vessel subject to such a penalty may contest the determination by requesting a hearing under ORS 183.413 to 183.470.

(2) The civil penalty for a violation of the reporting requirements of ORS 783.640 may not exceed $500 per violation. [2001 c.722 §7; 2005 c.62 §6]

Note: The amendments to 783.992 by section 16, chapter 267, Oregon Laws 2009, become operative January 1, 2011, and apply to violations occurring on or after January 1, 2011. See sections 17 and 19, chapter 267, Oregon Laws 2009. The text that is operative on and after January 1, 2011, is set forth for the user's convenience.

783.992. As specified in ORS 468.140, the Director of the Department of Environmental Quality may impose a civil penalty on the owner or operator of a vessel for failure to comply with the requirements of ORS 783.625 to 783.640.

CHAPTERS 784 TO 800

[Reserved for expansion]