

# MINNESOTA STATUTES 1953 ANNOTATIONS

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## CARRIERS, GENERAL PROVISIONS 217.01

amount of noise made. *Jorgenson v Minneapolis-St. Paul & Soo Railway Co.*, 231 M 121, 42 NW(2d) 540.

### **216.62 PASSENGER TRAINS; DISCONTINUED ONLY WITH CONSENT OF COMMISSION**

The railroad and warehouse commission possesses only the authority given to it by the legislature and cannot exceed the bounds as fixed. The legislature did not intend by section 216.62 to give the commission jurisdiction over the discontinuance of interstate passenger trains. The state in the exercise of its police power may require railroad carriers to provide reasonably adequate and suitable facilities for the convenience of the communities served by them. But this state power is subject to the limitation of the federal constitution against taking private property without just compensation or due process of law. The state may require just and reasonable passenger service for intrastate business only insofar as the requirement of the state is not inconsistent with the lawful orders of the interstate commerce commission. The commission has jurisdiction over the discontinuance of intrastate service rendered by trains Nos. 41 and 42 operating between Rochester, Minnesota, and McIntire, Iowa, and beyond. OAG March 21, 1949 (365-A-12).

This section does not confer upon the railroad and warehouse commission authority to permit an abandonment of an electric suburban railroad or any portion thereof. OAG Oct. 25, 1951 (365-B-12).

**216.63, 216.64** Repealed, 1949 c 440 s 7.

### **216.67 LAWS; ENFORCEMENT; DUTY OF COMMISSION**

HISTORY. 1905 c 208 s 3; 1907 c 202; 1909 c 173 s 2; 1909 c 377 s 3; 1909 c 488 s 10; 1921 c 244 s 3; MS 1927 s 4752, 4891, 4894, 4902, 4923.

### **216.68 FORFEITURES; VIOLATIONS; PENALTIES**

HISTORY. 1871 c 22 s 7, 9; 1874 c 26 s 4, 16; 1875 c 103 s 5, 8, 10; GS 1878 c 6 s 71, 74, 76; 1885 c 188 s 14, 27; 1887 c 10 s 12; GS 1878 Vol 2 (1888 Supp) c 6 s 771; GS 1894 s 390; 1905 c 122 s 3; RL 1905 s 1987; 1911 c 317 s 2; 1913 c 125 s 3; MS 1927 s 4648, 4706, 4714.

## CHAPTER 217

### CARRIERS, GENERAL PROVISIONS

#### **217.01 COMMON LAW LIABILITY NOT TO BE LIMITED**

Carriers, limitation of liability. 33 MLR 774.

Private carriers by motor vehicle as affected by the interstate commerce act. 35 MLR 596.

Bills of lading, duty of carrier to notify shipper of non-acceptance of goods. 37 MLR 204.

Evidence that goods were delivered to carrier for shipment in good condition; that they were not in like condition upon delivery by carrier to consignee; and that damages in an established amount were sustained by the shipper as a result, creates a presumption of negligence on the part of carrier and establishes shipper's prima facie case for damages by virtue thereof.

Evidence consisting of uniform express receipt for carton of merchandise issued by defendant carrier at the time of its delivery for shipment, upon which no nota-

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## 217.04 CARRIERS, GENERAL PROVISIONS

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tion of visible defects or damages was set forth, was sufficient to sustain a finding that such carton was not visibly defective or damaged at the time of its delivery to defendant.

Carrier's receipt for shipment, without any notation of visible defects thereon, indicates absence of such defects. Where such shipment is visibly damaged upon arrival at destination, there is a presumption that such damages were sustained while goods were in transit under carrier's control.

If damages or defects complained of were not visible upon ordinary inspection, bill of lading or receipt issued therefor is insufficient in itself to create presumption that shipment was in good condition at the time of its delivery.

Plaintiff's evidence having established its prima facie case, failure of defendant thereafter to go forward with evidence to refute it justified trial court in determining issues in plaintiff's favor. *Minneapolis Fire & Marine Insurance Co. v Baltimore & Ohio Railroad Co.*, 237 M 111, 53 NW(2d) 828.

### 217.04 PREFERENCES FORBIDDEN

HISTORY. Amended, 1949 c 440 s 2.

### 217.07 Unconstitutional.

(*Chicago, Minneapolis, St. Paul and Pacific Railway Co. v Interstate Contracting Co.*, 193 M 71, 257 NW 811.)

### 217.08 ANNUAL REPORTS; COMMON CARRIER

HISTORY. 1871 c 22 s 6; 1875 c 103 s 5; GS 1878 c 6 s 71; 1885 c 188 s 6-8; 1887 c 10 s 17; GS 1878 Vol 2 (1888 Supp) c 6 s 77q; 1897 s 284; RL 1905 s 1984; 1907 c 174 s 1; GS 1913 s 4232; 1917 c 17 s 1; GS 1923 s 4703; MS 1927 s 4703.

The state asked for an order directing the resident partner of a brokerage firm to comply with a subpoena duces tecum for production of the firm's books, records, and documents relating to the names of persons holding stock in the Twin City Rapid Transit Company standing in the name of the brokerage firm. Towey filed a complaint in intervention to dismiss the proceedings and quash the subpoena. The trial court dismissed Towey's petition and the order was affirmed on appeal. The statutory provisions, requiring one of the railroad and warehouse commissioners to visit carriers' stations regularly and personally inquire into their management and permitting commission to require reports from carriers, do not provide exclusive means of satisfying commission's statutory duty to inquire into management of carriers' business, keep informed as to manner in which it is conducted, and obtain from carriers all information necessary for performance of commission's duties, but merely state minimum inspection necessary. *State ex rel v Mees*, 235 M 42, 49 NW(2d) 386.

### 217.09 ACCIDENTS AND WRECKS; REPORTS TO COMMISSION

Accident reports made by investigators for the commission should be open to public inspection unless, in the commission's opinion, inspection would jeopardize the presentation, in which case the reports may be withheld from public inspection until presented to the commission in litigation pending before it. OAG Aug. 7, 1947 (851-I).

### 217.12 CARRIER; WAREHOUSEMAN; FAILURE TO OBEY ORDER OR LAW

HISTORY. 1891 c 106 s 4; GS 1894 s 399; RL 1905 s 1975; *Masons*, 1927 s 4654.

Judicial review by use of extraordinary remedies. 32 MLR 570, 608.

### 217.13 RAILROADS; VIOLATION OF LAW, TRIAL

HISTORY. 1891 c 106 s 4; GS 1894 s 399; RL 1905 s 1976; *Masons* 1927 s 4655.

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COMMON CARRIERS; TRANSPORTATION 218.01

## 217.14 INCRIMINATING QUESTIONS

Self incrimination; confession covered by police; legislative investigations; production of writings; bodily or mental examination; jurisdictional limits of the privilege; waiver by testifying. 34 MLR 1.

## 217.15 COSTS AND ATTORNEY'S FEES

HISTORY. 1887 c 10 s 15; GS 1878 Vol 2 (1888 Supp) c 6 s 77o; 1891 c 106 s 4; GS 1894 s 393(c); RL 1905 s 1978; Mason's 1927 s 4657.

In determining the amount of attorney's fees to be allowed in an action arising out of a violation by a carrier of interstate commerce, the court is limited to a consideration of the legal services rendered in connection with the damage claimed and services rendered with reference to an application for an injunction and proceedings connected therewith, including an appeal, cannot be considered. *Pacific-Gamble-Robinson Co., v Minneapolis & St. Louis Railway*, 105 F.Supp. 794.

## 217.16 TICKET AGENTS; LICENSE FOR

HISTORY. 1893 c 66 s 1-4; GS 1894 s 2785-2788; RL 1905 s 2043; 1909 c 143 s 1; Mason's 1927 s 4941.

## 217.32 SIDETRACKS TO SAND OR GRAVEL PIT

HISTORY. 1893 c 65 s 1; GS 1894 s 7730; RL 1905 s 2006; 1913 c 367 s 2; GS 1913 s 4284; 1917 c 287 s 1; GS 1923 s 4765; MS 1927 s 4765.

## 217.36 Unconstitutional.

(*Chicago, Minneapolis, St. Paul and Pacific Railway Co. v Interstate Contracting Co.*, 193 M 71, 257 NW 811.)

## 217.40 CONSTRUCTION OF CHAPTER

Restrictive provisions of Laws 1933, Chapter 170, which forbid issuance of a permit thereunder to railroads or wholly owned subsidiaries thereof, does not relate to common carriers by motor vehicle between fixed termini or over regular routes, and governed by Laws 1925, Chapter 185, and containing no such restrictions. *Rock Island Motor Transit Co. v Murphy Motor Freight Lines*, 229 M 291, 40 NW(2d) 896.

## CHAPTER 218

### COMMON CARRIERS; TRANSPORTATION

#### 218.01 RAILROAD AND RAILWAY

HISTORY. 1874 c 26 s 14; 1885 c 188 s 25; 1887 c 10 s 1(b); GS 1878 Vol 2 (1888 Supp) c 6 s 77a; 1889 c 124; 1913 c 90 s 4; GS 1913 s 4351; GS 1923 s 4841; MS 1927 s 4841.

Limitation of liability of carriers; released value rates. 33 MLR 774.

Liability of rail carriers in foreign commerce under the Interstate Commerce Act. 35 MLR 64.

Liability of initial carrier under the common law. 35 MLR 64.

Liability of the initial carrier under the Carmack amendment. 35 MLR 69.

Racial discrimination by carriers of passengers. 35 MLR 630.