

real estate for the benefit of such bath house and grounds and park in connection therewith, or either, shall have the rights to vest the title to the money, property or real estate so donated in such city to be held and controlled by such board, subject to the direction and approval of the common council of such city according to the terms of the deed, gift or device of such property.

Sec. 10. This act shall take effect and be in force from and after its passage.

Approved Feb. 27, 1907.

CHAPTER 23—H. F. No. 2.

An Act regulating the handling of freight in carload lots by railroad companies, shippers and consignees, and equalizing car service and penalties, for the use and detention of cars and failure to furnish cars and transport the same.

Be it enacted by the Legislature of the State of Minnesota:

Railroad companies to furnish cars without discrimination—charges—application—how made—forfeiture for failure to supply cars.—Section 1. It shall be the duty of any railroad company to furnish suitable car or cars to every and all persons, without discrimination, who may apply therefor in good faith for the transportation of any and all kinds of freight and to receive and transport such freight with all reasonable dispatch, and to provide and keep suitable facilities for the receiving and handling of same at any station or public switch on the line of its road, and also to receive and transport in like manner the empty or loaded cars furnished by any connecting road, to be delivered at any station or stations on the line of its road, to be loaded or discharged, or reloaded and returned to the road so connected; and for compensation it shall not demand or receive any greater sum than is accepted by it from any other connecting railroad for a like service.

When the owner, manager or shipper of any freight of any kind shall make application in writing to any superintendent, agent, or other person in charge of transportation of any railroad company, at any point that cars are desired in or upon which to ship any freight, it shall be the duty of such

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railroad company to supply the number of cars so required at the point indicated in the application within a reasonable time thereafter, not to exceed forty-eight hours at terminal points and seventy-two hours at intermediate points, from the receipt of such application, Sundays and legal holidays excepted, and shall supply such cars to the person or persons so applying therefor in the order in which such applications are made, without giving preference to any person; *provided*, that if the application be for more than three cars, the railroad company may have one additional day in which to supply each additional car so ordered.

Said application for cars shall be in writing, stating the number of cars wanted; the time and place desired, and said application shall state the character of freight and its final destination. To facilitate the making of the application in writing, every railroad company doing business in this state shall provide suitable blanks for that purpose to be kept at all freight offices; and it shall be the duty of every such railroad company, upon the request of the applicant, to furnish him a duplicate of such application.

When cars are applied for under the provisions of this chapter, if they are not furnished within the time herein stated, the railroad company so failing to furnish them shall forfeit to the party or parties so applying for them the sum of one dollar per day for each car failed to be furnished, to be recovered in any court of competent jurisdiction, together with all damages such applicant may have sustained.

Loaded cars—how moved—forfeiture for failure.—Sec. 2. Any railroad company mentioned in section 1 of this act, upon receipt of notice from a shipper that one or more cars have been loaded by such shipper and are ready for delivery to such company at the place of loading thereof, to be carried on the road of such company towards the destination thereof, shall remove such car or cars from such loading point and forward the same towards destination within twenty-four hours after receiving such notice, Sunday and legal holidays excepted; and for every delay of twenty-four hours or fraction thereof after the expiration of the period therein allowed for the removal thereof, such railroad company shall forfeit to such shipper the sum of one dollar for each and every car, not so removed within the period herein provided, together with all damages he may have sustained by failure so to remove.

Duty of connecting railroad and forfeiture for delay—cars to be moved within 24 hours.—Sec. 3. Any railroad company mentioned in section 1 of this act which shall receive from a connecting railroad company one or more cars of freight consigned to any point on or beyond its line, shall within twenty-four hours after such car or cars are offered to it, or are placed on its transfer or other track, forward said car or cars over its railroad toward destination; and for every delay of twenty-four hours or fraction thereof on the part of said railroad company in forwarding said car or cars beyond said allowed period of twenty-four hours, said railroad company shall forfeit to the party injured by such delay the sum of one dollar for each and every car so received and not forwarded upon its line within the time above allowed together with all damages he may have sustained.

Average speed per day—forfeiture for non-compliance.—Sec. 4. When any railroad company in this state shall have received from any shipper or from a connecting railroad, for shipment over its railroad one or more cars of freight, it shall be the duty of such company receiving such car or cars of freight within twenty-four hours thereafter to start the same forward from the place of shipment toward the place of destination, and after being started forward, such car or cars of freight shall be continued in transit toward the destination thereof at a rate of not less than an average speed of fifty miles per day of twenty-four hours; and upon the failure of such railroad company to transport such car or cars at the speed herein indicated such railroad company shall forfeit to the consignee thereof one dollar for each and every car for each twenty-four hours or fraction thereof consumed in the transportation of said car or cars in excess of the time herein prescribed; and, in ascertaining the time consumed in the shipment of such car or cars, the time shall begin to run twenty-four hours after the date of the bill of lading or receipt given for said car or cars by said railroad company, which bill of lading or receipt shall be received by the courts of this state as prima facie evidence of the time when said car or cars were received by such company.

Cars to be delivered to consignee within 24 hours—arrival—forfeiture for failure.—Sec. 5. It shall be the duty of every railroad company mentioned in section 1 of this act, to deliver at the usual place of unloading by the consignee all cars of freight hauled by it for delivery to said consignee

within forty-eight hours, Sundays and legal holidays excepted, after the same shall have reached its point of destination; and for each and every delay of twenty-four hours or fraction thereof in not so delivering the same after the expiration of the time herein prescribed, said railroad company shall forfeit the sum of one dollar for each and every car not so delivered within the time herein allowed.

Shipper to load within 48 hours—forfeiture for failure.—Sec. 6. It shall be the duty of any shipper in compliance with whose request any railroad company mentioned in section 1 of this act, has placed one or more cars at the usual loading point of said shipper, to fully complete the loading thereof, ready for redelivery to said railroad company within forty-eight hours after the same shall have been placed at such loading point, Sundays and legal holidays excepted, which full period for loading is allowed the shipper free from demurrage charges; and for every twenty-four hours or fraction thereof of delay beyond said period in so loading said car or cars such shipper shall become indebted, and on demand shall pay, to said railroad company the sum of one dollar for each and every car so placed and not loaded and ready for redelivery within the time allowed herein.

Time limit for unloading—forfeiture for failure.—Sec. 7. It shall be the duty of the consignee of each and every car delivered by any railroad company mentioned in section 1, of this act, at the usual place of unloading by the consignee to fully unload such car or cars within 72 hours for bituminous coal, bulk lime, fruit, or vegetables, or lumber shipments, and 48 hours for other shipments, from the time the same shall be placed at the usual unloading point of the consignee, which full periods are allowed the consignee for unloading free from demurrage charges; and for each and every delay of 24 hours or fraction thereof, on the part of the consignee in unloading such car or cars beyond the said above periods respectively, the consignee shall become indebted, and on demand shall pay, to the railroad company delivering such car or cars, the sum of one dollar for each and every car not so unloaded within the time herein prescribed.

Bills of lading to specify time—weights, etc.—to be admitted as prima facie evidence—penalty for neglect or refusal by railroad companies.—Sec. 8. For all shipments of freight in carload lots on the railroads mentioned in section 1, of this act, proper bills of lading showing the date of delivery to

such railroad company, the weights and the marks and numbers of each car so shipped, shall be issued by the railroad company and delivered to the shipper at the time of receiving such car or cars; which bill of lading when offered by any party in any cause pending in any court in this state, shall be received and admitted in evidence by such court as prima facie evidence of the time when delivery of such car or cars was made by the consignor to such railroad company and of the weights and the contents thereof when so delivered to such company, and such railroad company shall be subject to a penalty of one hundred dollars for its neglect or refusal to furnish such shippers such bill of lading for each car so received by it.

Railroad companies to give notice of arrival of car—interpretation of notice.—Sec. 9. Railroad companies shall within twenty-four hours after arrival of any car or cars give notice to the consignee of the arrival of such car or cars, together with the amount of freight charges due thereon.

The notice as referred to in this act, may be either actual or constructive. When the consignee or agent is personally served with notice of arrival of car or cars at or before 6 p. m. of any day, free time shall begin at 7 a. m. of the day after such notice shall have been given. Constructive notice consists of posting notice by mail to consignee. When this method of notice is adopted there shall be 24 hours additional free time.

Demurrage charges not to invalidate claim for damages.—Sec. 10. The payment by said railroad company of demurrage provided in this act, shall in no way invalidate or offset any claim any shipper or consignee may have or make for damages occasioned by delay on the part of such railroad company, or other cause, but shall be a further remedy and in addition to any already existing. Nor shall anything herein contained be held to lessen the duties of any common carrier in the shipment of live stock or other perishable property.

Suspension on account of strikes, etc.—Sec. 11. The period during which the movement of freight or furnishing cars is suspended on account of strikes, public calamities, accident, or any cause not within the power of the railroad company to prevent, or during which the loading or unloading of freight by shipper or consignee is delayed by reason of inclement weather which would make loading or unloading impractic-

able, or any cause not in the power of said shipper or consignee to prevent, shall be added to the free time allowed in this act and counted as additional free time.

Companies to report monthly on demurrage charges paid or collected.—Sec. 12. It shall be the duty of every railroad company operating within the state of Minnesota to make at the end of each month a sworn detailed report of all penalties paid and collected as demurrage during the previous month, showing therein to whom paid or from whom received; this report shall be filed with the railroad and warehouse commission.

Actions to enforce charges.—Sec. 13. When suit is brought to collect any of the damages, forfeitures or demurrage charges, provided for in this act, said suit may be brought in any court in this state having jurisdiction of the subject matter and parties under the then existing cause; and if the plaintiff therein recover judgment such plaintiff shall also recover a reasonable attorney's fee for bringing such suit, to be taxed as costs in other cases and paid as other costs by defendant in such suit.

To take effect July 1, 1907.—Sec. 14. This act shall take effect and be in force from and after July 1, 1907.

Approved April 17, 1907.

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127-NW 1133

CHAPTER 24—S. F. No. 60.

An Act creating a fund, and providing for the disbursement thereof, for pensions and relief by fireman's relief associations, in cities having a population of more than fifty thousand inhabitants.

Be it enacted by the Legislature of the State of Minnesota:

Fire departments to grant relief and pensions.—Section 1. Every fireman's relief association, now or hereafter organized in any city in this state having a paid fire department and now or hereafter having a population of more than fifty thousand (50,000) inhabitants, which is now incorporated, or which may hereafter be incorporated under chapter 58, *Revised Laws of Minnesota 1905*, may pay out from any funds it may have heretofore received, or which it may here-

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