

89022

GENERAL STATUTES OF MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

FRANCIS B. TIFFANY



WEST PUBLISHING CO.

1918

CHAPTER 28A

DEPARTMENT OF WEIGHTS AND MEASURES

4611. Department created—Jurisdiction of railroad and warehouse commission—

This act does not violate Const. art. 4 § 27, providing that no law shall embrace more than one subject, which shall be expressed in its title (124-307, 144+962). Statutes, 118(1).

Ordinance of Crookston requiring weighing of coal upon municipal scales, held not in conflict with this act (121-202, 141+106). Municipal Corporations, 592; Weights and Measures, 1, 5.

[4612—]1. **Salary of commissioner and deputies—**The salary of the Commissioner of Weights and Measures shall be Twenty-five Hundred Dollars (\$2500) per annum, and all deputies not to exceed Twelve Hundred (\$1200.00) Dollars per annum. ('15 c. 281 § 2)

4616. Offenses and penalties, etc.—

This statute is a police regulation and changes the prior law (§ 8913), so that intent to defraud or commit wrong is not an element of the offense of selling or exposing for sale less than the quantity represented (124-307, 144+962). Weights and Measures, 12.

4620. No fees for annual inspection—Cost of inspection at other times—Fees for special service, etc.—No fee shall be charged for the regular annual inspection of scales, weights, measures and weighing or measuring devices. At all other times, the cost of the inspection shall be paid by the owner when the same is performed at his request; and when made at the request of some other person the cost shall be paid by the owner, if the scale, weight, measure, and weighing or measuring device is found to be incorrect; otherwise by the person making the request. The commission shall have power to fix the fees and expenses for all special services. The sum of Ten Thousand Dollars (\$10,000.00), together with the sum in the weights and measures fund, is hereby appropriated for the payment of salaries of employes and expenses of said department for the fiscal year ending July 31st, 1915, and Thirty Thousand Dollars (\$30,000.00) annually for the fiscal years ending July 31st, 1916 and 1917, and the same or so much thereof as may be necessary, shall be allowed and paid by the state, upon the approval of a member of the Railroad and Warehouse Commission, and the state auditor. All monies collected by the department for special services, fees and penalties, shall be paid into the state treasury, and credited to the state revenue fund. ('11 c. 156 § 11, amended '15 c. 281 § 1)

[CHAPTER 28A 1]

[TELEPHONE COMPANIES]

[4623—]1. **Jurisdiction of Railroad and Warehouse Commission—**The Railroad and Warehouse Commission, now existing under the laws of this state, is hereby vested with the same jurisdiction and supervisory power over telephone companies doing business in this state, as it now has over railroad and express companies, and wherever the term "Commission" is used in this Act, it shall mean said Railroad and Warehouse commission. ('15 c. 152 § 1)

Section 26 repeals acts conflicting with the provisions of this act in so far as they are inconsistent herewith.

By § 27 this act shall take effect July 1, 1915.

[4623—]2. **"Telephone Company" defined—**The term "Telephone Company" as used in this Act shall mean and apply to any person, firm, association or any corporation, private or municipal, owning or operating any telephone line or telephone exchange for hire wholly or partly within this state, or furnishing any telephone service to the public. ('15 c. 152 § 2)

[4623—]3. **Laws applicable**—Except as otherwise provided in this Act, all the provisions of Chapter 28 of the Revised Laws of 1905 and acts amendatory thereof applying to railroad and express companies shall, in so far as the same are applicable apply also to telephone companies. ('15 c. 152 § 3)

[4623—]4. **Adequate service—Fair and reasonable rates**—It shall be the duty of every telephone company to furnish reasonably adequate service and facilities for the accommodation of the public, and its rates, tolls and charges shall be fair and reasonable for the intrastate use thereof. All unreasonable rates, tolls and charges are hereby declared to be unlawful. ('15 c. 152 § 4)

[4623—]5. **Schedule of rates, rules, etc., to be filed with commission**—Upon the taking effect of this Act it shall be the duty of every telephone company to forthwith file with the commission a schedule of its [its] exchange rates, tolls and charges for every kind of service, together with all rules, regulations and classifications used by it in the conduct of the telephone business, all of which shall be kept on file by the commission subject to public inspection. The commission shall require each telephone company to keep open for public inspection at designated offices, so much of said schedules and regulations as it deems necessary for the public information. ('15 c. 152 § 5)

[4623—]6. **Commission to fix rates when unreasonable—Greater or less rate forbidden**—Whenever such rates or schedules are found to be unreasonable by the commission, upon its own motion or upon complaint it shall prescribe reasonable rates to take the place of those found unreasonable and such new rates shall be filed in place of the rates or schedule superseded. No rates filed with the commission shall be changed by any telephone company without an order of the commissioner sanctioning the same. It shall be unlawful for any telephone company to collect or receive a greater or less rate or charge for any intrastate service rendered by it than the rate or charge named in the schedules on file with the commission, and no new rate shall take effect till the date named by the commission which shall not be less than ten days after it is filed. ('15 c. 152 § 6)

[4623—]7. **Discrimination prohibited**—No telephone company or any agent or officer thereof shall, directly or indirectly, in any manner whatsoever, knowingly or wilfully, charge, demand, collect or receive from any person, firm or corporation, a greater or less compensation for any intrastate service rendered or to be rendered by it than it charges, demands, collects or receives from any other firm, person or corporation for a like and contemporaneous intrastate service under similar circumstances. ('15 c. 152 § 7)

[4623—]8. **Commission to prescribe uniform rules, etc.—Blanks and forms—Uniformity between federal and state governments**—It shall be the duty of the commission to prescribe uniform rules and classifications pertaining to the conduct of intrastate telephone business and a system of accounting to be used by telephone companies in transacting said business, and it shall prescribe and furnish blanks and forms for reports, all of which shall conform as nearly as practicable to the rules, classifications, accounting systems and reports prescribed by the Interstate Commerce commission for the interstate business of like size companies.

The commission shall by correspondence, or conference where necessary, use its best endeavors toward establishing uniformity in practice in all matters pertaining to regulation of the business of telephone companies, between the federal government and state government of this and adjacent states. ('15 c. 152 § 8)

[4623—]9. **Office within state—Reports—Inspection of books, etc.—Balance sheet**—Every telephone company subject to the provisions of this Act, wherever organized, shall keep an office in this state, and shall make such reports to the commission as it shall from time to time require. All books, records and files and all of its property shall be at all times subject to inspection by the commission; it shall close its accounts and take therefrom a balance sheet on December 31st each year, and on or before March 1st following, such balance sheet, together with such other information as the commission shall

require, verified by an officer of the telephone company, shall be filed with the commission. ('15 c. 152 § 9)

[4623—]10. **Physical connections, etc., with lines of other companies, etc.—“Physical connection” defined—Powers of commission, etc.**—Whenever public convenience requires the same, every telephone company shall, for a reasonable compensation, permit a physical connection or connections to be made, and telephone service to be furnished between any telephone exchange system operated by it and the telephone toll line or lines operated by another telephone company, or between its telephone toll line or lines and the telephone exchange system of another telephone company, or between its toll line and the toll line of another telephone company whenever such physical connection or connections is practicable and will not result in irreparable injury to the telephone system so compelled to be connected. The term “physical connection” as used in this section, shall mean such number of trunk lines or complete wire circuits and connections as may be required to furnish reasonable and adequate service between such telephone lines and exchanges and shall not be deemed to provide for any connection whereby one line or circuit is to be bridged upon another line or circuit. In case of failure of the telephone companies concerned to allow or agree upon such physical connection or connections, or the terms and conditions upon which the same shall be made, application may be made to the commission for an order requiring such connection and fixing the compensation, terms and conditions thereof, and if after investigation and hearing the commission shall find that such physical connections will not result in irreparable injury to such telephone properties, it shall by order direct that such connections be made, and prescribe reasonable conditions and compensation therefor and for the joint use thereof, and by whom the expense of making and maintaining such connection or connections shall be paid. Whenever application is made to the commission requesting physical connection it shall be presumed that such connection is necessary, and that the public convenience will be promoted thereby, and the burden of overcoming such presumption shall be upon the party resisting such application. The telephone companies so connecting shall give service over the connecting line or lines without preference to or discrimination against any service or telephone company whatever. ('15 c. 152 § 10)

[4623—]11. **Free or reduced rates to officers, etc.**—A telephone company may furnish service free or at reduced rates to its officers, agents or employees in furtherance of their employment, but it shall charge full schedule rates without discrimination for all other services. Provided that nothing herein shall release any telephone company from carrying out any contract now existing between it and any municipality for the furnishing of any service free or at reduced rates. Provided further that any contract for telephone service, at discriminatory rates, other than those with municipalities, shall be terminated by the company as soon as the same becomes terminable by its terms or if the company has the option to terminate such contract, said option shall be exercised and the contract terminated within three months after the passage of this act. ('15 c. 152 § 11)

[4623—]12. **Valuation of telephone companies**—The commission shall, whenever it deems the same necessary, determine the value of all the property of any telephone company devoted to the public use, and in so doing it shall, after notice to the telephone company, hold such public hearings as will give all interested parties a chance to furnish evidence and be heard. For the purpose of this act the commission is authorized to appoint engineers, examiners, experts, clerks, accountants and other assistants as it may deem necessary at such rates of compensation as it may prescribe.

In the discharge of their duties such appointees shall have every power of any inquisitorial nature granted in this act to the commission. The commission may conduct any number of investigations contemporaneously through its individual members or appointees, and may delegate to its individual members the taking of all testimony on any investigation or hearing. ('15 c. 152 § 12)

[4623—]13. **Power of commission to authorize construction of telephone lines, etc.—Second telephone exchange, etc.**—For the purpose of bringing about uniformity of practice, the commission shall have the exclusive right to grant authority to any telephone company to construct telephone lines or exchanges for furnishing local service to subscribers in any municipality of this state, and to prescribe the terms and conditions upon which construction may be carried on, and whenever the commission grants such authority it shall be in the form of a permit of indeterminate duration—coupled with the right to the municipality to purchase the telephone plant within the city, as hereinafter provided. No local telephone exchange shall be constructed or installed in any city or village for furnishing local service to subscribers in such village or city, where there is in operation in such village or city a local exchange already furnishing such service, without first securing from the commission a declaration, after a public hearing, that public convenience requires such second telephone exchange; but the governing body of any municipality shall have the same powers of regulation which it now possesses with reference to the location of poles and wires so as to prevent any interference with the safe and convenient use of streets and alleys by the public. ('15 c. 152 § 13)

[4623—]14. **Extension of long distance lines**—Any telephone company may extend its long distance lines into or through any city or village of this state for the furnishing of long distance service only, subject to the regulation of the governing body of such village or city relative to the location of its poles and wires and the preserving of the safe and convenient use of such streets and alleys to the public. ('15 c. 152 § 14)

[4623—]15. **Surrender of license and securing new authority**—Any telephone company operating under any existing license, permit or franchise or which shall hereafter before the taking effect of this act, acquire any license, permit or franchise, may, upon filing with the clerk of the municipality which granted such franchise, a written declaration that it surrenders such license, permit or franchise, receive in lieu thereof, an indeterminate permit as defined in this act; and such telephone company shall thereafter hold such permit under all the terms, conditions and limitations of this act. The filing of such declaration shall be deemed a waiver by such telephone company of the right to insist upon the fulfillment by any municipality of any contract theretofore entered into relating to any rate, charge or service made subject to regulation by this act. Upon filing such written declaration by the telephone company, the clerk of the municipality shall file with the commission a certificate showing that fact and the date thereof, and thereupon it shall receive an indeterminate permit from the commission conferring the same rights as if originally granted under this act. ('15 c. 152 § 15)

[4623—]16. **Right of municipalities to operate telephone exchanges, etc.—Submission to voters**—Any municipality shall have the right to own and operate a telephone exchange within its own borders, subject to the provisions of this act, and it may construct such plant, or purchase an existing plant by agreement with the owner, or where it cannot agree with the owner on price, it may acquire an existing plant by condemnation as hereinafter provided, but in no case shall a municipality construct or purchase such a plant or proceed to acquire an existing plant by condemnation until such action by it is authorized by a majority of the electors voting upon the proposition at a general election or a special election called for that purpose, and if the proposal is to construct a new exchange where an exchange already exists, it shall not be authorized to do so unless sixty-five (65%) per cent of those voting thereon vote in favor of the undertaking. ('15 c. 152 § 16)

[4623—]17. **Acquisition of existing plant by municipality—Commission to fix compensation—Appeal**—When a municipality decides in the manner above provided to acquire an existing plant by condemnation it shall give notice to the commission whose duty it shall be thereupon to determine the just compensation which the owner of the plant is entitled to receive therefor from said municipality. Before deciding upon such compensation said commission shall at a public meeting which may be adjourned from time to time

hear all interested parties on the question involved. The commission shall by order fix the compensation and furnish a copy of its order to the municipality, and to the telephone company concerned. An appeal may be taken to the district court of the county wherein such plant is situated from that part of the order fixing the compensation to be paid, within thirty days, by either party, which appeal shall be tried the same as other appeals hereunder; if no such appeal is taken the order of the commission shall become final at the end of thirty days, and when appeal is taken the decision of the district court or of the supreme court if taken there from the district court shall be final. ('15 c. 152 § 17)

[4623—]18. **Valuation of telephone property for rate making—What rates allowed**—In determining the value of any telephone property for rate making purposes, no valuation shall be allowed upon the value of any franchise granted by the state or any municipality where no payment was or is being made to the state or municipality on account thereof. The requirement as to reasonableness of rates shall apply to each exchange unit as well as to telephone plants as a whole. No telephone rates or charges shall be allowed or approved by the commission under any circumstances, which are inadequate and which are intended to or naturally tend to destroy competition or produce a monopoly in telephone service in the locality affected. ('15 c. 152 § 18)

[4623—]19. **Commission to change annual depreciation charge, etc.**—The commission may fix and from time to time change the annual depreciation charge which shall be made by each telephone company which charge shall be sufficient to provide the amounts required over and above the expense of current maintenance, to keep its property in a state of efficiency corresponding to the needs and progress of the industry. Such depreciation fund shall be carried in a separate account and moneys in this fund may be invested and the income thereof returned to such depreciation fund or said moneys may be expended in renewals or in new construction. ('15 c. 152 § 19)

[4623—]20. **Purchase of property of other company, etc.**—It shall be unlawful for any telephone company subject to the provisions of this act to purchase the property or capital stock, bonds or other obligations of any other telephone company doing business within the state, without first obtaining the consent of the commission thereto. Nothing herein shall be deemed to prevent the holding of stock heretofore lawfully acquired or to prevent the acquisition of additional stock by any telephone company owning a majority of the stock of any telephone company at the time of the taking effect of this act. ('15 c. 152 § 20)

[4623—]21. **Records of commission—Transcripts**—A full and complete record shall be kept by the commission of all proceedings had before it upon any formal investigation or hearing and all testimony received or offered shall be taken down by the stenographer appointed by the commission and a transcribed copy of such record shall be furnished to any party to such investigation upon demand without charge.

Whenever an appeal is taken from any order of the commission under the provisions of this act, the commission shall forthwith cause a certified transcript of all proceedings had, of all pleadings and files, and all testimony taken or offered before it upon which such order was based, showing particularly what, if any, evidence, offered was excluded, to be made and filed with the clerk of the district court where such appeal is pending. ('15 c. 152 § 21)

[4623—]22. **Appeals from commission, etc.—Procedure**—Any party to a proceeding before the commission or the attorney-general may make and perfect an appeal from such order as provided in Sections 1971-1972, Revised Laws of 1905, and acts amendatory thereof [4191-4192].

Upon such appeal being so perfected it may be brought on for trial at any time by either party upon ten days' notice to the other and shall then be tried by the court without the intervention of a jury, and shall be determined upon

the pleadings, evidence and exhibits introduced before the commission and so certified by it. At such trial the findings of fact made by the commission shall be prima facie evidence of the matters therein stated, and said order shall be deemed prima facie reasonable, and if the court finds that the order appealed from is unjust, unreasonable and not supported by the evidence, it shall make such order to take the place of the order appealed from as is justified by the record before it. If the court finds from an examination of the record that the commission erroneously rejected evidence which should have been admitted, it shall remand the proceedings to the commission with instructions to receive such evidence so rejected and any rebutting evidence and make new findings and return the same to the court for further proceedings. In such case the commission after notice to the parties in interest shall proceed to rehear the matter in controversy, and shall receive such wrongfully rejected evidence and any rebutting evidence offered and shall make new findings as upon the original hearing and shall transmit the same and such new record, properly certified, to the court wherein said appeal is pending, whereupon said matter shall be again considered in said court in the same manner as in an original appeal. Either party may appeal to the supreme court from the judgment of the district court, as in other civil actions except that the appeal must be taken within thirty days from the date of notice of the entry of such judgment.

Where an appeal is taken to the supreme court the appellant shall cause a return to be made to said court within thirty days from the date of appeal, otherwise said appeal shall be deemed abandoned and may be dismissed upon motion of the respondent. When said return on said appeal is received by the clerk of the supreme court, said cause shall be placed on the calendar of the term then pending, or if none is then pending, then of the one next ensuing and it shall be assigned and brought on for hearing as other causes on such calendar. ('15 c. 152 § 22)

[4623—]23. **Order, where no appeal, to be final**—If no appeal is taken from any order of the commission as above provided, then in all litigation thereafter arising between the state and any telephone company or between private parties and any telephone company, the said order shall be deemed final and conclusive. ('15 c. 152 § 23)

[4623—]24. **Penalty for discrimination**—Any telephone company, and if it be a corporation, the officers thereof, violating the provisions of this act as to discrimination between persons or places shall be guilty of a gross misdemeanor. ('15 c. 152 § 24)

[4623—]25. **Failure to comply with law or order, etc.—Duty of attorney general**—Whenever any telephone company fails to comply with any law of the state or any order of the commission after it has become final, or any order or judgment of the district court or the supreme court in any cases taken to the said courts or either of them on appeal, after such judgment or order has become final, it shall be the duty of the attorney general to apply to the district court in the name of the state in any county in which the plant of said telephone company or any part thereof is situated, for a mandatory injunction or other appropriate writ to compel obedience to said law, order or judgment, and the district court shall punish any disobedience of its orders in such enforcement proceedings as for contempt of court. ('15 c. 152 § 25)