

REVISED LAWS OF
MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY
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1910

Prosecutions.—It shall be the duty of the county attorney to at once prosecute any case of parent or others unlawfully responsible, directly or indirectly, for the failure to place deaf child or youth in a school for the deaf, when such case shall have been reported to him. (R. L. c. 26, as amended by Laws 1907, c. 407, § 1, and Laws 1909, c. 396, § 1.)

CHAPTER 27.

STATE PUBLIC SCHOOL.

1946. Duty of sheriff—Fees.—If the parents or other persons having custody of the child shall refuse to surrender him to the custody of the court, the judge may make a written order requiring the sheriff to produce him in court. The sheriff shall thereupon take the child and shall keep him at a proper place, other than the county jail, at the expense of the county. The fees and necessary expenses of transportation incurred by the person authorized to convey the child to the state public school shall be audited, allowed and paid, as now provided by law for similar services in insanity proceedings. (R. L. § 1946, as amended by Laws 1909, c. 442, § 1.)

CHAPTER 28.

RAILROADS, WAREHOUSES, AND GRAIN.

RAILROAD AND WAREHOUSE COMMISSION.

[1956—]1. **Salaries of commissioners.**—Beginning with May 1st, 1905, the annual salary of each member of the railroad and warehouse commission shall be thirty-six hundred dollars, payable in the same manner as are salaries of other state officers. The necessary funds to pay the same are hereby annually appropriated out of any funds in the state treasury not otherwise appropriated. ('05 c. 240 § 1)

Historical.—“An act to fix the salary of the members of the railroad and warehouse commission, and appropriating the necessary money therefor.” Approved April 18, 1905.

Section 2 repeals inconsistent acts.

1966. Hearing.—If the matter be not adjusted to the satisfaction of the commission, it shall set a time and place of hearing, and give at least ten days' notice thereof to each party. The parties may appear either in person or by attorney. The commission shall hear evidence and otherwise investigate the matter, and shall make findings of fact upon all matters involved, and such order or recommendation in the premises as may be just. A copy of such findings and order or recommendation shall forthwith be served upon each party. No proceeding shall be dismissed on account of want of pecuniary interest in the complaint. In all proceedings excepting where the reasonableness of rates are under consideration, hearings may be had before one commissioner, who shall decide the matter in controversy and make a report of his decision to the commission. Upon the approval of such report, it shall become the decision of the commission. (R. L. § 1966, as amended by Laws 1907, c. 305, § 1.)

1971. Appeals to district court.—Any party to a proceeding before the commission, or any party affected by any order thereof, or the State of Minnesota, by the attorney general, may appeal therefrom to the district court of the county in which the complainants, or a majority of them, reside, or in case none of them reside in the state, or in case the order is made in a proceeding commenced by the commission on its own motion without complaint, to the district court of any county in which the carrier or warehouseman has an office, agent or place of business, at any time within thirty days after service of a copy of such order on the parties of record, as in this chapter provided, by service of a written notice of appeal on said commission, or on its secretary. Upon service of said notice of appeal, said commission, by its secretary, shall forthwith file, with the clerk of said district court to which said appeal is taken, a certified copy of the order appealed from, together with findings of fact on which the same is based. (R. L. § 1971, as amended by Laws 1907, c. 167, § 1.)

Historical.—“An act to amend sections 1971 and 1972 and to repeal section 1982 of the Revised Laws of 1905, relating to railroads, warehouses and grain, and to orders made by the railroad and warehouse commission.” Approved April 12, 1907.

Section 3 repeals R. L. § 1982, and all other inconsistent acts.

1972. Proceedings on appeal—Orders not appealed from.—The person serving such notice of appeal shall, within five days after the service thereof, file the same with proof of service, with the clerk of the court to which such appeal is taken; and thereupon said district court shall have jurisdiction over said appeal, and the same shall be entered upon the records of said district court and shall be tried therein according to the rules relating to the trial of civil actions, so far as the same are applicable. The complainant before the commission, if there was one (otherwise the State of Minnesota), shall be designated as complainant in the district court, and the carrier or warehouseman as defendant. No further pleadings than those filed before the commission shall be necessary. Such findings of fact shall be prima facie evidence of the matters therein stated, and the order shall be prima facie reasonable, and the burden of proof upon all issues raised by the appeal shall be on the appellant. If said court shall determine that the order appealed from is lawful and reasonable, it shall be affirmed and the order enforced as provided by law. If it shall be determined that the order is unlawful or unreasonable it shall be vacated and set aside. Such appeal shall not stay or supersede the order appealed from unless the court, upon an examination of said order, and the return made on said appeal, and after giving the respondent notice and opportunity to be heard, shall so direct. If such appeal is not taken, such order shall become final, and it shall thereupon be the duty of the carriers affected to adopt and publish the rates or classifications therein prescribed. And all orders heretofore made, from which no appeal was taken, as provided by law, shall be deemed to have been in full effect for all purposes from the time when the right to appeal from such order expired. When no appeal is taken from an order, as herein provided, the parties affected by such order shall be deemed to have waived the right to have the merits of such controversy reviewed by a court, and there shall be no trial of the merits of re-examination of the facts of any controversy in which such order was made, by any district court to which application may be made for a writ to enforce the same. (R. L. § 1972, as amended by Laws 1907, c. 167, § 2.)

See note under section next preceding.

[1980—]1. Interstate commerce commission—Authority of state commission to institute proceedings.—Whenever a resident of this

state shall file with the state railroad and warehouse commission a petition directed to the interstate commerce commission of the United States, charging any railroad company or other common carrier doing business in this state, engaged in interstate transportation of freight, with any violation of the interstate commerce act of the United States, setting forth in such petition the facts constituting such violation, said railway commission, if they deem the matter one of public interest, shall file said petition with said interstate commerce commission and thereupon shall appear in said matter in the place of said petitioner and thereafter prosecute the same at the expense of the state. ('05 c. 279 § 1)

Historical.—"An act authorizing the state railroad and warehouse commission to appear and prosecute proceedings before the United States interstate commerce commission." Approved April 18, 1905.

[1980—]2. Same—Authority to appear in pending matter.—

Whenever any matter shall be pending before the interstate commerce commission of the United States, between a resident of this state as petitioner, and any railroad company or other common carrier doing business in this state and engaged in interstate transportation of freights, charging such carrier with any violation of said interstate commerce act, upon application of the petitioner in said matter the state railroad and warehouse commission, in case they deem the questions involved in said matter of public interest, may appear therein and be substituted as a party in place of such petitioner and thereafter such matter shall be prosecuted by such commission at the expense of the state in the same manner as though originally begun by it. ('05 c. 279 § 2)

[1980—]3. Crossings in cities and villages—Complaint—Hearing.—Upon written complaint authorized by a majority vote of all the members of the city council being filed with the railroad and warehouse commission of this state by the chief executive officer of any village or city in the State of Minnesota on its behalf, that the crossing of any railroad company, naming it, with any street in said village or city, describing it as dangerous to life and property and giving the reason thereof, said railroad and warehouse commission shall forthwith investigate the same, and to that end shall have at least one public hearing in the village or city making such complaint, at a time to be fixed by said commission, and a place to be held upon notice to be given by said railroad and warehouse commission to all parties interested, and shall be held in not less than thirty nor more than sixty days after the date of filing of such complaint. ('07 c. 396 § 1)

Historical.—"An act to amend sections 1, 2, 3, and 4, chapter 280, General Laws of 1905, being an act to compel railroad companies to establish and maintain gates, flagmen or other safety devices in villages or cities upon the order of the railroad and warehouse commission." Approved April 24, 1907.

Laws 1905, c. 280, entitled "An act to compel railroad companies to establish and maintain gates, flagmen or other safety devices in villages or cities upon the order of the railroad and warehouse commission," consists of five sections; the last providing that the act shall take effect from its passage.

Sections 1 to 4 of the present act differ in minor particulars from sections 1 to 4 of the earlier act with which they otherwise correspond, and they appear to supersede the earlier act.

Obligation of company in general.—The obligation to construct and maintain in suitable repair for public use safe crossings at streets and highways laid out over a railroad right of way after the construction of the road rests on the railroad company, and agreements with municipalities, by which the company is relieved from that obligation and the municipality deprived of the right of enforcing it as a police regulation, are ultra vires and void. Laws 1905, c. 280, cited. State ex rel. City of Minneapolis v. St. Paul, M. & M. Ry. Co., 98 Minn. 380, 108 N. W. 261; State ex rel. City of Duluth v. Northern Pac. R. Co., 98 Minn. 429, 108 N. W. 269.

[1980—]4. Same—Report—Order for flagmen, safety devices, etc.—Within ten days after such public hearing said commissioners,

by a majority vote of the members thereof, shall decide the matter set forth in said complaint, and shall make a report in writing in respect thereto, which shall include the findings of fact which the conclusions of the commission are based upon, together with the recommendation of said commission as to what kind of safety device, if any, should be installed at said crossing to make the same safe to life and property. Said findings shall be in writing and signed by the members of said commission in favor thereof, and shall be filed with the secretary of said commission and entered for record in his office. If said commission shall find in favor of further protection for said crossing it shall issue an order to the railroad company named in said petition directing said railroad company within sixty days after said order to establish and thereafter maintain, at such crossings such gates, flagmen or safety devices as such commission may therein direct, and such as will render such crossing safe to life and property. Service of such order shall be made upon any railroad company in the same manner as a summons in a civil action is served. ('07 c. 396 § 2)

[1980—]5. **Same—Appeal—Order, how enforced.**—Whenever any such order is made such railroad company may appeal therefrom in the same manner as appeals are allowed to be taken from orders made by said commission fixing rates of railroad companies, and where no appeal is taken the order of the commission may be enforced by the attorney general the same as orders relating to the control of railroads. ('07 c. 396 § 3)

[1980—]6. **Same—Failure to comply—Penalty.**—In addition to the foregoing, any railroad company failing to comply with the order of said commission, if not appealed from as hereinbefore provided, or if appealed from and confirmed on appeal, shall be liable to a penalty of fifty dollars per day for each and every day that said railroad company does not so conform to said order, to be recovered as damages in a civil action by and for the benefit of the village or city making such complaint. ('07 c. 396 § 4)

[1980—]7. **Same—Temporary flagman—Power of commission.**—Whenever it shall appear that owing to any construction work or repair work, or for any other cause an unusual number of trains are being operated in or through any village or city in this state, the state railroad and warehouse commission shall have the power, upon complaint made by any village or city council through its chief executive officer, to compel the installation of a flagman or flagmen, as the case may be, without a hearing, and such order shall be complied with within five days; provided, that such railroad companies may remove such flagmen whenever the movement of trains through such village or cities assumes its normal conditions. ('07 c. 396 § 5)

[1980—]8. **Inspection of scales.**—The railroad and warehouse commission shall have power to enforce reasonable regulations for the weighing of cars and of freight offered for shipment in carload lots. All track scales used by common carriers for the purpose of weighing carload freight shall be under the control and jurisdiction of the commission and subject to inspection, exempt from the jurisdiction of sealers of weights and measures. The entire cost of such supervision and inspection shall be a proper charge against the common carriers interested in or owning the several scales, the same to be paid upon a statement rendered by the commission. All moneys collected shall be credited to the grain inspection fund. ('07 c. 357 § 1)

Historical.—"An act to give the railroad and warehouse commission jurisdiction over truck scales used by common carriers for the purpose of weighing carload freight." Approved April 23, 1907.

1982. [Repealed.]

See note under section 1971.

1984. Reports to commission.—Every carrier subject to supervision of the commission shall annually, on or before Sept. 30, unless additional time be granted, file with the commission a report verified by such carrier, or by its president, vice president, treasurer, comptroller, auditor, or receiver, in such form as the commission may prescribe, covering the year ending June 30th next preceding, and showing in detail the amount of capital stock issued; the amount and manners of payment therefor; the dividends paid; the surplus fund, if any; the number of stockholders; the funded and floating debts, and the interest paid or due thereon; the cost and value of all the carrier's property, franchises and equipments; the number of employes and officers, and the salary of wages paid each class; the amount expended for improvements, how expended, and the character of such improvements; the earning[s] and receipts from each branch of business and from all other sources; the operating and other expenses; the balance of profit or loss; and a complete exhibit of the financial operations of the year, with an annual balance sheet, the amount of land received as grants from the state and from the United States; the amount of such land sold and the average price received per acre; the amount unsold and its average appraised value per acre; information in regard to rates and regulations concerning fares and freights; agreements, arrangements or contracts with express, telegraph, sleeping and dining car companies, fast freight lines, and other common carriers, with copies of such contracts, agreements or arrangements; and such other matters as the commission may require, and the commission may prescribe a uniform system of accounts and the manner of keeping the same, and may designate from time to time to what account any items shall be charged. Any such carrier failing to comply with the provisions of this section, or with any order of the commission made thereunder shall forfeit, for each day's default, one hundred dollars, to be recovered in a civil action in the name of the state. (R. L. § 1984, as amended by Laws 1907, c. 410, § 1.)

[1984—]1. Accidents and wrecks to be reported to commission.—It shall be the duty of every railroad company operating a line of railroad in this state to report all accidents, wrecks or casualties occurring in this state to the railroad and warehouse commission. This is intended to include all accidents, wrecks or casualties occurring in the operation of trains or engines on said line or lines of railway within this state, and all other accidents or casualties of whatever nature as may be required under rules adopted by the commission. Any reports to the commission herein required shall not be for public inspection. All accidents or wrecks occurring in the operation of trains or engines involving loss of life or personal injury, shall be immediately reported to the commission by telegraph or telephone message, and the company shall forthwith send a written report in detail giving full particulars available in such form as the commission may require. All other accidents, including accidents resulting in personal injury or death, other than train accidents, shall be reported to the commission on the first day of each month, covering the preceding month. (Laws 1905, c. 122, § 1; as amended by Laws 1907, c. 290, § 1.)

Historical.—“An act requiring railroad companies to report all wrecks and casualties wherein any person is injured or killed, to the railroad and warehouse commission.” Approved April 7, 1905 (Laws 1905, c. 122), as amended by Laws 1907, c. 290.

[1984—]2. Same—Duty of commission—Biennial report.—Whenever any report is made to the commission involving a wreck, acci-

dent or casualty, and the commission deems it necessary, it shall forthwith examine into the causes and circumstances of the same, and it shall thereupon be the duty of the commission to order such railroad company to comply with any reasonable requirement prescribed by the commission, calculated to prevent the recurrence of any such wreck, accident or casualty, and it shall be the duty of the commission to report to the legislature biennially a summarized statement of all wrecks, accidents or casualties reported, together with a recommendation of such additional legislation as it deems proper for the greater protection of passengers and employes of railroad companies. (Laws 1905, c. 122, § 2, as amended by Laws 1907, c. 290, § 2.)

[1984—]3. **Penalty for violation.**—Every person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, or imprisonment in the county jail for not less than thirty days nor more than one year, or shall suffer both such fine and imprisonment in the discretion of the court. ('05 c. 122 § 3)

[1989—]1. **Physical valuation of railroad properties—Statements.**—The railroad and warehouse commission, hereinafter called the commission, is hereby authorized, at all times, to keep up the physical valuation of the railroad properties of this state, and to that end all railroad companies are required to furnish to the commission on the July 31st of each year, and at such other times as the commission may require, a detailed statement showing changes in the physical conditions of its properties in this state and the elements of cost entering into such changes for both debits and credits of such property, and the distribution of the debits and credits, whether charged to operating or capital account. Such statement shall be furnished in the manner and form prescribed by the commission. ('09 c. 147 § 1)

Historical.—"An act to authorize the railroad and warehouse commission to keep up the physical valuation of the railroad properties in this state, and requiring the railroad companies to furnish the necessary information for such purpose." Approved April 6, 1909.

[1989—]2. **Same—Powers of commission.**—The commission shall have the authority to examine all books, contracts, vouchers, receipts and all other papers or documents that it may deem necessary for the purposes of this act. ('09 c. 147 § 2)

RAILROADS AND COMMON CARRIERS.

1990. Common carriers defined.

Common carrier.—A corporation authorized to own and operate suburban street railways held to be a common carrier, though its articles did not in terms prescribe that one of its powers was to carry freight. *Minneapolis & St. P. S. R. Co. v. Manitou Forest Syndicate*, 101 Minn. 132, 112 N. W. 13.

[1992—]1. **Interlocking devices.**—That whenever in the judgment of the railroad and warehouse commission it is necessary for the public safety, said commission may require, at all railroad crossings, junctions and drawbridges in said state, the establishment of interlocking devices, or such other safety appliances as are necessary for the protection and safety of the traveling public. Where two or more railroad companies are interested, the division of the expense of installing, maintaining and operating said interlocking plant or safety device shall be agreed upon by the respective companies required to install the same; in case they cannot agree, then

such division shall be determined by the railroad and warehouse commission after a hearing. ('07 c. 276 § 1)

Historical.—"An act authorizing the railroad and warehouse commission to require railroads to install safety appliances." Approved April 22, 1907.

[1992—]2. **Same—Block signal system.**—The commission may require any railroad company on any part of its line or lines operated in this state, to install and operate a "block signal system" or any other device [device] or appliance that in its judgment will best promote the public safety. ('07 c. 276 § 2)

[1992—]3. **Same—Penalty for violation.**—Any railroad company neglecting to comply with any order of the commission made under this act, shall be liable to a penalty of twenty-five dollars for each day such neglect shall continue, to be recovered in a civil action in the name of the state and paid into the general fund of the state treasury. ('07 c. 276 § 3)

1997. Fences and cattle guards.—Every such company shall build and maintain, on each side of all lines of road owned and operated by it, good and substantial fences, except at stations and depot grounds and other places which the necessary business of the road or public convenience requires to be open, and except in the platted part of any municipality. Whenever the land of any person lying along the right-of-way of any railroad, is enclosed on three sides by a woven wire fence, such railroad company shall erect and maintain a woven wire fence of like character and quality along the said right-of-way enclosing the remaining side of said land. It shall also build and maintain such fences in such parts of any municipality as may be directed by the governing body thereof upon notice as in case of road crossings. It shall also build and maintain good and sufficient cattle guards at all road crossings and other openings. (R. L. § 1997, as amended by Laws 1907, c. 333, § 1.)

In general.—The obligation to build the fence is absolute; but the company is only bound to exercise reasonable care in maintaining it. *Coe v. Northern Pac. R. Co.*, 101 Minn. 12, 111 N. W. 651, 11 L. R. A. (N. S.) 228.

Exceptions—Repair shops and yards.—Repair shops and yards are within this section. Whether the yards could be fenced, including the construction of necessary cattle guards, without materially impairing their usefulness, was for the jury. *Mattes v. Great Northern R. Co.*, 100 Minn. 34, 110 N. W. 98.

1998. Liability for failure to fence, etc.

General liability.—This section was designed to prevent children, as well as animals, from entering upon railroad tracks; and this applies to cattle guards constructed as a part of the fence. *Mattes v. Great Northern R. Co.*, 100 Minn. 34, 110 N. W. 98.

G. S. 1894, § 2693, and section 2695, as amended by Laws 1897, c. 346, relate to different subjects. Section 2693, being specific, governs entirely with respect to the killing or injury of domestic animals, while section 2695, although general in its terms, applies only to other cases of damages not covered by section 2693. Under section 2693, to justify a recovery it must appear that an animal was killed or injured on the right of way of the railroad company sued, from which danger it was the purpose of the statute to protect domestic animals; and no recovery can be had for an animal injured or killed on the adjoining right of way of another railroad company, although its access thereto was through defective fences of defendant. *Bear v. Chicago Great Western R. Co.*, 141 Fed. 25, 72 C. C. A. 513.

Liability for animals killed or injured—Failure to repair.—Whether the company for negligent in failing to maintain its fence in proper repair should have been submitted to the jury. *Church v. Chicago, M. & St. P. R. Co.*, 102 Minn. 295, 113 N. W. 886.

— **Contributory negligence.**—When animals pass upon an unfenced track and are injured, the mere fact that the owner permitted them unlawfully to run at large does not constitute contributory negligence, per se. Whether plaintiff was guilty of contributory negligence was for the jury. *Sarja v. Great Northern R. Co.*, 99 Minn. 332, 109 N. W. 600.

1999. Fences—Crossings—Cattle guards.

See *Bear v. Chicago Great Western R. Co.*, 141 Fed. 25, 72 C. C. A. 513, cited in note under section 1998.

[2002—]1. **Ditches and culverts.**—It shall be the duty of every railroad company or receiver or lessee thereof, operating a line of railroad in the state of Minnesota, to keep clean at all times between the first day of April and the first day of November of each year, all ditches and culverts constructed by them for the drainage of their road-bed or right of way. Provided, that this act shall not apply to ditches and culverts not located upon the right of way of any railroad. ('09 c. 377 § 1)

Historical.—"An act requiring railroad companies, or the lessees or receivers thereof, operating lines of road in this state, to keep clean the ditches and culverts along their road beds." Approved April 22, 1909.

[2002—]2. **Same—Failure to comply—Penalty.**—Any such railroad receiver or lessee thereof, failing or neglecting to comply with the provisions of the foregoing section shall forfeit and pay to the state of Minnesota the sum of two hundred dollars for every mile of such ditch which it fails to keep clean during any season. Said amount shall be collected in a civil action brought by the attorney general of the state of Minnesota, or by the county attorney of any county through or into which said railroad extends. ('09 c. 377 § 2)

[2002—]3. **Same—Duty of commission.**—It shall be the duty of the railroad and warehouse commission to have this law enforced. ('09 c. 377 § 3)

2007. Charges to be reasonable.

See sections [2007—] 1 to [2007—] 25.

[2007—]1. **Passengers—Maximum rates.**—No railroad company owning, operating or using a line of railroad within, or partly within, the State of Minnesota, shall charge or collect more than two cents per mile for carrying over its road on any trip wholly within this state, any passenger of twelve years of age or over, together with baggage not exceeding one hundred and fifty pounds in weight, or more than one cent per mile for any such passenger under twelve years of age, together with baggage not exceeding seventy-five pounds in weight. ('07 c. 97 § 1)

Historical.—"An act prescribing the maximum rate to be charged for the transportation of passengers upon railroads within the state of Minnesota, providing for the enforcement of the same and penalties for violation thereof." Approved April 4, 1907.

By section 3 the act took effect May 1, 1907.

[2007—]2. **Same—Penalties for violation.**—Any railroad company, or any officer, agent or representative thereof, who shall violate any provision of this act shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not exceeding five thousand dollars, or by imprisonment in the state prison for a period not exceeding five years, or by both such fine and imprisonment. ('07 c. 97 § 2)

[2007—]3. **Freight rates—Right of carrier in first instance—Uniform classification.**—All common carriers subject to the laws of this state shall have the right in the first instance to prescribe and publish, as required by law, all classifications and tariffs, rates, and charges, together with rules governing the same, including minimum weights for the transportation of any freight articles between points or stations in the State of Minnesota; this act shall include all terminal and switching charges. There shall be but one

classification, which shall be uniform on all the railroads in this state, and shall govern in all state commerce. ('05 c. 176 § 1)

Historical.—"An act giving to the railroad and warehouse commission jurisdiction over freight rates and classifications, and power to inspect books of all common carriers in this state." Approved April 14, 1905.

Section 9 repeals inconsistent acts.

[2007—]4. **Same—Notice of change to be posted.**—In addition to the present requirements for publishing tariffs, rates, charges and classifications, all common carriers in this state shall, whenever any new tariff or classification or any amendment to any tariff or classification is published either by itself or the commission, post in a conspicuous place in every depot where the public would be affected, a notice printed in large, legible type, stating that changes have been made, indicating upon what articles or commodities, and where the new tariff, classification or amendment may be seen. ('05 c. 176 § 2)

[2007—]5. **Same—Rates not to be changed without order of commission, etc.**—The schedule of rates and charges for the transportation of freight and cars, together with the classification of such freights, minimum weights and rules now in effect, and all rates, charges and classifications published by any common carrier after the passage of this act shall be deemed just and reasonable and shall not be changed except upon the order of or by the written consent of the railroad and warehouse commission, hereafter called the commission. The terms of this act shall also apply to all schedules of rates and charges published by two or more common carriers jointly. ('05 c. 176 § 3)

[2007—]6. **Same—Public property excepted.**—Nothing in this act shall apply to the carriage, storage or handling by any common carrier, of property free or at reduced rates, for the United States or the State of Minnesota, or for any municipal government or corporation within the state, or for any church, religious society or charitable purpose, or to or from fairs or expositions, or for stock breeding purposes, or for carrying seed grain. ('05 c. 176 § 4)

[2007—]7. **Same—Application for change—Notice—Hearing.**—Any common carrier desiring to change or discontinue any published rate, charge or classification, minimum weight or rule governing the same to which it is a party, shall make application to the commission in writing, stating the changes in rules, rates, charges or classifications desired, giving the reasons for such change. Upon receiving such application, the commission shall fix a time and place for hearing, and give such notice to interested parties as it shall deem proper and reasonable, and after hearing all the evidence offered, if the commission find that it is reasonable, fair and just to both shippers and carriers that the change should be allowed as asked for, it shall grant the application; otherwise, it shall deny the same; or may grant the same in a modified form. Passenger rates are not affected by this act. ('05 c. 176 § 5)

[2007—]8. **Same—Emergency rate.**—Upon the application of any carrier or carriers to the railroad and warehouse commission, stating that they desire to put in an emergency rate for the protection of the interests of such carrier or shippers, the commission may before such rate is established and without the notice and hearing required by section five, authorize the restoration of the rates existing at the time of such application and fix the time within which such restoration may be made, and the time so fixed may be extended in the discretion of the commission as the circumstances of the case may require. Nothing in this act shall be held in any way to limit or modify the rights and powers of the commission to investi-

gate, inquire into, prescribe and publish what it may deem to be just and reasonable rates, charges and classifications to govern common carriers in this state. ('05 c. 176 § 6)

[2007—]9. Same—Penalty for violation.—Any common carrier violating any of the provisions of sections 2 [2007—4], 3 [2007—5] and 5 [2007—7] of this act, shall be subject to a penalty of one hundred dollars for each and every day such violation shall continue, to be recovered in a civil action in the name of the State of Minnesota by the attorney general. ('05 c. 176 § 7)

See section [2007—]30, post.

[2007—]10. Same—Duties and powers of commission.—It is hereby made the duty of the commission to keep itself informed as to whether common carriers in this state are granting rebates or in other particulars are failing to comply with the laws of this state. For this purpose power is hereby conferred on the commission or its agent to at any proper time make thorough and full examination of all books, vouchers, papers and accounts of any and all common carriers of this state. Any officer, agent or employé of any railroad company in charge of such books, vouchers, papers and accounts who shall fail or refuse to submit the same for examination of the commission or its agent, shall be guilty of misdemeanor. The provisions of this section shall in no way interfere with the duties of the public examiner. ('05 c. 176 § 8)

[2007—]11. Classification of commodities.—For the purposes of this act the commodities hereinunder named are classified as follows: Wheat, flaxseed, broom corn seed, hemp seed, millet seed, popcorn, castor beans, Hungarian seed, buckwheat, buckwheat flour, potato flour, wheat flour, prepared flour and all uncooked grain or cereal products manufactured from wheat, shall constitute class eleven; corn, oats, rye, barley, alfalfa feed, alfalfa meal, bran, brewers' grits, brewers' meal, brewers' refuse (dry), chopped feed other than wheat chops, corn flour, corn meal, cotton seed cake, cotton seed hulls, cotton seed meal, gluten feed, gluten meal, grain screenings, hominy feed, kafir corn, linseed cake, linseed meal, middlings, shorts, sorghum seed, speltz, wild mustard seed, oat groats, rolled oats, oat dust, oat hulls, oatmeal, rolled rye, rye flour, malt, pearl barley and all uncooked grain or cereal products manufactured from corn, oats, or rye shall constitute class twelve; lumber, lath, shingles, sash doors and blinds shall constitute class thirteen; sheep (when carried in double-decked cars) and cattle shall constitute class fourteen; sheep (when carried in single decked cars) and hogs shall constitute class fifteen; hard coal shall constitute class sixteen; soft coal shall constitute class seventeen. ('07 c. 232 § 1)

Historical.—"An act relating to railroad freight rates in the state of Minnesota, and defining certain duties of the railroad and warehouse commission." Approved April 18, 1907.

By section 8 the act took effect June 1, 1907.

See Laws 1909, c. 136 (sections [2007—] 18 to [2007—] 25, post.)

Validity.—A preliminary injunction granted restraining the putting into effect of Laws 1907, c. 232, fixing rates for the carrying of commodities by railroads within the state on the ground that such rates, if enforced, in connection with reductions in both commodity and passenger rates made by prior acts, would on the showing made be confiscatory, and would deprive the companies of fair compensation for the services performed and a fair return on the property invested. *Perkins v. Northern Pac. R. Co.* (C. C.) 155 Fed. 445.

Cited in *Leavitt v. City of Morris*, 105 Minn. 170, 117 N. W. 393, 17 L. R. A. (N. S.) 984.

[2007—]12. Same—Maximum rates.—The following are hereby established and declared to be the reasonable maximum rates to be charged by railroad companies as common carriers of property in the State of Minnesota for the transportation, in carload lots, of

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the commodities belonging to the classes named in section one [2007—11] of this act, between stations in the State of Minnesota, for the distances named in the following schedule, to-wit:

| Distance in miles. | Rate for Commodities in Classification No. 11 in cents per 100 lbs. | Rate for Commodities in Classification No. 12 in cents per 100 lbs. | Rate for Commodities in Classification No. 13 in cents per 100 lbs. | Rate for Commodities in Classification No. 14 in cents per 100 lbs. | Rate for Commodities in Classification No. 15 in cents per 100 lbs. | Rate for Commodities in Classification No. 16 in dollars and cents per ton. | Rate for Commodities in Classification No. 17 in dollars and cents per ton. |
|--------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 5 | 2.7 | 2.7 | 2.7 | 4.4 | 4.9 | .54 | .44 |
| 10 | 3.3 | 2.8 | 3.3 | 5. | 5.5 | .62 | .49 |
| 15 | 3.8 | 3.4 | 3.8 | 5.5 | 6.3 | .63 | .51 |
| 20 | 4.4 | 3.8 | 4.4 | 6.3 | 6.8 | .65 | .52 |
| 25 | 4.6 | 4. | 5.4 | 6.7 | 7.6 | .69 | .54 |
| 30 | 4.8 | 4.2 | 5.6 | 7.4 | 8.3 | .70 | .57 |
| 35 | 5. | 4.5 | 5.8 | 7.9 | 9. | .72 | .58 |
| 40 | 5.2 | 4.6 | 6. | 8.6 | 9.7 | .74 | .59 |
| 45 | 5.4 | 4.8 | 6.3 | 9.2 | 10.3 | .75 | .61 |
| 50 | 5.7 | 5. | 6.5 | 9.8 | 11. | .77 | .62 |
| 55 | 5.9 | 5.1 | 6.8 | 10. | 11.3 | .81 | .64 |
| 60 | 6.1 | 5.3 | 7. | 10.2 | 11.5 | .83 | .65 |
| 65 | 6.3 | 5.5 | 7.4 | 10.5 | 11.8 | .85 | .69 |
| 70 | 6.5 | 5.8 | 7.5 | 10.7 | 12. | .87 | .70 |
| 75 | 6.7 | 6. | 7.7 | 10.9 | 12.3 | .89 | .72 |
| 80 | 7. | 6.2 | 8.1 | 11.1 | 12.5 | .93 | .74 |
| 85 | 7.2 | 6.3 | 8.3 | 11.3 | 12.7 | .95 | .75 |
| 90 | 7.4 | 6.5 | 8.5 | 11.5 | 13. | .97 | .77 |
| 95 | 7.6 | 6.7 | 8.7 | 11.8 | 13.3 | .99 | .80 |
| 100 | 7.8 | 7. | 9. | 12. | 13.5 | 1.01 | .82 |
| 105 | 7.9 | 7. | 9.2 | 12.2 | 13.7 | 1.04 | .83 |
| 110 | 8.1 | 7. | 9.3 | 12.4 | 13.9 | 1.06 | .84 |
| 115 | 8.2 | 7.2 | 9.4 | 12.6 | 14.3 | 1.07 | .85 |
| 120 | 8.2 | 7.2 | 9.4 | 12.8 | 14.5 | 1.08 | .86 |
| 125 | 8.3 | 7.3 | 9.5 | 13. | 14.7 | 1.10 | .87 |
| 130 | 8.4 | 7.4 | 9.6 | 13.3 | 14.9 | 1.11 | .88 |
| 135 | 8.5 | 7.4 | 9.8 | 13.5 | 15.3 | 1.12 | .92 |
| 140 | 8.5 | 7.5 | 9.8 | 13.7 | 15.5 | 1.16 | .93 |
| 145 | 8.6 | 7.6 | 9.9 | 13.9 | 15.7 | 1.17 | .94 |
| 150 | 8.7 | 7.6 | 10. | 14.2 | 15.9 | 1.19 | .95 |

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| Distance in miles. | Rate for Commodities in Classification No. 11 in cents per 100 lbs. | Rate for Commodities in Classification No. 12 in cents per 100 lbs. | Rate for Commodities in Classification No. 13 in cents per 100 lbs. | Rate for Commodities in Classification No. 14 in cents per 100 lbs. | Rate for Commodities in Classification No. 15 in cents per 100 lbs. | Rate for Commodities in Classification No. 16 in dollars and cents per ton. | Rate for Commodities in Classification No. 17 in dollars and cents per ton. |
|--------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 155 | 8.8 | 7.7 | 10.1 | 14.4 | 16.2 | 1.20 | .96 |
| 160 | 8.8 | 7.8 | 10.1 | 14.6 | 16.4 | 1.22 | .98 |
| 165 | 9. | 7.9 | 10.4 | 14.8 | 16.7 | 1.24 | 1.00 |
| 170 | 9. | 7.9 | 10.4 | 15. | 16.9 | 1.29 | 1.01 |
| 175 | 9.1 | 8.1 | 10.6 | 15.3 | 17.2 | 1.31 | 1.05 |
| 180 | 9.1 | 8.1 | 10.6 | 15.5 | 17.4 | 1.33 | 1.07 |
| 185 | 9.3 | 8.2 | 10.7 | 15.7 | 17.6 | 1.35 | 1.09 |
| 190 | 9.4 | 8.3 | 10.8 | 15.9 | 17.9 | 1.37 | 1.10 |
| 195 | 9.5 | 8.3 | 10.9 | 16.1 | 18.2 | 1.42 | 1.12 |
| 200 | 9.6 | 8.4 | 11. | 16.3 | 18.4 | 1.44 | 1.16 |
| 210 | 9.7 | 8.5 | 11.1 | 16.6 | 18.6 | 1.48 | 1.19 |
| 220 | 9.8 | 8.6 | 11.2 | 16.8 | 18.8 | 1.54 | 1.22 |
| 230 | 9.9 | 8.7 | 11.4 | 17. | 19.1 | 1.58 | 1.28 |
| 240 | 10. | 8.8 | 11.6 | 17.2 | 19.4 | 1.63 | 1.31 |
| 250 | 10.2 | 8.9 | 11.8 | 17.4 | 19.6 | 1.68 | 1.34 |
| 260 | 10.3 | 9.1 | 11.9 | 17.6 | 19.8 | 1.72 | 1.37 |
| 270 | 10.5 | 9.3 | 12. | 17.9 | 20.2 | 1.78 | 1.42 |
| 280 | 10.6 | 9.4 | 12.2 | 18.1 | 20.4 | 1.82 | 1.46 |
| 290 | 10.8 | 9.5 | 12.4 | 18.3 | 20.6 | 1.87 | 1.49 |
| 300 | 10.9 | 9.6 | 12.5 | 18.5 | 20.8 | 1.92 | 1.54 |
| 310 | 11. | 9.7 | 12.6 | 18.7 | 21.1 | 1.94 | 1.56 |
| 320 | 11.1 | 9.8 | 12.8 | 19. | 21.4 | 1.96 | 1.57 |
| 330 | 11.2 | 9.9 | 12.9 | 19.2 | 21.6 | 1.99 | 1.59 |
| 340 | 11.3 | 9.9 | 13.1 | 19.4 | 21.8 | 2.02 | 1.60 |
| 350 | 11.4 | 10. | 13.2 | 19.6 | 22.1 | 2.04 | 1.63 |
| 360 | 11.5 | 10.1 | 13.3 | 19.8 | 22.3 | 2.06 | 1.66 |
| 370 | 11.7 | 10.2 | 13.4 | 20. | 22.6 | 2.08 | 1.67 |
| 380 | 11.8 | 10.3 | 13.5 | 20.3 | 22.8 | 2.11 | 1.69 |
| 390 | 11.9 | 10.5 | 13.6 | 20.5 | 23.1 | 2.13 | 1.70 |
| 400 | 12. | 10.6 | 13.7 | 20.7 | 23.3 | 2.16 | 1.72 |

('07 c. 232 § 2)

See note under section next preceding.

[2007—]13. Same—When distance not given—Weight of carload.—When the exact distance which a commodity is transported is not given in the foregoing schedule, the carrier may charge the rate specified in the said schedule for the next greater distance. In order to constitute a carload, within the meaning of this act, the weight of the commodities in any one car shall be at least as follows: Class eleven and class twelve, twenty-four thousand pounds; class thirteen, twenty thousand pounds; class fourteen, nineteen thousand pounds; class fifteen, fifteen thousand pounds; classes sixteen and seventeen, thirty thousand pounds. ('07 c. 232 § 3)

See note under section [2007—] 11.

[2007—]14. Same—Excess rates prohibited.—No railroad company, which is a common carrier of property within the State of Minnesota, shall charge, take or receive any greater sum for carrying within this state, between stations therein, any of the commodities named in this act than the respective amounts set forth and provided in section two [2007—12] of this act for the respective distances therein named. ('07 c. 232 § 4)

See note under section [2007—] 11.

[2007—]15. Same—Powers and duties of commission.—This act shall not in any manner affect the power or authority of the railroad

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and warehouse commission, except that no duty shall rest upon the railroad and warehouse commission to enforce any rates specifically fixed by this or any other statute of this state. Whenever, in a proceeding regularly pending before the railroad and warehouse commission, it shall be made to appear to the satisfaction of said commission that the rates herein prescribed are unreasonable, it may, by order, fix higher or lower rates for the transportation of any of the commodities herein mentioned over the line of any railroad in this state, and such rates, when so fixed shall supersede the rates herein prescribed upon said line of railroad, and shall be enforced as prescribed by the law relating to such orders, but until such order shall have been made by said railroad and warehouse commission the rates herein prescribed shall be the exclusive legal maximum rates for the transportation of the commodities herein enumerated between points within this state. ('07 c. 232 § 5)

See note under section [2007—] 11.

[2007—]16. Same—Duties of railroad companies—Penalties.—Every railroad company transacting the business of a common carrier within this state shall adopt and publish and put into effect rates not exceeding the charges specified herein for the transportation by it between stations upon its line of road in this state of the commodities named in this act; and every officer, director, traffic manager or agent or employé of such railroad company, exercising any authority, or being charged with any duty in establishing freight rates for such railroad company, shall cause the adoption, publication and use by such railroad company of rates not exceeding those specified in this act; and any officer, director, or such agent or employé of any such railroad company who violates any of the provisions of this section, or who causes or counsels, advises or assists any such railroad company to violate any of the provisions of this section, shall be guilty of a misdemeanor, and may be prosecuted therefor in any county into which its railroad extends and in which it has a station, and upon conviction thereof be punished by imprisonment in the county jail for a period not exceeding ninety days. ('07 c. 232 § 6)

See note under section [2007—] 11.

Repeal.—The provisions of this section prescribing penalties were repealed by Laws 1909, c. 136, § 8 (section [2007—] 25, post).

[2007—]17. Same—Existing rates.—If, at the time of the taking effect of this act, any railroad is maintaining a rate between any two stations in this state that is less than the rate herein prescribed for the same distance, this act shall not be construed as authorizing the raising of such rate. ('07 c. 232 § 7)

See note under section [2007—] 11.

[2007—]18. Classification of commodities.—For the purposes of this act the commodities hereinunder named are classified as follows: Wheat, flaxseed, broom corn seed, hemp seed, millet seed, popcorn, castor beans, Hungarian seed, buckwheat, buckwheat flour, potato flour, wheat flour, prepared flour and all uncooked grain or cereal products manufactured from wheat, shall constitute class eleven: corn, oats, rye, barley, alfalfa feed, alfalfa meal, bran, brewers' grits, brewers' meal, brewers' refuse (dry), chopped feed other than wheat chops, corn flour, corn meal, cottonseed cake, cottonseed hulls, cottonseed meal, gluten feed, gluten meal, grain screenings, hominy feed, kaffir corn, linseed cake, linseed meal, middlings, shorts, sorghum seed, speltz, wild mustard seed, oat groats, rolled oats, oat dust, oat hulls, oatmeal, rolled rye, rye flour, malt, pearl barley and all uncooked grain or cereal products manufactured from corn, oats or rye shall constitute class twelve; lumber, lath, shingles, sash doors and blinds shall constitute class thirteen; sheep (when carried in double-deck cars) and cattle shall constitute class

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fourteen; sheep (when carried in single-decked cars) and hogs shall constitute class fifteen; hard coal shall constitute class sixteen; soft coal shall constitute class seventeen. ('09 c. 136 § 1)

Historical.—"An act relating to railroad freight rates in the state of Minnesota and defining certain duties of the railroad and warehouse commission." Approved April 3, 1909.

See sections [2007—] 11 to [2007—] 17, ante, and section [2007—] 25, post.

[2007—]19. Same—Maximum rates.—The following are hereby established and declared to be the reasonable maximum rates to be charged by railroad companies as common carriers of property in the state of Minnesota for the transportation, in carload lots, of the commodities belonging to the classes named in section one [2007—18] of this act, between stations in the state of Minnesota for the distances named in the following schedule, to-wit:

| Distance in miles. | Rate for Commodities in Classification No. 11 in cents per 100 lbs. | Rate for Commodities in Classification No. 12 in cents per 100 lbs. | Rate for Commodities in Classification No. 13 in cents per 100 lbs. | Rate for Commodities in Classification No. 14 in cents per 100 lbs. | Rate for Commodities in Classification No. 15 in cents per 100 lbs. | Rate for Commodities in Classification No. 16 in dollars and cents per ton. | Rate for Commodities in Classification No. 17 in dollars and cents per ton. |
|--------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 5 | 2.7 | 2.7 | 2.7 | 4.4 | 4.9 | .54 | .44 |
| 10 | 3.3 | 2.8 | 3.3 | 5.0 | 5.5 | .62 | .49 |
| 15 | 3.8 | 3.4 | 3.8 | 5.5 | 6.3 | .63 | .51 |
| 20 | 4.4 | 3.8 | 4.4 | 6.3 | 6.8 | .65 | .52 |
| 25 | 4.6 | 4.0 | 5.4 | 6.7 | 7.6 | .69 | .54 |
| 30 | 4.8 | 4.2 | 5.6 | 7.4 | 8.3 | .70 | .57 |
| 35 | 5.0 | 4.5 | 5.8 | 7.9 | 9.0 | .72 | .58 |
| 40 | 5.2 | 4.6 | 6.0 | 8.6 | 9.7 | .74 | .59 |
| 45 | 5.4 | 4.8 | 6.3 | 9.2 | 10.3 | .75 | .61 |
| 50 | 5.7 | 5.0 | 6.5 | 9.8 | 11.0 | .77 | .62 |
| 55 | 5.9 | 5.1 | 6.8 | 10.0 | 11.3 | .81 | .64 |
| 60 | 6.1 | 5.3 | 7.0 | 10.2 | 11.5 | .83 | .65 |
| 65 | 6.3 | 5.5 | 7.4 | 10.5 | 11.8 | .85 | .69 |
| 70 | 6.5 | 5.8 | 7.5 | 10.7 | 12.0 | .87 | .70 |
| 75 | 6.7 | 6.0 | 7.7 | 10.9 | 12.3 | .89 | .72 |
| 80 | 7.0 | 6.2 | 8.1 | 11.1 | 12.5 | .93 | .74 |
| 85 | 7.2 | 6.3 | 8.3 | 11.3 | 12.7 | .95 | .75 |
| 90 | 7.4 | 6.5 | 8.5 | 11.5 | 13.0 | .97 | .77 |
| 95 | 7.6 | 6.7 | 8.7 | 11.8 | 13.3 | .99 | .80 |
| 100 | 7.8 | 7.0 | 9.0 | 12.0 | 13.5 | 1.01 | .82 |
| 105 | 7.9 | 7.0 | 9.2 | 12.2 | 13.7 | 1.04 | .83 |
| 110 | 8.1 | 7.0 | 9.3 | 12.4 | 13.9 | 1.06 | .84 |
| 115 | 8.2 | 7.2 | 9.4 | 12.6 | 14.3 | 1.07 | .85 |
| 120 | 8.2 | 7.2 | 9.4 | 12.8 | 14.5 | 1.08 | .86 |
| 125 | 8.3 | 7.3 | 9.5 | 13.0 | 14.7 | 1.10 | .87 |
| 130 | 8.4 | 7.4 | 9.6 | 13.3 | 14.9 | 1.11 | .88 |
| 135 | 8.5 | 7.4 | 9.8 | 13.5 | 15.3 | 1.12 | .92 |
| 140 | 8.5 | 7.5 | 9.8 | 13.7 | 15.5 | 1.16 | .93 |
| 145 | 8.6 | 7.6 | 9.9 | 13.9 | 15.7 | 1.17 | .94 |
| 150 | 8.7 | 7.6 | 10.0 | 14.2 | 15.9 | 1.19 | .95 |
| 155 | 8.8 | 7.7 | 10.1 | 14.4 | 16.2 | 1.20 | .96 |
| 160 | 8.8 | 7.8 | 10.1 | 14.6 | 16.4 | 1.22 | .98 |
| 165 | 9.0 | 7.9 | 10.4 | 14.8 | 16.7 | 1.24 | 1.00 |
| 170 | 9.0 | 7.9 | 10.4 | 15.0 | 16.9 | 1.29 | 1.01 |
| 175 | 9.1 | 8.1 | 10.6 | 15.3 | 17.2 | 1.31 | 1.05 |
| 180 | 9.1 | 8.1 | 10.6 | 15.5 | 17.4 | 1.33 | 1.07 |
| 185 | 9.3 | 8.2 | 10.7 | 15.7 | 17.6 | 1.35 | 1.09 |
| 190 | 9.4 | 8.3 | 10.8 | 15.9 | 17.9 | 1.37 | 1.10 |
| 195 | 9.5 | 8.3 | 10.9 | 16.1 | 18.2 | 1.42 | 1.12 |
| 200 | 9.6 | 8.4 | 11.0 | 16.3 | 18.4 | 1.44 | 1.16 |

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| Distance in miles. | Rate for Commodities in Classification No. 11 in cents per 100 lbs. | Rate for Commodities in Classification No. 12 in cents per 100 lbs. | Rate for Commodities in Classification No. 13 in cents per 100 lbs. | Rate for Commodities in Classification No. 14 in cents per 100 lbs. | Rate for Commodities in Classification No. 15 in cents per 100 lbs. | Rate for Commodities in Classification No. 16 note previous page. | Rate for Commodities in Classification No. 17 note previous page. |
|--------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------|-------------------------------------------------------------------|-------------------------------------------------------------------|
| 210 | 9.7 | 8.5 | 11.1 | 16.6 | 18.6 | 1.48 | 1.19 |
| 220 | 9.8 | 8.6 | 11.2 | 16.8 | 18.8 | 1.54 | 1.22 |
| 230 | 9.9 | 8.7 | 11.4 | 17.0 | 19.1 | 1.58 | 1.23 |
| 240 | 10.0 | 8.8 | 11.6 | 17.2 | 19.4 | 1.63 | 1.31 |
| 250 | 10.2 | 8.9 | 11.8 | 17.4 | 19.6 | 1.68 | 1.34 |
| 260 | 10.3 | 9.1 | 11.9 | 17.6 | 19.8 | 1.72 | 1.37 |
| 270 | 10.5 | 9.3 | 12.0 | 17.9 | 20.2 | 1.78 | 1.42 |
| 280 | 10.6 | 9.4 | 12.2 | 18.1 | 20.4 | 1.82 | 1.46 |
| 290 | 10.8 | 9.5 | 12.4 | 18.3 | 20.6 | 1.87 | 1.49 |
| 300 | 10.9 | 9.6 | 12.5 | 18.5 | 20.8 | 1.92 | 1.54 |
| 310 | 11.0 | 9.7 | 12.6 | 18.7 | 21.1 | 1.94 | 1.56 |
| 320 | 11.1 | 9.8 | 12.8 | 19.0 | 21.4 | 1.96 | 1.57 |
| 330 | 11.2 | 9.9 | 12.9 | 19.2 | 21.6 | 1.99 | 1.59 |
| 340 | 11.3 | 9.9 | 13.1 | 19.4 | 21.8 | 2.02 | 1.60 |
| 350 | 11.4 | 10.0 | 13.2 | 19.6 | 22.1 | 2.04 | 1.63 |
| 360 | 11.5 | 10.1 | 13.3 | 19.8 | 22.3 | 2.06 | 1.66 |
| 370 | 11.7 | 10.2 | 13.4 | 20.0 | 22.6 | 2.08 | 1.67 |
| 380 | 11.8 | 10.3 | 13.5 | 20.3 | 22.8 | 2.11 | 1.69 |
| 390 | 11.9 | 10.5 | 13.6 | 20.5 | 23.1 | 2.13 | 1.70 |
| 400 | 12.0 | 10.6 | 13.7 | 20.7 | 23.3 | 2.16 | 1.72 |

('09 c. 136 § 2)

[2007—]20. **Same—When distance not given—Weight of carloads.**—When the exact distance which a commodity is transported is not given in the foregoing schedule, the carrier may charge the rate specified in the said schedule for the next greater distance. In order to constitute a carload, within the meaning of this act, the weight of the commodities in any one car shall be at least as follows: Class eleven and class twelve, twenty-four thousand pounds; class thirteen, twenty thousand pounds; class fourteen, nineteen thousand pounds; class fifteen, fifteen thousand pounds; classes sixteen and seventeen, thirty thousand pounds. ('09 c. 136 § 3)

[2007—]21. **Same—Excess rates prohibited.**—No railroad company, which is a common carrier of property within the state of Minnesota, shall charge, take or receive any greater sum for carrying within this state, between stations therein any of the commodities named in this act than the respective amounts set forth and provided in section two [2007—19] of this act for the respective distances named therein. ('09 c. 136 § 4)

[2007—]22. **Same—Powers and duties of commission.**—This act shall not in any manner affect the power or authority of the railroad and warehouse commission, except that no duty shall rest upon the railroad and warehouse commission to enforce any rates specifically fixed by this or any other statute of this state. Whenever in a proceeding regularly pending before the railroad and warehouse commission, it shall be made to appear to the satisfaction of said commission that the rates herein prescribed are unreasonable, it may, by order fix higher or lower rates for the transportation of any of the commodities herein mentioned over the line of any railroad in this state, and such rates when so fixed, shall supersede the rates herein prescribed upon said line of railroad, and shall be enforced as prescribed by the law relating to such orders, but until such order shall have been made by said railroad and warehouse commission the rates herein prescribed shall be the exclusive legal

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maximum rates for the transportation of the commodities herein enumerated between points within this state. ('09 c. 136 § 5)

[2007—]23. **Same—Duties of railroad companies—Penalties.**—Every railroad company transacting the business of a common carrier within this state shall adopt and publish and put into effect rates not exceeding the charges specified herein for the transportation by it between stations upon its line of road in this state of the commodities named in this act; and every officer, director, traffic manager or agent or employé of such railroad company, exercising any authority or being charged with any duty in establishing freight rates for such railroad company, shall cause the adoption, publication and use by such railroad company of rates not exceeding those specified in this act. ('09 c. 136 § 6)

[2007—]24. **Same—Existing rates.**—If, at the time of the taking effect of this act, any railroad is maintaining a rate between any two stations in this state that is less than the rate herein prescribed for the same distance, this act shall not be construed as authorizing the raising of such rate. ('09 c. 136 § 7)

[2007—]25. **Same—Continuation of prior act.**—This act is intended to operate as a continuation of chapter 232 of the Laws of 1907, and not as a repeal thereof, except that the provisions of said chapter 232 contained in section six [2007—16] thereof, prescribing penalties, for the violation thereof, are hereby repealed. ('09 c. 136 § 8)

For Laws 1907, c. 232, see sections [2007—] 11 to [2007—] 17, ante.

[2007—]26. **Failure to adopt rates—Duty of attorney general—Duty of carrier—Reports.**—Whenever any common carrier doing business in this state shall fail or refuse to adopt and put into effect any rates prescribed by the statute, or any rates prescribed by an order of the railroad and warehouse commission after the time for appeal from such order has expired, and such rates have by the terms of such law or order become effective, it shall be the duty of the attorney general to forthwith commence appropriate proceedings for and in the name of the state for the enforcement of the law or the order prescribing such rates, in the district court of Ramsey county or in the district court of any county in which such common carrier has an agent or station, or in which its said business is carried on, and during the pendency of such proceedings—or during the pendency of any proceedings instituted in any court having jurisdiction by or on behalf of such common carrier to resist the enforcement of such law or such order, it shall be the duty of every such common carrier to keep a correct account of every charge made by it for any service to which such rates apply in excess of the rates so prescribed, showing in each case the difference between the amount actually charged and the amount allowed to be charged under such rates, the date of the transaction, the stations between which the business was carried, and the names and addresses of the consignor and consignee. Every such common carrier shall on or before the tenth day of each month report such information in full, covering the business of the preceding month, to the railroad and warehouse commission, and said commission shall carefully preserve such information in its office. ('09 c. 195 § 1)

Historical.—"An act relating to the enforcement of rates of common carriers prescribed by authority of the state, and for the restitution of charges made by such carriers in excess of such rates." Approved April 15, 1909.

[2007—]27. **Same—Carrier to pay to commission excess rates.**—Within sixty days after such judicial proceedings, brought to enforce or to resist the enforcement of such rates, are ended by the entry of final judgment therein—unless by such judgment said rates are found to be unlawful—every such common carrier shall pay

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to said railroad and warehouse commission, for the benefit of the parties entitled thereto, all sums so charged and collected by it on the business to which such rates apply, in excess of the rates so prescribed, with lawful interest thereon from the date when each item thereof was received, and it shall thereupon be the duty of said railroad and warehouse commission to pay such money with said interest to the person, firm or corporation by or for whom the same was paid to such common carrier, and for the purposes of this act the person holding the original receipted freight bill showing the payment thereof to such common carrier shall be taken to be the persons entitled to so receive such money. ('09 c. 195 § 2)

[2007—]28. Same—Failure to pay excess rates—Duty of commission and attorney general—Claims—Unclaimed amounts.—If any common carrier affected by such rates shall fail or refuse to pay to the railroad and warehouse commission within the time aforesaid all moneys so collected by it in excess of the amount lawfully collectible under the rates so prescribed, or to file with the said commission within said time the written release of his claim signed by the person entitled to such restitution, it shall be the duty of the railroad and warehouse commission to report such default of such common carrier to the attorney general, who shall thereupon bring an action in the name of the state of Minnesota for the benefit of the parties having paid such overcharges, to recover the same from such common carrier, and it shall have the exclusive right to sue for and collect such money of said common carrier and in such action, in addition to the aggregate amount of such excess charges and interest, the court shall allow ten per cent thereof additional as a penalty. All persons entitled to any part of such money shall file their claims therefor within one year from the time when the litigation involving the validity of said rates is ended. And all amounts paid to or recovered by the railroad and warehouse commission, not so claimed, shall be paid into the state treasury to the credit of the general revenue fund. ('09 c. 195 § 3)

[2007—]29. Same—Failure of carrier to keep accounts, etc.—Penalty.—Every common carrier and the officers and agents thereof whose duty it is to make collections of any such rates and keep the accounts thereof, who shall wilfully fail or neglect to keep such accounts as are herein provided for, or who shall make any intentional false account, entry or report in reference thereto, or who shall fail to make the reports herein provided to be made to said railroad and warehouse commission, shall be guilty of a misdemeanor. ('09 c. 195 § 4)

[2007—]30. Same—Certain provisions repealed.—All provisions of law prescribing any other procedure for the enforcement of any rate or schedule of rates that have been heretofore or may be hereafter prescribed, either by act of the legislature or by any order of the railroad and warehouse commission, applying to the intrastate business of any common carrier doing business in this state, or prescribing any penalty for the failure of any common carriers to put any such rates into effect, are hereby repealed, but the court in which proceedings for the enforcement of such rates may be pending may impose penalties for disobedience to its orders made in such proceeding as for contempt. ('09 c. 195 § 5)

[2007—]31. Same—When to take effect.—This act shall take effect and be in force from and after its passage, and shall apply after ten days from the date of its passage to all rates heretofore prescribed in this state, which have not been put into effect. ('09 c. 195 § 6)

[2007—]32. **Charges for transporting National Guard, etc.—** That whenever it shall be necessary for any or all of the officers or men of the Minnesota National Guard or the Minnesota naval militia or reserve to travel upon any railroad in the state under orders from competent authority to perform military duty, such railroads shall furnish transportation at the rate of one cent per mile for the whole distance to be traveled upon such railroad or railroads within the limits of this state, for each officer or enlisted man so carried including the usual amount of baggage; and all station or ticket agents or conductors shall sell first class tickets or furnish first class passage at the rate named, upon being notified that such officer or officers or enlisted men are traveling upon military duty. Such notification must be issued by the adjutant general, and may be by telegraph or by filing a copy of the order issued by the adjutant general for such transportation with the station or ticket agent or conductor. This rate shall apply to officers or men traveling under orders, either single or in companies, so that whenever one or more members of the guard shall present an order for transportation issued by the adjutant general, it shall be honored by the ticket agent or by the conductor and received in lieu of fare, and when presented by the railroad companies to the adjutant general, shall be audited to be paid at once at the fixed rate. ('09 c. 493 § 1)

Historical.—"An act fixing the charges to be paid to the railroads for transporting the Minnesota National Guard or the Minnesota Naval Militia or Reserve and their baggage; the terms of transporting the same and prescribing a penalty for the violation of said act." Approved April 24, 1909.

[2007—]33. **Same—Refusal to transport, etc.—Penalties.**—Any railroad agent or officer thereof, or any person whose duty it is to transport or carry passengers or baggage thereon, who shall willfully refuse to transport or furnish the means for transporting any of the troops of this state and their said baggage, when ordered out by the governor, on the terms prescribed by this act, shall be guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction shall be fined in the sum of not less than fifty dollars nor more than five hundred dollars for each offense. And any railroad company who shall refuse to transport said troops and baggage as aforesaid, or refuse to permit its agents or employes to transport the same or furnish means of transporting them, shall be liable to the state of Minnesota in a penal sum of five hundred dollars for each violation of the law, to be recovered in a civil action in the name of the state of Minnesota, and to be prosecuted by the attorney general or county attorney of the proper county. Should any county attorney, upon proper complaint made and verified, neglect, decline or refuse to prosecute any person or persons violating the provisions of said act, any court, judge or justice of the peace having jurisdiction of the offense may appoint an attorney-at-law to conduct said prosecution, who shall receive a fee of not less than ten nor more than fifty dollars in each case where conviction shall be had, said fee to be fixed by the court and taxed as costs in said action; but in no event shall the county be liable for said fee. ('09 c. 493 § 2)

[2010—]1. **Rebates, etc., forbidden—Penalty.**—It shall be unlawful for any common carrier in this state, by any special rate, rebate, drawback, or other device to directly or indirectly charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered in the transportation of any property within this state than its regular established schedule of rates and charges for like and contemporaneous service for any other person or for the public generally; and it shall be unlawful for any such common carrier directly or indirectly

to offer or give any shipper in connection with, or as an inducement or reward for receiving any property for transportation from any such shipper, any gift, gratuity or free pass whereby any passenger or freight shall thereafter be transported over the lines of such common carrier free, or at any rate less than that offered to the public, and in either such case such common carrier shall be deemed guilty of unjust discrimination and shall be punished by a fine not exceeding five thousand dollars. And any person who shall knowingly either for himself or for any firm or corporation directly or indirectly receive from any common carrier any such reduction of rate, rebate, gratuity or other favor as is herein declared to be an unjust discrimination by such common carrier shall be guilty of a misdemeanor. ('05 c. 177 § 1)

Historical.—"An act providing a penalty for the giving of a rebate, or other favor by any common carrier for the transportation of freight and a penalty for any person receiving the same." Approved April 14, 1905.

[2010—]2. **Free passes, etc., forbidden—Exceptions.**—From and after Jan. 1, 1908, it shall be unlawful for any person, association, co-partnership, or corporation, or any representative thereof, to offer, give, or in any manner furnish to any person, either for himself or another, any free pass or frank, or any special privilege or reduction in rate withheld from any other person for the traveling accommodation or transportation of any person or property, or the transmission of any message or communication except to persons included within the classes hereinafter designated and limited, and it shall also be unlawful for any person or persons, not included within the classes hereinafter excepted or limited to solicit or receive, either for himself or another from any person, association, copartnership or corporation, or use in any manner or for any purpose any free pass or frank or special privilege withheld from any person for the traveling accommodation or transportation of any person or property or the transmission of any message or communication; provided, however, that nothing contained in this act shall be construed to prohibit or to make unlawful the issuing or giving of any such free ticket, free pass, or free transportation to any person or persons within the classes hereinafter excepted or limited or the acceptance or use of the same by persons within such classes, that is to say, officers, bona fide agents, surgeons, physicians, attorneys and employes of such railroad or other companies or persons affected by this act, and dependent members of their families, the duly elected representatives of railroad labor organizations, children under twelve years of age, ministers of religion, secretaries of Young Men's Christian associations, persons exclusively engaged in charitable and eleemosynary work, indigent, destitute and homeless persons, and such persons when transported by charitable societies or hospitals or by public charity, and necessary agents employed in such transportation, inmates of national homes or state homes for disabled volunteer soldiers, inmates of soldiers' and sailors' homes, including those entering and returning from such homes, and boards of managers of such homes, postoffice inspectors, custom inspectors and immigration inspectors; witnesses for said railroad companies attending any legal investigation in which said company is interested; officials and linemen of telegraph and telephone companies; ex-employes retired from service on account of age or because of disability sustained while in the service of said railroad company, and the dependent members of their families, or the widows or dependent children of employes killed while in the service of such railroad company; necessary care-takers of livestock, poultry, vegetables and fruit, including transportation to and from the point of delivery, employes on sleeping and express cars, railway mail service employes, newsboys on trains, baggage agents and persons

injured in wrecks and physicians and nurses attending them; provided, that one trip pass for a discharged employé and his family, may be issued for use within thirty days of such discharge. Provided, further, that the provisions of this act shall not be construed to prohibit and make unlawful the interchange of passes, and express and other franks for the officers, bona fide agents, surgeons, physicians, attorneys and employés and the dependent members of their families, of any person or company affected by this act, nor to prohibit any company affected by this act from doing any of the things prohibited hereby free, with the object of providing relief in cases of general epidemic, pestilence, or calamitous visitation. Provided, further, that the provisions of this act shall not be construed to prohibit or make unlawful the interchange of passenger transportation and message service between such railroad companies and telegraph companies, and provided further, that the provisions of this act shall not be construed to prohibit or make unlawful the interchange between railroad, express, telegraph and telephone companies of the transportation of persons and property, and the transmission of messages. Provided, further, that no free transportation shall be issued or given to any person when such person is a member of, employed by or in any way connected with any political committee or candidate for or incumbent of any office or position under the constitution and laws of this state, except as herein provided. ('07 c. 449 § 1)

Historical.—"An act to prohibit the granting to or use by any person of any free pass, frank or special privileges withheld from any other person, and to fix the penalty for violation thereof." Approved April 25, 1907.

By section 4 the act took effect December 31, 1908.

[2010—]3. **Same—Free transportation for commission.**—The railroad and warehouse commission and their secretary shall have the right to free transportation in the performance of their duties on all railroads and railroad trains, in this state, and their experts or other agents whose service they may require shall likewise be transported free of charge. ('07 c. 449 § 2)

[2010—]4. **Same—Penalty for violation.**—Any person, corporation or company or any officer or agent of such corporation or company violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding one hundred dollars or by imprisonment in the county jail for a period not exceeding ninety days. ('07 c. 449 § 3)

2012. **Public schedule of rates.**—Every such company shall keep at every station or depot of its road, convenient for and open to public inspection, schedules printed in large type, showing all classifications, rates, fares and charges for transportation of freight and passengers in force at the time upon its road. Such schedule shall plainly state the places between which persons and property will be carried, shall show the classification of freight, a distance tariff, a table of distances between stations, and shall state, and shall state, separately, the terminal charges, and any rules or regulations in any way affecting the aggregate of such rates, fares and charges. And every such company shall keep posted in a conspicuous place, at every such station, accessible to shippers, notice that such schedules are so kept thereat. (R. L. § 2012, as amended by Laws 1907, c. 377, § 1.)

2019. **Transfer facilities.**—All such railroad companies, at all points of connection, intersection, or crossing at grade of different railroads, where it is practicable, shall provide reasonable, ample, and equal facilities, by track connection, passenger platforms, and otherwise, for transferring cars, passengers, and property between their respective roads without unreasonable delay; and at any place

where the tracks of the two railroad companies are within five hundred feet apart, whether on the same grade or not, where it is practicable and deemed reasonably necessary, the commission, upon the application of any interested person, may require such track connection. All such railroad companies shall not discriminate in their rates or charges between such connecting lines or on freight coming over them; but no such company shall be required to furnish to another railroad company its tracks, equipment, or terminal facilities without reasonable compensation. (R. L. § 2019, as amended by Laws 1907, c. 27, § 1.)

[2022—]1. Railroads and street railways in connection.—Any railroad or railway corporation in this state may make such contracts for the carriage of passengers, express and freight, with any street railway company operating local street railways within this state as will enable and permit the operation of railroads and street railways in connection with each other, or in such manner as shall be deemed most beneficial to their and public interests. Provided, that before any railroad or railway shall operate upon any street railway in any city, and before any street railway in any city shall haul or transport over its lines in such city any car, equipment or motive power of any railroad or railway the contract shall be approved by a vote of not less than three-fourths of all the members of the common council or other legislative body of such city and a copy thereof filed with the clerk or recorder of such city, and that the cars, equipment and motive power used by the said railroad shall be substantially similar to the cars, equipment and motive power used by the street railways contracted with, and such railroad shall, while operating upon street railway tracks, comply with the ordinances and laws applicable to such street railways. Any such railroad companies may grant by lease or contract to street railways the right to use railroad tracks for the operation of street railway cars thereon. ('09 c. 482 § 1)

Historical.—“An act authorizing railroad and street railway companies to enter into contracts so as to enable railroads and street railways to be operated in connection with each other.” Approved April 23, 1909.
Section 2 repeals inconsistent acts.

[2023—]1. Duty to furnish cars—Application—Reasonable time—Penalty.—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 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. ('07 c. 23 § 1)

Historical.—"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." Approved April 17, 1907.

By section 14 the act took effect July 1, 1907.

[2023—]2. **Same—Loaded cars, when removed—Penalty.**—Any railroad company mentioned in section 1 [2023—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. ('07 c. 23 § 2).

[2023—]3. **Same—Duty of connecting railroad—Penalty.**—Any railroad company mentioned in section 1 [2023—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. ('07 c. 23 § 3)

[2023—]4. **Same—Starting car—Average speed—Penalty.**—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. ('07 c. 23 § 4)

[2023—]5. **Same—Delivery to consignee—Penalty.**—It shall be the duty of every railroad company mentioned in section 1 [2023—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. ('07 c. 23 § 5)

[2023—]6. **Same—Time for loading—Penalty.**—It shall be the duty of any shipper in compliance with whose request any railroad company mentioned in section 1 [2023—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. ('07 c. 23 § 6)

[2023—]7. **Same—Time for unloading—Penalty.**—It shall be the duty of the consignee of each and every car delivered by any railroad company mentioned in section 1 [2023—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. ('07 c. 23 § 7)

[2023—]8. **Same—Bill of lading—Evidence—Penalty.**—For all shipments of freight in carload lots on the railroads mentioned in section 1 [2023—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. ('07 c. 23 § 8)

[2023—]9. **Same—Notice of arrival.**—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. ('07 c. 23 § 9)

[2023—]10. **Same—Damages not offset by demurrage—Live stock.**—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. ('07 c. 23 § 10)

[2023—]11. **Same—Strikes, accidents, etc.**—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 impracticable, 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. ('07 c. 23 § 11)

[2023—]12. **Same—Reports to commission.**—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. ('07 c. 23 § 12)

[2023—]13. **Same — Actions — Attorney's fee.** — 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. ('07 c. 23 § 13)

[2025—]1. **Damage to live stock—Notice of claim.**—In any action hereafter brought in any court of this state against one or more common carriers by any owner, shipper or consignee of any shipment of livestock hereafter made, to recover damages for loss of or injury to any such livestock in transit, wherein the answer of the defendant or defendants shall set up the defense that the shipper, owner or consignee of said livestock failed or neglected to make or

give written or verbal notice or claim of any kind or form to any agent of any carrier or to any carrier which may have participated in the transportation of said livestock, within any specified or particular time less than four months after the happening of such loss, injury or damage, as provided by the terms of any shipping contract, bill of lading or other agreement relating to such shipment, it shall be a sufficient compliance with any such requirement or stipulation in any such shipping contract, bill of lading, or other agreement, that a written notice or claim for such loss, injury or damage was made or given by such shipper, consignee or owner to any general or acting freight agent, claim agent or ticket agent of any one of said carriers within sixty days after the happening of said loss, injury or damage. ('09 c. 467 § 1)

Historical.—"An act to regulate and fix the time within which notice or claim for loss, injury or damage to shipments of livestock in transit may be made or presented to common carriers thereof." Approved April 23, 1909.

2026. Transportation of shippers, etc.—Every such company receiving for shipment live stock by the car load shall without additional charge transport, going and returning, in a caboose, or other suitable car, with the first such car load, one person to care for such stock, and one person in addition for each four additional car loads shipped at the same time. Any company failing to comply with the provisions of this section shall be liable to the shipper for all damages sustained by him by reason of such failure, and any judgment recovered for such damages shall include a reasonable attorney's fee. (R. L. § 2026, as amended by Laws 1909, c. 380, § 1.)

[2026—]1. **Caboose cars.**—It shall be unlawful for any person, corporation or company operating any railroad in the state of Minnesota, to require or permit the use of any caboose cars unless said caboose cars shall be at least twenty-four feet in length, exclusive of platforms, and shall be provided with a door at each end thereof and with suitable water closets, cupolas, platforms, guard rails, grab irons and steps for the safety of persons in alighting or getting on said caboose cars and said caboose cars shall be equipped with at least two four-wheeled trucks. ('09 c. 382 § 1)

Historical.—"An act requiring railroads to provide suitable cabooses on freight trains." Approved April 22, 1909.

By section 3 it is provided that the act shall take effect January 1, 1911.

[2026—]2. **Same—Violation of act—Penalties.**—Any person, corporation or company operating any railroad in the state of Minnesota violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be liable for a penalty of not less than ten dollars nor more than fifty dollars for each offense, and the use of any one caboose car prohibited in section 1 [2026—1] of this act shall constitute a separate offense for every day or part of a day so used, and such penalty shall be recovered in a suit brought in the name of the state of Minnesota in any court having jurisdiction thereof, in any county in or through which such line of railroad may run, by the attorney general of the state or under his direction, or by the county attorney in any county in or through which such line of railroad may be operated. All fines and penalties recovered by the state under this act shall be paid into the treasury of the state of Minnesota. ('09 c. 382 § 2)

2028. Depots and waiting rooms.—Every such railroad company shall provide and maintain at all villages and cities upon its lines, depots with suitable waiting rooms for passengers and rooms for storage of freight. In places of four hundred inhabitants or more, such depots shall have separate waiting rooms for men and women, of sufficient size to accommodate all passengers stopping thereat, and not less than fifteen by eighteen feet in size and ten feet

in height, properly and comfortably furnished, heated, lighted and ventilated, and in such condition open for the reception of passengers for at least one-half hour before and after the arrival of each passenger train. (R. L. § 2028, as amended by Laws 1907, c. 54, § 1.)

Section 2 provides that the act shall take effect January 1, 1908, and repeals inconsistent acts.

[2030—]1. Toilet rooms at depots.—The railroad and warehouse commission of this state is hereby authorized and empowered, on complaint duly made, to order that all railroad companies operating within the State of Minnesota shall provide or cause to be provided suitable toilet rooms in, or immediately adjacent to, every railroad station waiting room located on its lines in this state, and they are hereby required to maintain and keep said toilet rooms in a good sanitary condition. Provided, in case there is no water and sewerage system in towns where railroad station waiting rooms are located, which extends to a point not more than one hundred feet distant from such station waiting rooms; then, and in such case, said railroad companies shall provide and maintain, in good sanitary condition, within a reasonable and convenient distance of said station waiting rooms, a suitable closet or privy. ('05 c. 208 § 1)

Historical.—"An act requiring railroad companies to provide suitable toilet rooms in railroad depots." Approved April 17, 1905.

By section 4 the act took effect June 1, 1905.

[2030—]2. Same—Penalty for violation.—Any railroad company maintaining waiting rooms at their stations in this state, who shall fail to comply with the provisions of section 1[2030—1], of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not exceeding one hundred dollars and costs of prosecution. ('05 c. 208 § 2)

[2030—]3. Same—Power of commission.—The railroad and warehouse commission of the state shall have power to enforce the provisions of this act. ('05 c. 208 § 3)

[2030—]4. Stations—Name of city or village to be used.—Every railway company, telegraph company, express company or other company or corporation doing business as a common carrier which now has or shall hereafter have or maintain any station in any city or village within the State of Minnesota shall publish in its printed matter published for the public, and use as the name of such station only, the name of the city or village in which such station is located or by which such city or village is or may be incorporated. ('05 c. 252 § 1)

Historical.—"An act requiring railway companies, telegraph companies, express companies and other corporations doing the business of a common carrier in the state of Minnesota to use the same name for their stations as the name of the city or village in which such station is located." Approved April 18, 1905.

By section 4 the act took effect July 1, 1905.

[2030—]5. Same—Exceptions.—Every such railway company, telegraph company, express company or other common carrier is hereby prohibited from using or continuing to use within the State of Minnesota a different name for its station from that of the city or village within which such station is located or which is in use by the local government postoffice, unless there is some village or postoffice on the same division of any railroad in this state the name of which is so similar as to be confusing in the dispatch of train orders. ('05 c. 252 § 2)

[2030—]6. Same—Penalty for violation.—Any such railway company, telegraph company, express company or other common carrier failing to comply with the provisions of this act shall forfeit to the city or village where such station is located the sum of

one hundred dollars for each day that such failure shall continue. Provided, that before any such company shall be deemed to be in default the council of the city or village within which such station is located shall notify such company to change the name of such station to the same name as that of such city or village within sixty days after the service of such notice upon such company. ('05 c. 252 § 3)

[2031—]1. **Time of arrival of passenger trains—Bulletin.**—That every corporation, company or person operating a railroad within this state, shall, immediately after the taking effect of this act, cause to be placed in a conspicuous place in each passenger depot of such company, located at any station in this state at which there is a telegraph office, a blackboard of suitable size, upon which such company or person shall cause to be written, at least twenty minutes before the schedule time for the arrival of each passenger train stopping upon such route at such station, the number of the train, the time each train is due and the fact whether such train is on schedule time or not, and if late, how much. But nothing in this act shall be so construed as to compel a railroad company to post the train number, schedule time, and lateness of such trains as arrive or depart from such stations aforesaid when there is not a telegraph operator regularly on duty at the schedule time of the arrival of such train. Provided also that any passenger train not more than ten minutes late shall be deemed to be on time as to the operation of this act. ('05 c. 287 § 1)

Historical.—"An act to provide for the bulletining of the time of the arrival of passenger trains." Approved April 19, 1905.
Section 3 repeals inconsistent acts.

[2031—]2. **Same—Penalty for violation.**—For each willful violation of the provisions of this act in failing to report or in making a false report, such corporation, company or person, so neglecting or so refusing to comply with the provisions of this act, shall forfeit and pay the sum of twenty-five dollars, together with all taxable costs, to be recovered in a civil action to be prosecuted by the prosecuting attorney of the county in which the neglect or refusal occurs, in the name of the State of Minnesota, which shall be paid over to the county in which such proceedings are had, and shall be a part of the road and bridge fund. ('05 c. 287 § 2)

[2031—]3. **Telegraph or telephone operator at depot.**—Every railroad company operating within this state shall keep at its depot in any city or village of over 500 inhabitants, a competent telegraph or telephone operator who shall be on duty for [at] least one-half hour before the scheduled time of arrival of any train receiving or discharging passengers at such depot. Such telegraph or telephone operator shall obtain and communicate upon request of any person, information as to the time of arrival of any delayed train. ('09 c. 173 § 1)

Historical.—"An act requiring railroad companies to have telegraph or telephone operators at their depots in cities and villages of over 500 inhabitants." Approved April 13, 1909.

[2031—]4. **Same—Duty of commission.**—It shall be the duty of the railway and warehouse commission to enforce the provisions of this act. ('09 c. 173 § 2)

2032. New road—Notice to commission—Filing of map, etc.—Every railroad company having constructed any railroad by way of branch or extension, or otherwise, before opening the same to public use, shall notify the commission that the same is finished and in a safe condition for operation, and shall file with said commission a map and profile thereof with table of grades, curvatures and mileage, and a statement of other characteristics of such road and an

itemized statement showing the complete cost thereof; all of the foregoing to be in such form as the commission shall prescribe and to be attested by the oath of the president or other managing officer, and the chief engineer of the company. Before the new line is operated as a public road, the commission shall inspect the same or cause it to be inspected and furnish the company with a certificate showing the compliance with the foregoing conditions, that the road has been inspected and found to be in a safe condition for operation. Provided, however, that whenever it is found desirable to operate any portion of any new railroad built or any new branch or extension, or otherwise, before completion of the same, the commission may on application authorize the operation of such portion thereof pending the completion of the entire road under such terms and conditions as the commission may impose in the interests of the public. (R. L. § 2032, as amended by Laws 1907, c. 260, § 1.)

2033. Stopping trains at crossings.

In general.—The mere fact that a train is about to stop at a railway junction, in accordance with statute, does not justify a passenger in concluding that the train has arrived at the place named as the next station. *Farrell v. Great Northern R. Co.*, 100 Minn. 361, 111 N. W. 388, 9 L. R. A. (N. S.) 1113.

2037. Prevention of fire.—Every company operating a railroad shall use upon each locomotive engine a good and efficient spark arrester, which the master mechanic shall cause to be examined, and the same shall be examined by the locomotive engineer, each time before leaving round house, and the master mechanic and locomotive engineer shall be held responsible for the good condition of the same, but without relieving the company from its responsibility hereunder. Every such company shall keep its right of way clear of combustible materials, except ties and other materials, necessary for the maintenance and operation of the road, from April 15 to December 1. No company shall permit any of its employes to leave a deposit of fire, live coals or ashes in the immediate vicinity of wood land or lands liable to be overrun by fire, and every engineer, conductor or trainman discovering fire adjacent to the track shall report the same promptly at the first telegraph or telephone station reached by him. In dry seasons every such company shall give its employes particular instructions for the prevention and extinguishment of fires, and shall cause warning placards furnished by the forestry commissioner to be conspicuously posted at every station in the vicinity of forest and grass lands, and, when a fire occurs near the line of its road, shall concentrate such help and adopt such measures as shall be available for its extinguishment. In dry seasons every such company shall employ at least one patrolman for each mile of its road through lands liable to be overrun by fire to discover and extinguish fires occurring near the line of the road, by which is meant a distance within which a fire could usually be set by sparks from a passing locomotive. Any company violating any provision of this section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not less than fifty dollars and not exceeding one hundred dollars and costs of prosecution for each offense, and any railroad employe violating the same shall be guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars and costs of prosecution, or by imprisonment in the county jail not exceeding ninety days. (R. L. § 2037, as amended by Laws 1909, c. 182, § 1.)

[2037—]1. **Automatic couplers on freight cars.**—That on and after the first day of July nineteen hundred and eight it shall be unlawful for any railway company or common carrier in moving freight between points in the state to haul or permit to be hauled

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or used on its line any car not equipped with couplers coupling automatically by impact and which can be uncoupled without the necessity of men going between the ends of the cars. (Laws 1907, c. 202, as amended by Laws 1909, c. 488, § 1.)

Historical.—Laws 1907, c. 202, consisting of three sections, entitled "An act to promote the safety of employes of common carriers and railway companies, by compelling them to equip the freight cars with automatic couplers and suitable grab irons or hand holds," approved April 15, 1907, was amended to read as in this section and the nine sections next following by "An act to amend chapter 202, Laws of 1907, relating to automatic couplers and grab irons on freight cars and providing a penalty for violation thereof," approved April 24, 1909 (Laws 1909, c. 488).

Section 11 provides that "the amendments to this act shall take effect and be enforced from and after July 1st, 1909."

[2037—]2. **Grab irons.**—That on and after the first day of July nineteen hundred and eight it shall be unlawful for any railway company or common carrier in moving freight between points in the state to use any car that is not provided with secure grab irons or hand holds in the ends and sides of each car for the greater security to men in coupling and uncoupling cars. ('09 c. 488 § 2)

[2037—]3. **Train brake system.**—That it shall be unlawful for any railroad doing business in the state of Minnesota to use on this line any locomotive in the moving of its trains not equipped with power, driving wheel, brakes and appliances of operating the train brake system or to run any train over its road that has not 75% of the cars in such train equipped with power or train brakes and having the brakes used and operated by the engineer of the locomotive drawing such train, and all power brake cars in such train shall be associated together and have their brakes used and operated. Provided, that this section shall not apply to the handling of trains or cars in yard service, or to a local train while engaged in performing switching service. ('09 c. 488 § 3)

[2037—]4. **Draw bars.**—That it shall be unlawful for any railroad doing business in the state of Minnesota to use any locomotive, tender, car or similar vehicle used in the movement of state traffic, that is not provided with draw bars of standard height, to wit, standard gauge cars 34½ in., narrow gauge cars 26 in. measured perpendicularly from the level of the tops of the rails to the center of the draw bars; the maximum variation from such standard heights between draw bars of empty and loaded cars shall be 3 inches. ('09 c. 488 § 4)

[2037—]5. **Same—Passenger traffic.**—That the provisions of sections 1[2037—1], 3[2037—3] and 4[2037—4] of this act shall also apply to locomotives, cars and trains used in passenger traffic in the state of Minnesota, in so far as the same are applicable to the vehicles used in passenger train traffic. ('09 c. 488 § 5)

[2037—]6. **Same—Cars from connecting lines.**—That any such common carrier may refuse to receive from connecting lines or from any shipper any car not equipped in accordance with the foregoing sections of this act. ('09 c. 488 § 6)

[2037—]7. **Same—Assumption of risk—Contributory negligence.**—That any employé of any such common carrier who may be killed or injured by any locomotive, tender, car, similar vehicle, or train, in use contrary to the provisions of this act, shall not be deemed thereby to have assumed the risk thereby occasioned, although continuing in the employment of such carrier after the unlawful use of such locomotive, tender, car, similar vehicle, or train has been brought to his knowledge, nor shall such employé be held to have contributed to his injury in any case where the carrier shall have violated any provision of this act, when such violation contributed to the death or injury of such employé. ('09 c. 488 § 7)

[2037—]8. **Same—Powers of commission.**—The railroad and warehouse commission of Minnesota may from time to time after full hearing and for good cause shown, increase the minimum percentage of cars in a train required to be operated by power or train brakes, and a failure to comply with any requirement of said commission shall be subject to a like penalty as a failure to comply with any requirement of this act. The said railroad and warehouse commission of Minnesota is hereby authorized to grant to any common carrier subject to this act, upon full hearing and for good cause shown, a reasonable extension of time in which to comply with the provisions of this act; provided, that in no case shall such extension or extensions in the aggregate, exceed the period of eighteen months from and after the approval of this act. ('09 c. 488 § 8)

[2037—]9. **Same—Penalty for violation.**—That every railroad or the receiver thereof, using or permitting to be used on its line or to be hauled on its line, any locomotive, tender, car or similar vehicle or train in violation of any of the provisions of this act shall be liable to the state of Minnesota for a penalty of one hundred dollars for each offense and such penalties shall be recovered in a suit brought in the name of the state of Minnesota, in any court having jurisdiction thereof, in any county in or through which such line of railroad may run, by the attorney general of the state or under his direction, or by the county attorney in any county in or through which such line of railroad may be operated. All fines and penalties recovered by this state under this act shall be paid into the treasury of the state of Minnesota. Provided, that nothing in this act contained shall apply to locomotives, tenders, cars or similar vehicles or trains when the height of the draw bars on such locomotives, tenders, cars, similar vehicles or trains does not exceed twenty-five inches in height or any of which are in actual use in interstate commerce. ('09 c. 488 § 9)

[2037—]10. **Same—Duty of commission.**—It shall be the duty of the railroad and warehouse commission to have this law enforced. ('09 c. 488 § 10)

2038. Abandonment of road.—No company operating any line of railroad in the State of Minnesota shall abandon the same or any portion thereof, nor shall it abandon any siding, sidetrack, spur or other railway track of any kind which has once been opened and used for business, nor shall it close for traffic thereon except as provided in section 2039 as the same is hereinafter amended. Any company violating any provision of this section shall forfeit to the state not less than two hundred dollars nor more than one thousand dollars for each day such violation continues. (R. L. § 2038, as amended by Laws 1907, c. 261, § 1.)

2039. Procedure for abandonment.—Any such company desiring to abandon or close for traffic any portion of its line, siding, sidetrack, spur or other railway track, shall first make application to the commission in writing. Before passing upon such application the commission shall fix a time and place for hearing and require such notice thereof to be given as it deems reasonable. Upon the hearing, the commission shall ascertain the facts and make findings thereon, and if such facts satisfy the commission that the proposed abandonment or closing for traffic will not result in substantial injury to the public, they may allow the same, otherwise, it shall be denied, or, if the facts warrant it, the application may be granted in a modified form. (R. L. § 2039, as amended by Laws 1907, c. 261, § 2.)

2040. Action against company.—Whenever any such railway company has abandoned, taken up, or ceased to operate, or has

closed for traffic any portion of its line for thirty days without having complied with the requirements of section 2039, any town, municipality, corporation or individual which has issued bonds or given promissory notes or other thing of value to such railway company as an inducement or aid to or in the construction of the line ceased to be operated or closed for traffic as aforesaid, may recover the same, or the value thereof, in an action against said company in the district court of any county wherein such road or any portion thereof has been abandoned or closed for traffic, or the operation of which has ceased as aforesaid. The foregoing provisions shall not apply to logging or ore roads constructed and used exclusively for logging or mining purposes, nor shall it apply to any railroad which is not a common carrier. (R. L. § 2040, as amended by Laws 1907, c. 261, § 3.)

2041. Fire caused by engine—Insurable interest.—Each railroad corporation owning or operating a railroad in this state shall be responsible in damages to every person and corporation whose property may be injured or destroyed by fire communicated directly or indirectly by the locomotive engines in use upon the railroad owned or operated by such railroad corporation, and each such railroad corporation shall have an insurable interest in the property upon the route of the railroad owned or operated by it and may procure insurance thereon in its own behalf for its protection against such damages. (R. L. § 2041, as amended by Laws 1909, c. 378, § 1.)

Section 2 repeals inconsistent acts.

Presumption of negligence—Burden of proof.—This section throws the burden of proof upon defendant to rebut the presumption of negligence, upon proof by plaintiff that a fire was kindled upon his lands adjoining the track by sparks from the locomotive. Defendant may rebut the presumption by sufficient proof of its nonconnection as cause, or of such construction, equipment, maintenance, and operation of the engine as was required in the exercise of care commensurate with all the circumstances of the case. Unless the rebutting evidence is conclusive as to facts and reasonable inferences therefrom, the question is for the jury. *Continental Ins. Co. v. Chicago & N. W. R. Co.*, 97 Minn. 467, 107 N. W. 548, 5 L. R. A. (N. S.) 99.

The presumption of negligence or of defects in machinery from scattering fire, raised by G. S. 1894, § 2700, was created to change the burden of proof. When this has been done, and the evidence has been adduced, it is *functus officio*, and it cannot be used to raise an issue which the evidence does not present. *Woodward v. Chicago, M. & St. P. R. Co.*, 145 Fed. 577, 75 C. C. A. 591.

2042. Negligence of fellow servant.

Constitutionality.—The equal protection of the laws is not denied by construing the proviso excepting cases of injuries sustained by railway employes "while engaged in the construction of a new road or any part thereof not open to public travel or use," from the provisions of G. S. 1894, § 2701, abrogating the fellow servant rule, as only exempting incomplete railroads, and therefore as not excepting from the operation of the statute an accident on a narrow-gauge track on which dump cars were run by a mining company for the purpose of stripping the earth from the surface of its mine. *Minnesota Iron Co. v. Kline*, 199 U. S. 593, 26 Sup. Ct. 159, 50 L. Ed. 322.

To what companies applicable.—G. S. 1894, § 2701, applies to a mining corporation which is not a railroad corporation, but which operates a short line of railroad in mining its ore, and under such statute a brakeman employed on such road does not assume the risk from negligence of an engineer also so employed. *Mahoning Ore & Steel Co. v. Blomfelt*, 163 Fed. 827, 91 C. C. A. 390.

To what servants applicable.—Where plaintiff, a sectionman in the employ of defendant, while engaged with his foreman in repairing a side track in its railway yard, which necessitated taking out a rail and putting another in its place, was injured by the negligence of his foreman in releasing his hold upon a rail without warning and letting it fall upon him, it was a question for the jury whether plaintiff's employment involved an element of hazard peculiar to railroad business. *Tay v. Willmar & S. F. R. Co.*, 100 Minn. 131, 110 N. W. 433.

A railroad hazard may exist when the work engaged in is so intimately connected with the movement of engines and trains as to render it more dangerous. Removing merchandise from wrecked cars, the result of a collision, may embrace

elements of danger peculiar to railroading. *Hanson v. Northern Pac. R. Co.*, 121 N. W. 607.

Who liable.—A railroad company is liable to its servants for the negligence of the employes of a union depot company, whose duty it is to operate the switches and direct the movement of the trains out of the depot yards. A switchman, required to ride on his engine while assisting in pulling a train out of the depot yards, may recover from the railroad company for injuries received by reason of the negligence of the depot company servants in operating a switch. *Floody v. Great Northern R. Co.*, 102 N. W. 81, 112 N. W. 875, 1081, 13 L. R. A. (N. S.) 1196.

2043. License for ticket agents.—Every corporation, common carrier, firm, or person, operating any line of railroad, steamboat line, or steamboat, shall furnish to each of its authorized ticket agents a certificate of agency duly signed by or on behalf of such carrier, and, in case of a corporation, attested by its corporate seal. Upon presentation of such certificate and payment of a license fee of three dollars, the secretary of state shall issue to such agent a license to sell transportation tickets for such carrier. Such certificate and license shall be kept conspicuously posted in the office of such agent, and no person not so licensed shall sell any ticket or other evidence of right to passenger transportation. It is hereby made the duty of every corporation, common carrier, firm, or person operating any line of railroad, steamboat line or steamboat, on or before the first day of January, July of each year, to file with the secretary of state, a duly authenticated list of its ticket agents in this state. Any person not so licensed who shall sell, barter, or otherwise transfer any such ticket or other evidence of right to passenger transportation or any part thereof, shall be guilty of a gross misdemeanor. Provided, however, that the provisions of this act shall not apply to persons, firms or corporations operating street railways, electric railroads or power boats in connection therewith. (R. L. § 2043, as amended by Laws 1909, c. 143, § 1.)

2044. Redemption of unused tickets.

Prior laws—Constitutionality.—Laws 1893, c. 66, entitled "An act to regulate the sale and redemption of transportation tickets of common carriers, and to provide punishment for the violation of the same," did not violate the state or the federal Constitution. *State v. Manford*, 97 Minn. 173, 106 N. W. 907.

[2044—]1. **Mileage tickets.**—All passenger mileage tickets or books hereafter issued by railroad companies operating lines in this state, except interchangeable mileage now in use, shall be good until used, and shall be transferable by delivery and good for travel in the hands of the holder thereof between stations in Minnesota. ('05 c. 221 § 1)

Historical.—"An act providing that certain mileage books or tickets issued by railroad companies shall be transferable." Approved April 17, 1905.

By section 3 the act took effect July 1, 1905.

[2044—]2. **Same—Railroad company not liable, when.**—Railroad companies accepting such mileage tickets shall not be liable to the owner of such ticket in case they are used by persons not legally entitled to use the same. ('05 c. 221 § 2)

STORAGE AND SHIPMENT OF GRAIN.

TERMINAL WAREHOUSES.

2049. Storage and inspection—Warehouseman's duties—Receipts.—Every such warehouseman shall receive for storage and shipment, so far as the capacity of his warehouse will permit, all grain in suitable condition for storage, tendered him in the usual course of business, without discrimination of any kind. All grain shall be inspected on receipt and stored with other grain of the same grade. A warehouse receipt in the following form shall be issued:

STUB RECORD.

Warehouse Receipt No. Elevator Co.
 Minn., 190.....

Countersigned by Secretary.

The Elevator Company has received in store in its elevator known as..... situated at Minnesota, for storage from owner, bushels of..... which has been duly inspected by a duly authorized inspector of grain appointed by the State Railroad and Warehouse Commission of Minnesota, and has been graded by said inspector as No....., and is that grade. Said grain, or an equal amount of grain of the same kind and grade is deliverable upon the return of this receipt properly indorsed by the owner above named and the payment of all lawful charges; in case of grain stored separately in a special bin, at the request of the owner or consignee, the identity of such grain will be preserved while in store and said grain will be delivered as such separate lot or parcel, in accordance with law, upon surrender of the receipt. Loss by fire, heating or the elements is at owner's risk.

The..... Elevator Company conducts said elevator as a public terminal warehouse and receives and stores therein grain of others for hire.

..... Bushels Grade.

 By

| | | | | | | |
|-----------------------------|--------------|-------------|--------------|--------------|-------------|--------------|
| Receipt No. | | | | Initial..... | Car No..... | Bushels..... |
| 190..... | | | | | | |
| Received in store from..... | | | | Initial..... | Car No..... | Bushels..... |
| | | | | | | |
| Bush..... | Lbs..... | Grade..... | | Initial..... | Car No..... | Bushels..... |
| Car No..... | Bushels..... | Car No..... | Bushels..... | | | |
| | | | | | | |

The receipts shall be consecutively numbered and delivered to the owner immediately upon receipt of each lot or parcel of grain, giving the true and correct grade and weight thereof. The manner of receipt of such grain shall be stated in the receipt, with the number and distinctive mark of each car, and the name of each barge or

other vessel. The failure to issue such receipt as directed or the issuance of any warehouse receipt differing in form or language from that prescribed shall be a misdemeanor. (R. L. § 2049, as amended by Laws 1907, c. 303, § 1.)

2052. Bond.—Every person applying for a license for a terminal warehouse at Minneapolis, St. Paul, or Duluth, shall file with the commission a bond to the state in a penal sum to be fixed by such commission, not less than fifty thousand dollars, conditioned for the faithful discharge of his duties as such warehouseman, and full compliance with all the laws of the state and rules of the commission relative thereto. If such warehouseman apply for a license for more than one warehouse in the same county, but one bond need be given. (R. L. § 2052, as amended by Laws 1909, c. 82, § 1.)

Section 2 repeals inconsistent acts.

2053. Special bins.—At the request of the owner or consignee, such warehouseman shall subject to the rules made by the commission, store any grain of the same owner or consignee, in separate bins, which grain shall then bear the name of the owner or consignee. The warehouseman shall issue to the owner or consignee, distinguishing whether owner or consignee, a warehouse receipt or receipts for all or any part of such grain. Every such receipt shall give the name of the owner or consignee and state the amount, kind and grade of grain for which the receipt is issued, and that the grain of such owner or consignee is stored separately from the grain of any other owner or consignee. The warehouseman shall, on presentation and surrender of the warehouse receipt bearing the proper endorsement of the person to whom it was issued, deliver to the person surrendering the receipt such amounts of the same grain as may be demanded and on the same grade as called for by the receipt. The warehouseman at the request of the owner or consignee may clean, dry, mix, or otherwise improve the condition or value of such grain, and it shall be delivered separately from the grain of any other owner or consignee upon the order of the owner or consignee, as called for by the warehouse receipts issued therefor and endorsed by such owner or consignee. (R. L. § 2053, as amended by Laws 1909, c. 82, § 1.)

2060. Boards of grain inspection.—The boards heretofore known as the boards of appeals for the inspection of grain at Minneapolis and at Duluth shall hereafter be known as "The Minneapolis Grain Inspection Board" and "The Duluth Grain Inspection Board," respectively. Each board shall consist of three members appointed by the governor, who shall have the same qualification as grain inspectors, and not more than two of whom shall be of the same political party. Their term of office shall be for three years from August 1st succeeding their appointment, and until their successors qualify, except as hereinafter provided. At the expiration of the terms of the present members, on or before August 1st, 1909, the governor shall appoint one member of each of the above named boards to serve for one year, one member of each board to serve for two years and one member of each board to serve for three years. The governor may remove any member and fill any vacancy for the unexpired term. Members of either board shall have a right to act at either Duluth or Minneapolis. (R. L. § 2060, as amended by Laws 1909, c. 158, § 1.)

2069. Appeals.—Any owner, consignee or shipper of grain, or any warehouseman, who is dissatisfied with the inspection of grain by any chief or deputy inspector, may appeal from his decision to the nearest grain inspection board by filing notice of such appeal with the chief deputy inspector and paying a fee, to be fixed by the

commission, which shall be refunded if the appeal is sustained. Such deputy inspector shall forthwith transmit the notice to said board of appeals. The decision of said board, fixing the grade of such grain, shall be final. (R. L. § 2069, as amended by Laws 1907, c. 55, § 1.)

[2079—]1. Certificates not issued under state authority—Use of certain words prohibited.—Any person who is not connected with the state weighing department is hereby prohibited from using the term “weighmaster,” “state weighmaster,” any representation of the seal of the state, or any other words or device calculated or tending to indicate that the certificate or receipt is issued under state authority, or to otherwise deceive or mislead the public or any person interested, when issuing certificates or receipts purporting to show the weight of grain, hay or straw; provided, that where weighing is done under the authority of the charter or an ordinance of any city or village, or under the auspices of any incorporated chamber of commerce, board of trade or exchange, any certificate or receipt issued therefor shall on its face plainly show its source and the signature of the person signing the same shall be followed by a designation plainly showing the capacity in which the said signer is acting, and the term “weighmaster” may be a part of such designation. Provided, further, that every such certificate or receipt issued by anyone other than the duly authorized representatives of the state weighing department, shall have plainly stamped or printed across its face in red ink in letters not less than one-quarter of an inch high, the words, “This Certificate is Not Issued Under State Authority.” (’07 c. 78 § 1)

Historical.—“An act to provide against fraud or deception in issuing receipts or certificates for grain, hay or straw weighed.” Approved March 28, 1907.

[2079—]2. Same—Penalty for violation.—Any person found guilty of violating section 1 [2079—1] of this act shall be guilty of a misdemeanor. (’07 c. 78 § 2)

LOCAL WAREHOUSES.

[2085—]1. Commission may determine when to be open.—The railroad and warehouse commission, after hearing, may determine when it is necessary for any person operating a local warehouse to keep the same open for business in order to properly serve the public. (’07 c. 73 § 1)

Historical.—“An act to authorize the railroad and warehouse commission to fix time when local warehouseman shall keep house open for business.” Approved March 28, 1907.

[2085—]2. Same—Failure to keep open—Penalty.—Any person operating such local warehouse who shall fail to keep the house open for business during the time fixed by the commission, after receiving written notice of the same, shall be deemed guilty of a misdemeanor. (’07 c. 73 § 2)

2087. Storage—Duties of warehouseman—Receipts.—Every public warehouseman shall receive for storage and shipment, so far as the capacity of his warehouse will permit, all grain in a suitable condition for storage tendered him in the usual course of business without discrimination of any kind. A warehouse receipt shall be issued to the party delivering the grain, which shall state the place and date when the grain was received, the name and residence of the owner of the grain, the kind and grade of the grain, the gross weight, dockage and net weight of the grain as per Minnesota standard weight, and in addition thereto such receipt shall contain, either on its face or reverse side, the following specific warehouse and storage contract: “This grain is received, insured and stored

under the following conditions: The maximum charges for receiving, insuring, handling, storing fifteen days and delivering grain is two cents per bushel. Storage after the first fifteen days, one-half cent per bushel for each fifteen days or part thereof, for the first three months; after that one-half cent per bushel for each thirty days or part thereof. If grain is cleaned at owner's request, one-half cent per bushel. This grain has been received and stored with grain of the same lawful grade. Upon the return of this receipt and payment or tender of stated lawful charges accrued up to the time of said return of this receipt, the above amount, kind and grade of grain will be delivered within the time prescribed by law to the person above named, or his order, either from this warehouse, or if the owner so desires, in quantities not less than a carload on track at any terminal point upon the same line of railway within this state, designated by said owner, where state inspection and weighing is in force, the grade and weight thereof to be determined by state inspection and weighing as provided by law." Attached to the receipt shall be a stub record stating number and date of receipt and the gross weight, dockage and net weight; such stub record to remain in the possession of the warehouseman for inspection by the commission or interested parties. The receipts shall be consecutively numbered and delivered to the owner immediately upon receipt of each lot or parcel of grain giving the true and correct grade and weight thereof. Any provision or agreement in such receipt not contained in the aforesaid specific warehouse and storage contract shall be void. The failure to issue such receipt as directed, or the issuance of slips, memoranda or any other form of receipt embracing a different warehouse or storage contract, shall be deemed a misdemeanor, and no such slip, memoranda, or other form of receipt shall be admissible in evidence in any civil action. (R. L. § 2087, as amended by Laws 1907, c. 230, § 1, and Laws 1909, c. 384, § 1.)

Historical.—"An act to amend section 2087 of the Revised Laws of 1905, as amended by chapter 230 of the General Laws of 1907." Approved April 22, 1909. Section 2 enacts the section next following. Section 3 repeals inconsistent acts. See Laws 1905, c. 302.

[2087—]1. **Purchase by warehouseman—Receipt.**—There may be printed on such storage receipts a receipt to be executed in case such storage receipt is purchased by such warehouseman, such receipt to be executed in the presence of the owner of such storage receipt and signed by him, and the warehouseman shall also record such purchase as to the total amount paid and the amount paid per bushel on the stub record of his storage receipt book. Such receipt shall be in substantially the following language and form:

Received from.....Elevator Company.....dollars and storage, in full payment for the grain represented by this storage receipt. Gross price.....cents, storage.....cents, net price.....cents. All blank spaces in this receipt were filled in before the same was signed by me, and I hereby certify that I am the owner of the grain for which this receipt was issued and that there are no liens, chattel mortgages or other claims against the grain represented by this receipt.

Signed.....
Owner.

Date.....19....

Provided, that nothing in this section contained shall be construed to affect in any manner the conditions of the storage contract specified in section 1 [2087] of this act. (Laws 1907, c. 230, § 2, as amended by Laws 1909, c. 384, § 2.)

See note under section next preceding.

2088. Delivery of grain.—On the return and surrender of any receipts and payment of lawful charges, the grain represented therein shall be immediately deliverable to the owner, or his order, and shall not be subject to any further charge for storage after demand for delivery shall have been made and facilities for receiving and shipping the same have been provided. If not delivered within twenty-four hours after such demand, the warehouseman shall be liable to the owner in damages not exceeding one cent a bushel for each day's delay unless he shall deliver to different owners in the order demanded as rapidly as it can be done by ordinary diligence. In case that terminal delivery of grain is demanded, the warehouseman shall forthwith issue and deliver to the owner or his order a surrender receipt, such receipt to state the date, name of owner, the grade, gross weight, dockage and net weight of the grain represented by such receipt, making such grain deliverable in its net amount at any terminal market in the state designated by the owner of said receipts on the same line of railroad, such grain to be subject to the usual freight, inspection, weighing and switching charges when it arrives at the terminal so designated, the freight to be computed on the basis of the gross weight of the grain represented by such surrender receipt. The owner of the receipts may at his option order a car in which the grain covered by his surrender receipt is to be transported, and in such case the grain shall be delivered immediately when the car so ordered is placed at the warehouse. (R. L. § 2088, as amended by Laws 1909, c. 69, § 1.)

[2090—]1. Grain—Standard bushel.—No person purchasing, selling or storing grain in any public local warehouse in this state, as the same is now or may be hereafter defined by law, shall use any other measure for such grain than the standard bushel, and no other number of pounds shall be used or called a bushel than the number of pounds provided by law as the standard weight of the kind of grain in question. ('07 c. 252 § 1)

Historical.—“An act prescribing a uniform method of handling grain in public local warehouses, prohibiting irregular practices in the buying and selling of grain and prescribing penalties therefor.” Approved April 20, 1907.

By section 4, R. L. § 2098 is repealed.

Laws 1907, c. 252, cited in *State v. Duluth Board of Trade*, 107 Minn. 506, 121 N. W. 395.

[2090—]2. Same—Pooling prohibited.—It shall be unlawful for any person, firm or corporation engaged in the buying, selling or handling of grain in any public local warehouse in this state, or for the local agent in charge of such warehouse, or any other agent of the person, firm or corporation, operating the same, to enter into any contract, agreement, combination or understanding, with any other person, firm or corporation, owning or operating any other public local warehouse at any railway station, their agent or agents, whereby the amount of grain to be received or handled by said warehouses, at such station, shall be equalized or pooled between said warehouses, or whereby the profits or earnings derived from said warehouses shall be divided or pooled, or apportioned in any manner, or whereby the price to be paid for any kind of grain at such station shall be fixed or in any manner affected, and each day of the continuance of any such agreement, contract or understanding shall constitute a separate offense. ('07 c. 252 § 2)

Laws 1907, c. 252, § 2, cited in *State v. Duluth Board of Trade*, 107 Minn. 506, 121 N. W. 395.

See note under section 5168.

[2090—]3. Same—Penalty for violation—Revocation of license.—Any person, firm, or corporation, or any officer or agent of any person, firm or corporation, who shall violate the provisions of this

act shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars or more than one hundred dollars, and by imprisonment in the county jail for not less than thirty days, or more than three months. The railroad and warehouse commission of this state shall have the power, and it shall be their duty, whenever they find, after a hearing, that the provisions of this act have been violated by any person holding a license to conduct a public warehouse in this state, to revoke and annul such license, and in such case no new license shall be granted to the person whose license is so revoked nor to any one either directly or indirectly engaged with him in said business, for the period of one year. ('07 c. 252 § 3)

2091. Reports to commission.—Every such warehouseman shall on or before the fifteenth day of July in each year render such commission on blanks or forms prepared by it an itemized and verified report of all business transacted by him as a public warehouseman during the year beginning July 1st of the preceding year and ending June 30th of the current year. Such report shall state the grade, gross weight and dockage of all grain of various kinds in his warehouse at the beginning of the year, the grade, gross weight and dockage of all grain received, the grade, gross weight and dockage of all grain shipped or delivered from such warehouse, and the grade, gross weight and dockage of all grain remaining in the warehouse at the end of the year, and such report shall particularly specify and account for any overage or shortage in any kind of grain accruing during the year. Such report shall also state the weight basis upon which all such grain has been received, and the weight basis on which the same has been shipped or delivered. The commission may also require special reports from such warehousemen at such times as the commission may deem expedient. The commission may cause every such warehouse and the business thereof and the mode of conducting the same to be inspected by one or more of its members or by its authorized agent whenever deemed proper, and the property, books, records, accounts, papers and proceedings of every such warehouseman shall at all times during business hours be subject to such inspection. (R. L. § 2091, as amended by Laws 1907, c. 112, § 1.)

MISCELLANEOUS PROVISIONS.

2092. Delivery for storage a bailment.

Taxation.—Wheat held in storage is not taxable to the warehouseman. *State v. Northwestern Elevator Co.*, 101 Minn. 192, 112 N. W. 68, 1142.

2097. Warehouse receipts, etc., transferred by indorsement.

Bill of lading—When stamped “not negotiable.”—A bill of lading, upon which was stamped, “Not negotiable, unless delivery is to be made to the consignee or order,” was exempt from the provision of G. S. 1894, § 7649, and the rights of parties thereunder were determined by common-law principles. A railway company, which, after issuing such a bill, delivered the goods to the consignee named therein, without requiring the bill to be produced, did so at its peril.—*Barnum Grain Co. v. Great Northern R. Co.*, 102 Minn. 147, 112 N. W. 1030, 1049.

[2097—]1. Bill of lading—Order bill of lading defined.—That whenever any common carrier, railroad or transportation company (hereinafter termed carrier) shall issue a bill of lading for the transportation of property from one place to another within this state, or between places one of which is within this state, which bill shall be, or purport to be, drawn to the order of the shipper or other specified person, or which shall contain any statement or representation that the property described therein is, or may be deliverable upon the order of any person therein mentioned, such

bill shall be known as an "Order Bill of Lading" and shall conform to the following requirements:

(a) In connection with the name of the person to whose order the property is deliverable, the words "Order of" shall prominently appear in print on the face of the bill, thus "Consigned to Order of"

(b) The bill shall be printed on yellow paper, 8½ inches wide by 11 inches long.

(c) It shall contain on its face the following provision: "The surrender of this original order bill of lading properly indorsed shall be required before delivery of the property."

(d) It shall not contain the words "not negotiable" or words of similar import. If such words are placed on an order bill of lading, they shall be void and of no effect.

(e) Nothing herein shall be construed to prohibit the insertion in an order bill of lading of other terms or conditions not inconsistent with the provisions of this act; but it shall be unlawful to insert in such bill any terms or conditions contrary to, or inconsistent with, such provisions and it shall be unlawful for any carrier to insert in such bill any term or condition limiting the liability of such carrier for actual loss. ('09 c. 414 § 1)

Historical.—"An act relating to bills of lading." Approved April 22, 1909. Section 9 repeals inconsistent acts. Section 10 provides that the act shall take effect April 1, 1910.

[2097—]2. Same—Straight bill of lading defined.—Whenever a bill of lading is issued by a carrier for the transportation of property from one place to another within this state, or between places one of which is within this state, in which the property described therein is stated to be consigned or deliverable to a specified person, without any statement or representation that such property is consigned or deliverable to the order of any person therein named. Such bill shall be known as a "straight bill of lading," and shall contain the following requirements:

(a) The bill shall be printed on white paper 8½ inches wide by 11 inches long.

(b) The bill shall have prominently stamped upon its face the words "not negotiable."

(c) Nothing herein shall be construed to prohibit the insertion in a straight bill of lading of other terms or conditions not inconsistent with the provisions of this act; but it shall be unlawful to insert in such bill any terms or conditions contrary to or inconsistent with such provisions. ('09 c. 414 § 2)

[2097—]3. Same—Penalty for violating requirements.—Every carrier, or officer, agent or servant of a carrier, who shall knowingly violate any of the requirements stated in subdivisions (a), (b), (c), (d), or (e) of section 1 [2097—1] and in subdivisions (a), (b) or (c) of section 2 [2097—2] shall be guilty of a misdemeanor and punishable by fine of not more than one thousand dollars or imprisonment not more than one year, or both. ('09 c. 414 § 3)

[2097—]4. Same—Issue of false bill or unmarked duplicate unlawful.—It shall be unlawful for any carrier, or for any officer, agent or servant of a carrier, to issue an order bill of lading or a straight bill of lading, as defined by this act, until the whole of the property as described therein shall have been actually received and is at the time under the actual control of such carrier, to be transported or to issue a second or duplicate order bill of lading or straight bill of lading for the same property, in whole or in part, for which a former bill of lading has been issued and remains outstanding and uncanceled, without prominently marking across the face of the same the word "duplicate." ('09 c. 414 § 4)

[2097—]5. **Same—Penalty and civil liability for violation.**—Every carrier, or officer, agent or servant of a carrier, who knowingly violates the provisions of section 4 [2097—4] of this act and every person who negotiates or transfers for value a bill of lading known by him to have been issued in violation of said section 4 [2097—4] shall be guilty of a misdemeanor and upon conviction shall be punished by fine not exceeding five thousand dollars or imprisonment not exceeding five years, or both. And every carrier who himself, or by his officer, agent or servant authorized to issue bills of lading, issues a false or duplicate bill of lading in violation of the provisions of section 4 [2097—4] of this act, shall be estopped, as against all and every person or persons injured thereby who shall acquire any such false or duplicate bill of lading in good faith and for value, to deny the receipt of the property as described therein, or to assert that a former bill of lading has been issued and remains unstanding and uncanceled for the same property, as the case may be; and such issuing carrier shall be liable to any and every such person for all damages, immediate or consequential, which he or they may have sustained because of reliance upon such bill, whether the person or persons guilty of issuing or negotiating such bill shall have been convicted under this section or not. ('09 c. 414 § 5)

[2097—]6. **Same—Penalty upon shipper without title.**—Every person who receives from a carrier and fraudulently negotiates for value an order or straight bill of lading representing property to which he had no, or an encumbered title, at the time of the negotiation of such bill, shall be guilty of a misdemeanor and upon conviction shall be punished by fine not exceeding five thousand dollars or imprisonment not exceeding five years, or both. Provided, however, that it shall be a full and complete defense to any prosecution under this act that any person, corporation or co-partnership accused has complied with the requirements of any law of the United States hereafter enacted by the congress of the United States relating to uniform bills of lading. ('09 c. 414 § 6)

[2097—]7. **Same—Surrender of order bill.**—It shall be unlawful for any carrier, or officer, agent or servant of a carrier, to deliver the property described in an order bill of lading without requiring surrender and making cancellation of such bill, or in case of partial delivery, indorsing thereon a statement of the property delivered; provided, that in lieu of such delivery, it shall be lawful for the carrier, or his officer, agent or servant in his behalf, to take from the person to whom such property is delivered a good, sufficient and valid bond in the sum double the value of the property, conditioned that such person shall, within a reasonable time thereafter, deliver to the carrier the original order bill of lading issued for said property or shall pay the value of said property to the carrier upon demand, and upon the execution and delivery of said bond as aforesaid, it shall be lawful for the carrier, or his officer, agent or servant, to deliver the goods to the person claiming title thereto, without requiring the immediate surrender of said order bill of lading. Every carrier, or officer, agent or servant of a carrier, who knowingly violates the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be punished by fine not exceeding five thousand dollars or imprisonment not exceeding five years, or both. And every carrier who by himself, or by officer, agent or servant authorized to deliver goods upon surrender of an order bill of lading, violates the provisions of this section, shall be estopped as against all and every person or persons injured thereby who shall acquire in good faith and

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for value any such order bill of lading, from asserting that the property as described therein, has been delivered: and such delivering carrier shall be liable to any and every such person for all damages, immediate or consequential, which he or they may have sustained because of reliance upon such bill, whether the person or persons violating this section have been convicted of such violation or not. Provided, that the provisions of this section shall not apply where the property is replevied or removed from the possession of the carrier by operation of law; or has been lawfully sold to satisfy the carrier's lien; or in case of sale or disposition of perishable, hazardous or unclaimed goods in accordance with law or the terms of the bill of lading. ('09 c. 414 § 7)

[2097—]8. **Alteration.**—Any material alteration, addition or erasure in or to an order bill of lading or a straight bill of lading, fraudulent or otherwise, shall be without effect and in the hands of a bona fide holder for value, not a party to the alteration thereof, such bill shall be valid and may be enforced according to its original tenor. Provided, however, that an alteration, addition or erasure in or to any such bill of lading with signature thereto indorsed thereon, by the issuing carrier, or his officer, agent or servant in his behalf, and with the consent of the holder thereof, shall be valid and effective. ('09 c. 414 § 8)

2098. [Repealed.]

See note under section [2090—] 1.

Cited in *State v. Duluth Board of Trade*, 107 Minn. 506, 121 N. W. 395.

[2100—]1. **Sealing devices for scales—Duty of commission.**—The railroad and warehouse commission, hereafter called the commission, is hereby authorized and directed to inspect all sealing devices made for the purpose of sealing scales known to be on the market, and to officially approve any device considered by the commission to be a proper and safe device to be used in the sealing of scales. ('09 c. 319 § 1)

Historical.—"An act to authorize the railroad and warehouse commission to select and approve a proper sealing device and to require the equipment of all scales under the jurisdiction of the commission with the same." Approved April 21, 1909.

[2100—]2. **Same—Sealing device, when required.**—When directed to do so by the commission, any person or company owning and operating a scale under the jurisdiction of the commission is hereby required to install such scale with some sealing device which has the official approval of the commission. ('09 c. 319 § 2)

[2100—]3. **Same—Failure to install—Tampering with device—Penalties.**—Any person or company failing within thirty days after notice to install such sealing device when directed to do so by the commission, shall be subject to a penalty in the sum of one hundred dollars. It shall be a felony for any person to change, break or tamper with, or cause to be changed, broken or tampered with, the sealing device or sealing thereof after the same has been properly installed and inspected by some authorized agent of the commission. ('09 c. 319 § 3)

[2105—]1. **Inspection and weighmaster's certificates.**—Every elevator company, corporation, co-partnership, association or individual, operating any elevator, building or place in this state for the purchase, storage or deposit of any grain or other farm commodity, shall be entitled to receive from, and shall demand of, the officer whose duty it is to issue the same, the official certificate of inspection in duplicate, together with the weighmaster's certificate in duplicate for any grain or other farm commodity shipped from

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any such elevator, building or place and inspected and weighed as provided by the laws of this state. ('09 c. 344 § 1)

Historical.—"An act regulating the issuing of certificates of inspection and weight of grain or other farm commodity weighed or inspected under the laws of this state, and requiring such certificates to be delivered to the local buyers of such grain or farm commodity, and providing penalty for failure to comply with this act." Approved April 21, 1909.

[2105—]2. **Same—Duplicate to be delivered to buyer, etc.**—Within ten days from the delivery of any such certificate as provided in section one [2105—1] of this act, the company, corporation, co-partnership, association or individual receiving the same shall deliver to the local buyer at the place where such grain or other farm commodity is purchased, stored or deposited, one of said duplicate certificates and the same shall be retained by such local buyer in his office or place of business for thirty days thereafter and be subject to examination by any person or persons desiring to inspect same. ('09 c. 344 § 2)

[2105—]3. **Same—Failure to deliver—Penalty.**—Any company, corporation, co-partnership, association or individual mentioned in section one [2105—1] of this act, who shall fail to deliver any certificate mentioned in this act within the time and as provided in section 2 [2105—2] of this act, shall be guilty of a misdemeanor, and the weight and grade of the grain or other farm commodity, as shown by the records of the local buyer, shall be taken as a basis of settlement between the local buyer of any such grain or farm commodity and the company, corporation, co-partnership, association or individual failing to deliver said certificate. ('09 c. 344 § 3)

ELEVATOR SITES.

2106. Use of right of way for warehouse.

In general.—A railway company, being under no legal obligations to grant the privilege of building an elevator upon its right of way, may grant the privilege by contract on condition that it shall not be responsible for damages caused by fires resulting from the operation of its engines. *Quirk Milling Co. v. Minneapolis & St. L. R. Co.*, 98 Minn. 22, 107 N. W. 742.

PUBLIC HAY TRACKS.

[2113—]1. **Terminal points.**—Terminal points as designated by this act shall mean the cities of St. Paul, Minneapolis, Duluth and South St. Paul. ('05 c. 196 § 1)

Historical.—"An act providing for the establishment of public hay tracks and the weighing and inspection of hay and straw at terminal points in this state." Approved April 15, 1905.

By section 23 all acts or parts of acts, general or special, inconsistent with the provisions thereof, are repealed. By section 24 the act took effect July 1, 1905.

[2113—]2. **Public hay tracks.**—The railroad and warehouse commission, hereinafter designated "the commission," shall designate at convenient places, on the several lines of railway entering terminal points in this state, tracks to be known as public hay tracks. The different railway companies either separately or jointly are hereby required to provide suitable tracks to meet the requirements of this act. Such public hay tracks may be established on each individual line of railway, or they may be so established as to serve for two or more railways. ('05 c. 196 § 2)

[2113—]3. **Hay and straw—Delivery at tracks.**—All hay and straw shipped to terminal points unless otherwise directed by the consignor shall, by the common carrier transporting the same, be brought to and delivered at one or another of such public hay

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tracks, for the purpose of being weighed and inspected as hereinafter provided. ('05 c. 196 § 3)

[2113—]4. **Weighing and inspection.**—All hay and straw so received shall be weighed and inspected by duly appointed weighers and inspectors of hay and straw under such rules and regulations as the commission shall establish. ('05 c. 196 § 4)

[2113—]5. **Carrier to maintain scales—Powers of commission—State weighmasters—Cost of inspecting scales.**—It shall be the duty of all common carriers transporting hay to such terminal points to construct and maintain at such public hay tracks as may be established by the commission, suitable track scales of such size and capacity as the commission shall direct. If in its judgment it is necessary, the commission may order that such track scales be housed in such a manner as to insure accuracy. All scales at such hay tracks shall be under the control of state weighmasters and subject to inspection by them, exempt from the jurisdiction of sealers of weights and measures. They shall be inspected at the request of any person interested in any hay or straw to be weighed thereon. If found incorrect the cost of inspection shall be paid by the owner thereof; otherwise by the person requesting inspection. No scales found incorrect shall be used until re-examined and found correct. Provided that nothing in this act shall be so construed as to prevent the use of such scales by the owner for the purpose of weighing any other commodities in carload lots. ('05 c. 196 § 5)

[2113—]6. **Weighers and inspectors—Chief inspector of grain—Appeals—Reinspecting and final review.**—The commission shall appoint a suitable number of persons to perform such weighing and inspecting of hay and straw. Such weighers and inspectors shall be under the immediate supervision of the chief inspector of grain. In case of dissatisfaction of any interested person with the official acts of any inspector reinspecting may be had upon application to the aforesaid chief inspector of grain or either of his chief deputies. A final appeal from the decision of said chief inspector of grain or his deputy inspectors may be made to the board of final review, to be provided for by the commission under the rules it shall establish. The decision of such board of review shall be final, provided the commission may provide suitable rules for the cancellation of any certificate of inspection issued upon original inspection; reinspecting or upon final review when it appears that owing to the manner in which cars of hay or straw were loaded it was impossible for the inspector to obtain a fair sample. ('05 c. 196 § 6)

[2113—]7. **Rules and regulations.**—The commission shall adopt all necessary rules and regulations for the weighing and inspecting of hay and straw at such terminal points. ('05 c. 196 § 7)

[2113—]8. **Weighers and inspectors—Obstructing performance—Penalty—Oath—Bond.**—In case any person or railway corporation or any of their agents or employees shall refuse or prevent the aforesaid weighers and inspectors of hay and straw from having free access to their scales and tracks in the regular performance of their duties as such weighers or inspectors of hay and straw, they shall forfeit to the State of Minnesota the sum of one hundred dollars for each offense, such penalty or forfeiture to be paid to the state treasurer for the benefit of the hay inspection fund hereinafter created, and shall also be required to pay all costs of prosecution. All weighers and inspectors of hay and straw shall take an oath of office the same as required of deputy grain inspectors, and shall give a bond to the State of Minnesota in the penal sum of five thousand dollars with good and sufficient sureties to be approved by the commission, and conditioned in like manner as the commission re-

quire from the chief inspector of grain. The bonds given by such weighers and inspectors of hay and straw shall be filed in the office of the secretary of state and suit may be brought upon said bond, or bonds, in any court having jurisdiction thereof for the use of the person so injured. ('05 c. 196 § 8)

[2113—]9. **Removal.**—The chief inspector of grain shall have the power to remove any of said weighers or inspectors of hay and straw at pleasure. ('05 c. 196 § 9)

[2113—]10. **Charges—Compensation.**—Such weighers and inspectors of hay and straw shall be governed in the performance of their duties by such rules and regulations as may be provided by the commission; the commission shall have power to fix the rate of charges for the weighing and inspecting of hay and straw and the manner in which the same shall be collected, which charges shall be regulated in such manner as will in the judgment of the commission produce sufficient revenue to meet the necessary expenses of the weighing and inspecting service, and no more; the commission shall fix the amount of compensation to be paid to the weighers and inspectors of hay and straw and prescribe the time and manner of payment thereof, which compensation shall be paid out of a hay inspection fund, hereinafter created, on the order of the commission. ('05 c. 196 § 10)

[2113—]11. **Disqualifications.**—No weigher nor inspector of hay or straw nor any of the sureties on their bond, or bonds as the case may be, shall during his term of service be in any way interested in the handling, storing, shipping, purchasing or selling of hay or straw, or any of their products, nor in the employment of any person or corporation engaged therein, nor shall they be members of any board of trade or organization of like character. ('05 c. 196 § 11)

[2113—]12. **Grounds for removal.**—Upon complaint in writing of any person to the commission, supported by reasonable and satisfactory proof that any weigher or inspector of hay and straw has violated any of the rules prescribed for his government, or has been guilty of any improper official act, or has been found inefficient or incompetent for the duties of this position, such person shall be by the commission immediately removed from office. ('05 c. 196 § 12)

[2113—]13. **Impersonating weigher or inspector—Penalty.**—Any person not duly appointed and qualified, who shall assume to act as a weigher or inspector of hay and straw, shall be guilty of a misdemeanor and be punished by a fine of not less than fifty nor more than one hundred dollars. ('05 c. 196 § 13)

[2113—]14. **Neglect of duty, etc.—Penalty.**—Any duly authorized weigher or inspector of hay and straw who shall be guilty of any neglect of duty or who shall knowingly or carelessly weigh or inspect any hay or straw improperly, or who shall accept any money or other consideration, directly or indirectly, for any neglect of duty or any improper performance of duty as such weigher or inspector of hay and straw, or any person who shall improperly influence or attempt to influence any weigher or inspector of hay and straw in the performance of his duties as such weigher or inspector, as the case may be, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not less than one hundred dollars nor more than one thousand dollars or shall be imprisoned in the county jail not less than thirty (30) days nor more than one year, or both, in the discretion of the court. ('05 c. 196 § 14)

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[2113—]15. **Charges a lien—Advance charges—Hay inspection fund.**—The charges for the weighing and inspecting of hay and straw shall be and constitute a lien on the hay and straw so weighed or inspected, and whenever such hay and straw is in transit the said charges shall be considered as advance charges, to be paid by the common carrier in whose possession the same is at the time of weighing or inspecting. All money so collected, and all fines and penalties for violation of any of the provisions of this act, shall be paid into the state treasury and shall be known as the hay inspection fund, and paid out only on order of the commission and auditor's warrant. All interest received from deposits of said moneys shall be credited on the first of each month to such fund and notice of the amount of such interest shall be sent to the chief inspector. ('05 c. 196 § 15)

[2113—]16. **Duty of inspectors—Certificate.**—Such inspectors shall inspect all hay and straw shipped to any such public hay tracks and give a certificate of the inspecting to the person entitled thereto. Their decisions shall be conclusive as to the grade of such hay or straw, and the certificate shall be evidence thereof, unless changed upon reinspecting or appeal, in which case the final certificate shall be conclusive. ('05 c. 196 § 16).

[2113—]17. **Reinspection—Appeal.**—In case any owner, consignee or shipper of hay and straw shall be aggrieved by the decision of such inspectors of hay and straw, said owner, consignee or shipper may ask for a reinspecting of said hay and straw from the chief inspector of grain or his chief deputies; provided that a final appeal from the decision of said chief inspector of grain or his chief deputies may be had to the board of final review provided for in section 6 [2113—6] of this act, and a decision by a majority of such final board of review shall be final, and the commission is hereby authorized to make all necessary rules governing such reinspecting or appeal, provided that the party asking for such reinspecting shall pay to the chief inspector of grain or his chief deputies a sum not to exceed five dollars per case before such case be entertained, which sum shall be refunded in case such case is sustained. ('05 c. 196 § 17)

[2113—]18. **Duty of weighers—Record.**—All weighers of hay and straw provided for by this act shall be required to make true weights under the penalties hereinbefore provided, and in addition thereto shall keep a correct record of all weighing done by them at the hay tracks where they are stationed, in which record shall be entered an accurate account of all hay, straw or other property weighed, or the weighing of which was supervised by them or their assistants, giving the amount of each weight, the number of the car or cars weighed, if any, the initial letter of said car or cars weighed, where weighed, date of weighing and contents of car. ('05 c. 196 § 18)

[2113—]19. **Certificates—Evidence.**—Said weighers and inspectors of hay and straw shall give upon request of any person interested certificates under their hand and seal showing the amount of each weight, or if inspected, the grade, number of car or cars weighed or inspected, if any, the initial of said car or cars, hay yard where weighed or inspected, date of weighing or inspecting and contents of car, provided that such certificate of weights shall be admitted in all actions either at law or in equity as prima facie evidence of the facts therein contained, but the effect of such evidence may be rebutted by other competent testimony. ('05 c. 196 § 19)

[2113—]20. **Minnesota grades—Publication.**—The commission shall before the first day of July in each year establish a grade for

all kinds of hay and straw bought, handled or delivered at any public hay yard at terminal points in this state, which grade so established shall be known as "Minnesota grades" of hay and straw, and the grades so established shall be published in some daily newspaper at each of said terminal points each day for the space of one week. ('05 c. 196 § 20)

[2113—]21. **Duties of commission.**—It shall be the duty of the commission to assume and exercise a constant supervision over the hay and straw interests of this state; to supervise the handling, weighing, inspecting and storage of hay and straw; to establish all necessary rules and regulations for the weighing, grading, inspecting and reinspecting of hay and straw, and for the management of all public hay tracks at terminal points in this state as far as such rules and regulations may be necessary to enforce the provisions of this act, or any law in this state in regard to the same; to investigate all complaints of fraud or oppression in the hay and straw trade, and to correct the same as far as may be in their power. ('05 c. 196 § 21)

[2113—]22. **Sale by sample.**—Nothing in this act shall be so construed as to prevent any person from selling hay or straw by sample, regardless of grade. ('05 c. 196 § 22)

COMMISSION MERCHANTS.

2120. Violations—Penalty, etc.

See section [2120—]1.

[2120—]1. **Same.**—Any person, persons, firm or corporation engaged in selling any property as herein specified, who fails or neglects to comply with any of the provisions of this act, shall be guilty of a misdemeanor, and on conviction thereof in any court having competent jurisdiction shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, and the railroad and warehouse commission is hereby authorized either upon such conviction or upon its own findings after investigation, if the facts warrant it, to cancel the license of any person, persons, firm or corporation guilty of any violation of law or conduct prejudicial to the interests of those making consignments to such person, persons, firm or corporation to be sold on commission. Where a license has been canceled, the railroad and warehouse commission may refuse to issue any license to such person, persons, firm or corporation for a term of one year: Whenever requested to do so by any interested shipper, the railroad and warehouse commission shall have power to investigate any sale or transaction carried on by any person, persons, firm or corporation licensed under this act, and, for that purpose shall have the right to examine the books and accounts of any licensed commission merchant which in any manner relate to such sale or transaction. Any licensed commission merchant or any agent in charge of such books or accounts who shall fail or refuse to submit such books or accounts for the examination of said railroad and warehouse commission, shall be guilty of a misdemeanor. (Laws 1899, c. 225, § 7, as amended by Laws 1905, c. 126, § 1.)

Historical.—Section 7 of Laws 1899, c. 225, was amended, as above set forth, by section 1 of an act entitled "An act to amend chapter 225, General Laws 1899, an act to regulate and license and define the business of commission merchants or persons selling agricultural produce and farm products on commission, and to require them to give a bond to the state of Minnesota for the benefit of their consignors, and prescribing a penalty for violating any of the provisions of this act." approved April 7, 1905 (Laws 1905, c. 126). Laws 1899, c. 225, was repealed by R. L. § 5543; the provisions of section 7 thereof being incorporated in section 2120. So far as the amended section above set forth differs from said section 2120, it is to be construed, by virtue of section 5504, as amendatory or supplementary.