

CHAPTER 219

COMMON CARRIERS; RAILROADS; RULES,
LIABILITIES

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NOTE: For penalties for the violation of the provisions of this chapter, see section 235.13.

219.01 TRACK SAFETY STANDARDS.

The track safety standards of the United States Department of Transportation and federal railroad administration apply to railroad trackage and are the standards for the determination of unsafe trackage within the state.

History: (4728) *RL s 1992; 1980 c 460 s 7; 1985 c 265 art 4 s 1*

219.02 [Repealed, 1980 c 460 s 32]

219.03 [Repealed, 1980 c 460 s 32]

219.04 [Repealed, 1980 c 460 s 32]

219.05 [Repealed, 1980 c 460 s 32]

219.06 SIGNS AT CROSSINGS.

A railroad company shall maintain, wherever its lines cross a public road, a proper and conspicuous sign indicating the crossing. A railroad company failing to comply with this section shall forfeit to the town or municipality having charge of the road \$10 for each day the failure continues.

History: (4733) *RL s 1994; 1985 c 265 art 4 s 1*

219.07 [Repealed, 1980 c 460 s 32]

219.071 MAINTENANCE OF GRADE-CROSSING SURFACES.

Subdivision 1. Standards. It is the primary responsibility of the owner or lessee of railroad track to keep grade-crossing surfaces over public highways safe and passable for vehicular traffic in a manner consistent with appropriate federal track safety standards. The surfaces must extend the full width of the public highway within the railroad track structure.

Subd. 2. Payment of costs. If a grade-crossing surface, as defined in section 219.16, needs repair or maintenance, the cost for the repair or maintenance may be paid jointly by the owner or lessee of the track, the road authority having jurisdiction over the public highway involved and funds available to the department for grade-crossing surfaces from the following sources:

(1) money appropriated to the department in the future for the purposes of this section;

(2) available federal funds allocated for the grade-crossing program established by this section; and

(3) money acquired by the department by gift, grant, or contribution from any source for purposes of this section.

Subd. 3. Cost allocation agreement. If the owner or lessee of the railroad track and the road authority having jurisdiction over the public highway involved agree upon the allocation of the cost of repair or maintenance of the grade-crossing surface, a copy of the agreement must be filed with the commissioner. If the parties to the negotiations contemplate using funds described in subdivision 2, either party shall notify the commissioner before the conclusion of negotiations and the department may participate in the negotiations and may be a party to the agreement and participate in the costs incurred subsequent to agreement.

Subd. 4. Commissioner determination. (a) If the owner or lessee of the railroad track and the road authority having jurisdiction over the public highway at the grade crossing cannot reach an agreement under subdivision 3 regarding repair or maintenance of a grade-crossing surface, either party may invoke the jurisdiction of the department by (1) filing with the commissioner a statement setting forth the status of negotiations and (2) requesting the commissioner to make a final determination of the dispute.

(b) The commissioner, after notifying in writing the parties involved in the negotiations and providing an opportunity for the parties to participate in a conference, may order the repair or maintenance of the grade-crossing surface within a reasonable time as needed to comply with the standards set forth in subdivision 1.

(c) The order of the commissioner, in addition to enforcing the responsibility of the owner or lessee of the railroad track in question, may provide for participation in the costs of the project (1) by the road authority, (2) from the funds available to the department in subdivision 2, or (3) through other formulas as may be practical and reasonable under the circumstances.

(d) A party failing to comply with an order of the commissioner is subject to a penalty of \$50 for each day of noncompliance, to be recovered for the state in a civil action instituted by the department. Each day of noncompliance constitutes a separate offense.

Subd. 5. **Appeal.** A party subject to an order issued under subdivision 4 may appeal the order of the commissioner to the district court of the county in which the grade crossing is located. In case of appeal, the same proceedings must be conducted as are now provided by law for an appeal from orders of the commissioner. Orders of the commissioner must be enforced by the attorney general.

History: 1980 c 460 s 8; 1985 c 265 art 4 s 1

219.072 ESTABLISHMENT OF NEW GRADE CROSSINGS.

The establishment of all new grade crossings must be approved by the commissioner. When establishment of a new grade crossing is desired, either by the public officials having the necessary authority or by the railroad company, and the public officials and the railroad company cannot agree as to need, location, or type of warning devices required, either party may file a petition with the commissioner setting forth the facts and submitting the matter for determination. The commissioner, after notice as the commissioner deems reasonable, shall conduct a hearing and issue an order determining the matters submitted.

History: 1980 c 460 s 9; 1985 c 265 art 4 s 1; 1986 c 444

219.08 CROSSINGS; CHANGE OF GRADE.

When a railroad company changes or raises the grade of its tracks at a crossing, it shall also grade the approaches on each side so as to make the approach and crossing of the tracks safe for vehicles.

History: (4735) 1911 c 329 s 1; 1980 c 460 s 10; 1985 c 265 art 4 s 1

219.09 MULTIPLE TRACKS ACROSS ROAD; RAILROAD DUTY.

When a railroad company has more than one track crossing a highway, it is unlawful to raise or maintain one track at a higher grade than the other tracks; and the company shall raise or lower such tracks to about the same level so as not to endanger the safe passage of teams and other vehicles over the tracks at those crossings.

History: (4736) 1911 c 329 s 2; 1985 c 265 art 4 s 1

219.10 PENALTY FOR VIOLATION.

Subdivision 1. **Noncompliance, penalty.** A railroad company who refuses or neglects to comply with sections 219.08 and 219.09 within 30 days after being notified in writing to comply by a road authority is guilty of a violation of sections 219.08 and 219.09 and subject to a fine of \$50 for each day that the crossing is left unsafe. Each day of violation constitutes a separate offense.

Subd. 2. **Duty of county attorney.** A county attorney may institute court proceedings to collect fines, costs and disbursements on the part of the road authority making the complaint, and \$100 attorney's fees for each prosecution.

History: (4737) 1911 c 329 s 3; 1980 c 460 s 11; 1985 c 265 art 4 s 1

219.11 [Repealed, 1980 c 460 s 32]

219.12 [Repealed, 1980 c 460 s 32]

219.13 FARM CROSSING.

A railroad company constructing a railroad so as to leave parts of a farm on different sides of the road shall construct a proper farm crossing at some place convenient for that farm.

History: (4740) RL s 1996; 1985 c 265 art 4 s 1

219.14 RAILROAD CROSSINGS PROTECTED.

Subdivision 1. **Investigation.** The board on its own motion may investigate and determine whether a railroad crossing over a street or public highway, that is or will

be opened to public travel, is or will be dangerous to life or property. The board may order the crossing protected in any manner it finds reasonable and proper, including requiring the company to separate the grades.

Subd. 2. Hearing. The board shall give the interested railroad company and road authority notice of the investigation as it deems reasonable, and an opportunity to be heard before an order is made.

History: (4741, 4742) 1919 c 434 s 1,2; 1921 c 500 s 1; 1971 c 25 s 67; 1976 c 166 s 22; 1980 c 460 s 12; 1980 c 534 s 28; 1985 c 265 art 4 s 1

219.15 [Renumbered 219.14, subd 2]

219.16 GRADE CROSSING DEFINED.

The term "grade crossing" as used in this chapter means the intersection of a public highway and the tracks of a railroad, however operated, on the same plane or level, except street railways within city limits.

History: (4743-1) 1925 c 336 s 1; 1973 c 123 art 5 s 7; 1985 c 265 art 4 s 1

219.17 UNIFORM WARNING SIGNS.

The commissioner by rule shall require that uniform warning signs be placed at grade crossings. There must be at least three distinct types of uniform warning signs: a home crossing sign, for use in the immediate vicinity of the crossing; an approach crossing sign, to indicate the approach to a grade crossing; and, when deemed necessary, a stop sign with the word "stop" plainly appearing on it, to indicate that persons on the highway approaching the crossing, whether in vehicles or otherwise, must come to a stop before proceeding over the grade crossing.

History: (4743-2) 1925 c 336 s 2; 1971 c 25 s 67; 1976 c 166 s 23; 1980 c 460 s 13; 1985 c 265 art 4 s 1

219.18 RAILROAD TO ERECT SIGNS.

At each grade crossing established after April 23, 1925 and where and when crossing signs existing as of April 24, 1925 are replaced, the railway company operating the railroad at that crossing shall erect and maintain one or more uniform home crossing signs. The signs must be on each side of the railroad tracks and within 75 feet from the nearest rail.

History: (4743-3) 1925 c 336 s 3; 1985 c 265 art 4 s 1

219.19 ADDITIONAL WARNING SIGNS PROVIDED.

At each grade crossing where, because of the conditions surrounding it, the reasonable protection to life and property necessitates placing additional warning signs on the highway farther from the crossing than the home crossing signs, approach warning signs must be installed. The commissioner may designate grade crossings requiring additional signs on either or both sides of the crossing. Upon designating a crossing as requiring additional protection, the commissioner shall notify the road authority having the care of the highway. The road authority, within 30 days after notification, shall furnish and maintain uniform signs in the appropriate places on the highway on either or both sides of the grade crossings.

History: (4743-4) 1925 c 336 s 4; 1971 c 25 s 67; 1976 c 166 s 24; 1980 c 460 s 14; 1985 c 265 art 4 s 1; 1986 c 444

219.20 STOP SIGNS.

Subdivision 1. When installation required; procedure. At each grade crossing where, because of the dangers attendant upon its use, the reasonable protection of life and property makes it necessary for persons approaching the crossing to stop before crossing the railroad tracks, stop signs must be installed. When the government entity

responsible for a road that crosses a railroad track deems it necessary to install stop signs at that crossing, it shall petition the commissioner to order the installation of the stop signs. The commissioner shall respond to the petition by investigating the conditions at the crossing to determine whether stop signs should be installed at the crossing. On determining, after an investigation following a petition from a governmental agency or subdivision or on the commissioner's own motion, that stop signs should be installed at a crossing, the commissioner shall designate the crossing as a stop crossing and shall notify the railway company operating the railroad at the crossing of this designation. Within 30 days after notification, the railway company shall erect the uniform stop crossing signs in accordance with the commissioner's order.

Subd. 2. Stopping distances. When a stop sign has been erected at a railroad crossing, the driver of a vehicle approaching a railroad crossing shall stop within 50 feet, but not less than ten feet, from the nearest track of the crossing and shall proceed only upon exercising due care.

History: (4743-5) 1925 c 336 s 5; 1971 c 25 s 67; 1976 c 166 s 25; 1985 c 265 art 4 s 1; 1987 c 397 s 2

219.21 [Repealed, 1982 c 444 s 7]

NOTE: See also sections 169.28 and 169.29.

219.22 STOP, LOOK, AND LISTEN.

Before proceeding across the railroad track at a crossing marked with a stop sign, drivers shall bring their vehicles to a full stop and ascertain whether or not trains are approaching the crossing.

History: (4743-7) 1925 c 336 s 7; 1985 c 265 art 4 s 1

219.23 CROSSING GUARD; RAILROADS TO PROVIDE.

If the board finds in an investigation instituted by the commissioner or upon complaint and after opportunity for hearing, that a crossing guard is necessary to protect life and property at a grade crossing, it shall order the railway company operating the railroad at the crossing to provide a crossing guard and shall specify in the order the hours when the presence of the guard is required. The railway company shall then provide a crossing guard during that time. The crossing guard shall have full control over the traffic at this crossing.

History: (4743-9) 1925 c 336 s 9; 1971 c 25 s 67; 1976 c 166 s 26; 1980 c 460 s 15; 1980 c 534 s 29; 1985 c 265 art 4 s 1

219.24 ADDITIONAL SAFEGUARDS.

If the board finds in an investigation instituted upon the commissioner's own motion or upon complaint and after notice and hearing, that conditions at a grade crossing require additional safeguards to protect life and property, such as crossing gates or other suitable devices, the board shall specify the nature of the devices required and may order the railway company operating the railroad at the crossing to install them.

History: (4743-10) 1925 c 336 s 10; 1971 c 25 s 67; 1976 c 166 s 27; 1980 c 534 s 30; 1985 c 265 art 4 s 1

219.25 [Repealed, 1980 c 460 s 32]

219.26 PROTECTIVE CROSSING DEVICES; UNIFORMITY.

The commissioner, so far as practicable, shall secure uniformity in the devices used to protect grade crossings. No devices may be installed until they have been approved by the commissioner. All devices which, in the opinion of the commissioner, conflict with devices approved by the commissioner, either in design or method of operation, so as to create a hazard to travel at the crossing, must be immediately modified by the

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railroad company controlling the crossing to conform to those devices approved by the commissioner.

History: (4743-12) 1925 c 336 s 12; 1971 c 25 s 67; 1976 c 166 s 29; 1985 c 265 art 4 s 1

219.27 VACATING OR RELOCATING CROSSINGS; HEARINGS.

When either the public officials having the necessary authority or the railway company operating the railroad desires to vacate or relocate a crossing of a public highway and a railroad, and an agreement cannot be reached between them either as to the vacation or relocation, or as to the place, manner of construction, or a reasonable division of expense in the case of a relocation, either party may file a petition with the board, setting forth the facts and submitting the matter to it for determination. The board shall then conduct a hearing and shall issue its order determining the matters submitted. Unless the board finds that the interests and safety of the public require the continued existence of the crossing, it may order the crossing vacated or relocated.

History: (4743-13) 1925 c 336 s 13; 1971 c 25 s 67; 1971 c 571 s 1; 1976 c 166 s 30; 1980 c 534 s 32; 1985 c 265 art 4 s 1

219.28 APPROVAL OF CROSSINGS AND SEPARATE GRADES.

The board shall approve the establishment of overhead or underground crossings or separation of grades.

History: (4743-14) 1925 c 336 s 14; 1971 c 25 s 67; 1976 c 166 s 31; 1980 c 460 s 16; 1980 c 534 s 33; 1985 c 265 art 4 s 1

219.29 PROHIBITED SIGNS.

Subdivision 1. Obstructing signs. No person, firm, or corporation shall place or maintain any advertising sign or other similar obstruction upon, over, or adjacent to a highway between an approach sign and the grade crossing which it marks.

Subd. 2. Resembling signs. No person, firm, or corporation shall place or maintain upon, over, or adjacent to a public highway any sign or symbol resembling the signs provided for in sections 219.16 to 219.30.

History: (4743-15) 1925 c 336 s 15; 1985 c 265 art 4 s 1

219.30 INJURING, DESTROYING SIGNS.

It is unlawful for a person to maliciously injure, remove, displace, deface, or destroy the signs or signals provided for in sections 219.16 to 219.30.

History: (4743-16) 1925 c 336 s 16; 1985 c 265 art 4 s 1

219.31 BUILDING FENCES AND CATTLE GUARDS.

Subdivision 1. Duty. Every railroad company shall build and maintain good and substantial fences on each side of all lines of its railroad, and good and sufficient cattle guards at all road and street crossings and other openings, except at station and depot grounds, and other places which the necessary business of the road or public convenience requires to be open.

When a person's land lying along a railroad right-of-way is enclosed on three sides by a woven wire fence, the railroad company shall erect and maintain a woven wire fence of like character and quality along the right-of-way enclosing the remaining side of the land.

Subd. 2. Standard of care. The railroad company is held to the exercise of ordinary diligence and care in building and maintaining fences and cattle guards and in keeping cattle guards free from ice and snow.

History: (4744) RL s 1997; 1907 c 333; 1911 c 309 s 1; 1985 c 265 art 4 s 1

219.32 FAILURE TO FENCE; LIABILITY AND DAMAGES.

A railroad company failing to comply with section 219.31 is liable for all resulting damages, including domestic animals killed or injured by its negligence. If it fails to pay the actual damages caused by the killing or injury within 30 days after the damage occurs, the plaintiff shall recover double costs. The company, before the commencement of an action, may make tender for the injury. If the amount recovered, exclusive of interest, does not exceed the tender, the plaintiff shall not recover costs or disbursements.

History: (4745) *RL s 1998; 1983 c 359 s 21; 1985 c 265 art 4 s 1*

219.33 FENCES, CROSSINGS, CATTLE GUARDS; LANDOWNER RECOURSE.

Subdivision 1. Liability. A railroad company operating a line of railroad in this state, which has failed or neglected to fence the road and to erect crossings and cattle guards, is liable for all damages sustained by a person as a consequence of that failure or neglect.

Subd. 2. Measure of damages. The measure of damages for failure to construct or maintain a fence is as follows: the owner of land abutting on the line of railway of the railroad company may serve notice on any of its station agents between April 1 and October 1 of any year, requiring the construction of a fence on the line between the person's land and the company's right-of-way. If the company does not construct the fence within 40 days after service of the notice, the landowner may recover from the company an amount not exceeding twice the cost of construction, with costs and reasonable attorney's fee, to be allowed by the court, or the landowner may construct the fence after the expiration of that time and receive from the company double the cost of construction, with like costs and attorney's fee.

Subd. 3. Duty to maintain. The fence must be kept in repair by the railroad company in like manner and under like penalties as if built by the company.

Subd. 4. Failure to serve notice. Failure to serve notice does not relieve the railroad company from liability for damages for injuries to persons or domestic animals or other property, resulting from failure to fence its road.

History: (4746) *RL s 1999; 1985 c 265 art 4 s 1*

219.34 FENCES BETWEEN RAILROAD AND PUBLIC ROAD.

If a railroad company fails to fence its line where it adjoins a public road or street, or lies so near as to render travel on it dangerous, the governing body of the town or municipality having charge of the road or street, by notice as in the case of an abutting landowner, may require the fence to be built. In case of failure to build the fence within the time provided in section 219.33, the town or municipality has the rights and remedies given by section 219.33 to an abutting owner.

History: (4747) *RL s 2000; 1985 c 265 art 4 s 1*

219.35 CROSSINGS AND DRAINS.

Persons owning lands abutting upon a railroad may construct, at their own expense, crossings under, over, or across the railroad and drains under and across the railroad at places and in ways that do not obstruct or impair the use of the railroad. These crossings and drains must be maintained and kept in repair by the railroad company. Before constructing them, the owner of the land shall serve on the nearest station agent of the company a notice, stating in detail the work which the landowner desires to perform, and the company may construct that work; but the crossings and drains may not be opened for the use of the landowner until the landowner pays the reasonable cost of construction.

History: (4748) *RL s 2001; 1985 c 265 art 4 s 1; 1986 c 444*

219.36 GATES AT FARM CROSSINGS.

A railroad company, which erects at a farm crossing a gate for the exclusive use of the owner and occupants of that farm, provides a lock for the gate, and delivers the key for the lock to the owner or occupant, is not liable to the owner or occupant for an animal killed or injured because the gate was left open without fault of the company, unless the killing or injury resulted from the wanton or malicious act of the company or its employees.

History: (4749) *RL s 2002; 1985 c 265 art 4 s 1*

219.37 DITCHES AND CULVERTS.

A railroad company or receiver or lessee of a railroad company, operating a line of railroad in the state, shall 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 roadbed or right-of-way. This section does not apply to ditches and culverts not located upon the right-of-way of a railroad.

History: (4750) *1909 c 377 s 1; 1985 c 265 art 4 s 1*

219.38 [Repealed, 1957 c 724 s 21]**219.383 SAFE OPERATION OF TRAINS OVER ROADS; PENALTY.**

Subdivision 1. Speed fixed by board. The board, on petition of a city council or a railway corporation, may fix and determine after a hearing a reasonable speed for the operation of an engine or train on and over a railroad crossing of a public highway or street in that city.

Subd. 2. Maximum speed. Where the board has fixed the speed of an engine or train over a public highway or street crossing in a city as provided in this section, the fixed speed is the lawful maximum speed at which an engine or train may be operated on and over that public highway or street crossing, until changed by subsequent order of the board.

Subd. 3. Not to block public roads or streets. No railway corporation shall permit a public road or street crossing a railroad track to be closed for traffic by a standing car, train, engine, or other railroad equipment, or by a switching movement which continuously blocks a crossing for longer than ten minutes. This subdivision does not apply to cities of the first class which regulate obstruction of streets by ordinance.

Subd. 4. Penalty. A railway corporation violating this section is guilty of a misdemeanor and upon conviction is liable for a fine of not less than \$25 nor more than \$200.

History: *1945 c 220 s 1-5; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1976 c 166 s 32; 1980 c 460 s 17; 1980 c 534 s 34; 1985 c 265 art 4 s 1; 1987 c 329 s 21*

219.39 DANGEROUS CROSSINGS; COMPLAINTS; HEARINGS.

Upon written complaint authorized by the governing body of a city or county, by the board of supervisors of a town, or by authorized officers of a subject railroad, alleging that a railroad crossing a street, road, or highway in the city, town, or county is dangerous to life and property, and giving the reasons for the allegations, the commissioner shall investigate the matters contained in the complaint, and, when necessary, initiate a hearing before the board.

History: *(4662) 1911 c 243 s 1; 1923 c 134 s 1; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1975 c 313 s 2; 1976 c 166 s 33; 1980 c 534 s 35; 1Sp1981 c 4 art 2 s 21; 1985 c 265 art 4 s 1*

219.40 DETERMINATION; ORDER; FLAGGER OR SAFETY DEVICE.

Subdivision 1. Board determination. (a) If a complaint is made under section 219.39, the board shall determine, after investigation by the commissioner or after

hearing, whether the crossing is hazardous and may require the railroad company to (1) provide flaggers at the crossing, (2) adopt safety devices as the board deems necessary to protect the crossing properly, (3) remove any structure, embankment, or other obstruction to the view, (4) close the crossing complained of or other crossing in the vicinity, or (5) construct an overhead or maintain an underground crossing and divide the cost between the railroad company, the town, county, municipal corporation, or state transportation department interested, on terms and conditions as may seem just and equitable.

(b) The board may require the complaining city, town, or county to remove an embankment, structure, or other obstruction to the view as may be reasonable and necessary to properly protect the crossing.

Subd. 2. Hearing. If the complainant road authority or the railroad files exceptions to an order of the board made under this section without a hearing, the board shall convene a hearing on the original complaint.

Subd. 3. Order; costs allocated. If the board or its designee after notice and hearing orders (1) the installation of a safety device, (2) the construction, reconstruction, modernization, or replacement of major parts, as defined by rule of the board, of the safety devices, gates, or other types of special protection, (3) the removal of a structure, embankment, or other obstruction to the view, or (4) the construction, reconstruction, or maintenance of an underground or overhead crossing on a public road, street, or highway, it may in the same order direct that the costs be divided between the railroad company and the public authority involved as the parties may agree, or, if they fail to agree, then as determined by the board on the basis of benefit to the users of each. However, the board may defer determination of the division of costs to a subsequent order to be made on the basis of evidence previously taken.

Subd. 4. Funds to pay costs. (a) If a state trunk highway is involved, the state's share of the costs must be paid from funds available to the department of transportation.

(b) In all other cases the public's share of the costs must be paid from available funds or from the trunk highway fund, if ordered by the board, or from any combination of these funds or other available funds; provided that a highway, street, or road fund must only be expended for the costs on a highway, street, or road within the political subdivision charged with its maintenance and care and only upon the highways, streets, or roads for which the fund was allocated or created.

History: (4663) 1911 c 243 s 2; 1913 c 294 s 1; 1923 c 134 s 2; 1951 c 179 s 2; 1959 c 528 s 1; 1963 c 458 s 2; 1965 c 245 s 1; 1967 c 86 s 2; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1975 c 313 s 3; 1976 c 166 s 7,34; 1977 c 454 s 27; 1980 c 534 s 36; 1Sp1981 c 4 art 2 s 22; 1985 c 265 art 4 s 1

219.401 [Repealed, 1977 c 454 s 49]

219.402 ADEQUATE CROSSING PROTECTION.

Crossing safety devices or improvements installed or maintained under this chapter as approved by the board, whether by order or otherwise, are adequate and appropriate protection for the crossing.

History: 1985 c 265 art 4 s 1

219.403 NOT TO AFFECT EXISTING LAWS AS TO MUNICIPALITIES.

Nothing in this section or section 161.20, 219.40, or 219.071 changes existing law relating to the rights and liabilities of a city, town, or county in connection with the construction or maintenance of a railroad crossing, grade separation, or signal system, or impairs the terms or conditions of an existing arrangement or agreement, or renewals of it, between a railroad company and a municipality for the maintenance of a railroad crossing, grade separation, or signal system.

History: 1951 c 179 s 3; 1965 c 51 s 39; 1973 c 123 art 5 s 7; 1980 c 460 s 20; 1985 c 265 art 4 s 1

219.41 APPEAL; ORDER, HOW ENFORCED.

A railroad company or the city, town, or county making the complaint may appeal from an order of the board to the district court of the county in which the crossing is located. The same appeal proceedings must be held as now provided by law for an appeal from orders of the board. Orders of the board must be enforced by the attorney general.

History: (4664) 1911 c 243 s 3; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1976 c 166 s 36; 1980 c 534 s 37; 1985 c 265 art 4 s 1

219.42 FAILURE TO COMPLY; PENALTY.

A railroad company or city, town, or county failing to comply with an order of the board that is not appealed from or, if appealed from, affirmed in whole or in part, is liable to a penalty of \$50 for every day of noncompliance, to be collected in civil action brought by the attorney general.

History: (4665) 1911 c 243 s 4; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1976 c 166 s 37; 1980 c 534 s 38; 1985 c 265 art 4 s 1

219.43 [Repealed, 1980 c 460 s 32]**219.44 CHARTER POWERS NOT ABRIDGED.**

Nothing in sections 219.39 to 219.44 repeals, abridges, modifies, or affects the power contained in the charter of a city to require railroads to maintain gates, flaggers, or safety devices at public highway crossings in that city, or any ordinance enacted pursuant to that power.

History: (4667) 1911 c 243 s 6; 1973 c 123 art 5 s 7; 1985 c 265 art 4 s 1

219.45 CLEARANCE BETWEEN STRUCTURE AND CARS.

Sections 219.45 to 219.53 apply to a person, corporation, or anyone owning, operating, or maintaining a structure or obstruction adjacent to railway tracks and to a corporation, receiver of the corporation, or any person while engaged as a common carrier in the transportation by railroad of passengers or property to which the regulatory powers of this state extend, except a railway operated by the electric trolley system.

History: (4753) 1913 c 307 s 1; 1937 c 238 s 1; 1985 c 265 art 4 s 1

219.46 UNLAWFUL STRUCTURES; CLEARANCES.

Subdivision 1. **Structures.** (a) On and after April 16, 1913, it is unlawful for a common carrier or any other person, on a standard gauge road on its line or a standard gauge sidetrack, for use in any traffic mentioned in section 219.45:

(1) to erect or reconstruct and maintain an adjoining warehouse, coal chute, stock pen, pole, mail crane, standpipe, hog drencher, or any permanent or fixed structure or obstruction within eight feet of the centerline of the track or sidetrack;

(2) in excavating, to allow an adjoining embankment of earth or natural rock to remain within eight feet of the center line of the track or sidetrack; or

(3) to erect or reconstruct overhead wires, bridges, viaducts or other obstructions passing over or above its tracks at a height less than 21 feet, measured from the top of the track rail.

(b) If after May 1, 1943, overhead structures or platforms or structures designed only to be used in the loading or unloading of cars are rebuilt or remodeled, then these overhead structures must be built with an overhead clearance of not less than 22 feet from the top of the rail. These structures or platforms must be built with a side clearance of not less than 8-1/2 feet from the center line of the track unless by order the commissioner may provide otherwise.

(c) Sections 219.45 to 219.53 do not apply to yards and terminals of depot companies or railway companies used only for passenger service. If personal injury is

sustained by an employee of a depot company or railway company used only for passenger service, by reason of noncompliance with sections 219.45 to 219.53, that employee, or in case of the employee's death, the personal representative, has the rights, privileges, and immunities enumerated in section 219.53.

(d) On and after May 1, 1943, it is unlawful for a common carrier or any other person, on a standard gauge road on its line or a standard gauge sidetrack or spur, for use in any traffic mentioned in section 219.45:

(1) to erect or construct and maintain an adjoining warehouse, coal chute, stock pen, pole, mail crane, standpipe, hog drencher, or any permanent or fixed structure or obstruction within 8-1/2 feet of the centerline of the track;

(2) in excavating, to allow an adjoining embankment of earth or natural rock to remain within 8-1/2 feet of the center line of the track or sidetrack; or

(3) to erect or construct overhead wires, bridges, viaducts, or other obstructions passing over or above its tracks at a height less than 22 feet, measured from the top of the track rail.

Subd. 2. Clearances on parallel tracks. (a) On and after May 1, 1943, it is unlawful for a common carrier to construct track used for moving cars engaged in the movement of traffic if the center line of the track is within 14 feet from the center line of any other parallel track which it adjoins.

(b) In addition, no ladder tracks may be closer to an adjacent ladder track than 19 feet measured from the center line of each track, nor closer to any other parallel track than 17 feet measured from the center line of each track.

(c) The distance between tracks may be diminished or closed up a necessary distance for track intersections, gauntlet tracks, turnouts, or switch points.

Subd. 3. May maintain existing structure. A common carrier or any other person may maintain an overhead structure or structure alongside of a track referred to in this section and section 219.45 if the structure was not erected in violation of law.

Subd. 4. May maintain existing tracks. (a) A common carrier or any other person may:

(1) maintain or reconstruct presently existing tracks constructed after April 16, 1913, in accordance with the then existing clearance law;

(2) maintain or reconstruct tracks which, if constructed before April 16, 1913, were constructed with clearances as provided in Laws 1913, chapter 307; or

(3) maintain or reconstruct tracks built in accordance with Laws 1913, chapter 448.

(b) As to tracks that were constructed with a clearance less than 13 feet between center lines before April 16, 1913, the maintenance of a clearance of less than 13 feet between center lines in railroad switching yards may create a hazard. The commissioner may require adequate and safe clearances as rapidly as possible in the yards on petition by an affected party, after hearing, and where a greater clearance can be reasonably provided.

Subd. 5. May extend existing yard tracks. It is not unlawful to extend existing yard tracks or other tracks at the clearance which now exists between them if the tracks were constructed either before or after April 16, 1913, with clearances as provided in Laws 1913, chapter 307.

Subd. 6. May maintain additional tracks. It is not unlawful to construct or maintain additional tracks at less than the required clearance on or under existing bridges which were constructed after April 16, 1913, with clearances as provided in Laws 1913, chapter 307.

Subd. 7. Order for less clearance. The board after a hearing may authorize, in the construction and reconstruction of bridges and tunnels, by general order (1) a clearance less than 8-1/2 feet from the center line of the track at a height not to exceed six feet above the top of the rail, and (2) a clearance less than 8-1/2 feet from the center line of the track at a point not less than 14-1/2 feet above the top of the rail.

History: (4754) 1913 c 307 s 2; 1915 c 171 s 1; 1937 c 238 s 2; 1943 c 390 s 1-7; 1971 c 25 s 67; 1976 c 166 s 39-41; 1980 c 534 s 40; 1985 c 265 art 4 s 1; 1986 c 444

219.47 CLEARANCE EXCEPTIONS.

Subdivision 1. Permanent. The board, upon application made, after a thorough investigation, may permit a common carrier, person, or corporation to which sections 219.45 to 219.53 apply, to erect an overhead or side obstruction closer to the track than provided for in section 219.46, to construct track at less clearance than provided for in section 219.46, and to reconstruct and maintain them when in the judgment of the commissioner compliance with the clearance prescribed in section 219.46 is unreasonable or unnecessary or the erection or construction of the overhead or side obstruction or tracks or the reconstruction and maintenance of them at less clearance than provided in section 219.46 will not create a condition unduly hazardous to the employees of that common carrier, person, or corporation. Before taking final action on the application, the board need conduct only those hearings or other proceedings as it finds necessary for the resolution of the material issues raised by the application.

Subd. 2. Temporary. The commissioner, upon application made, may grant temporary clearance variances, with appropriate safeguards and without hearing, for statutory encroachments resulting from emergency or temporary construction situations.

History: (4755) 1913 c 307 s 3; 1915 c 171 s 2; 1937 c 238 s 3; 1943 c 390 s 8; 1971 c 25 s 67; 1976 c 166 s 42; 1980 c 460 s 21; 1980 c 534 s 41; 1985 c 265 art 4 s 1; 1986 c 468 s 3

219.50 OBSTRUCTING SPACE BETWEEN TRACKS.

It is unlawful for a common carrier, person, or corporation subject to sections 219.44 to 219.52 to permit the space between or beside tracks that is ordinarily used by employees in the discharge of their duties and is within 8-1/2 feet of the center line of the track, to become or remain obstructed by a foreign obstacle that will interfere with the work of the employees or subject the employees to unnecessary hazard. This space between or beside the tracks and between the rails of the tracks must be kept in a condition as to permit the employees to pass over or between the tracks or to use the space day or night and under all weather conditions without unnecessary hazard.

History: (4758) 1913 c 307 s 6; 1913 c 448 s 1; 1980 c 460 s 22; 1985 c 265 art 4 s 1

219.51 PENALTIES.

Subdivision 1. Violation. A common carrier, corporation, or person subject to sections 219.45 to 219.53 violating any of the provisions of those sections, is liable to a penalty of not more than \$500 for each violation.

Subd. 2. Failure to correct. If a common carrier, person, or corporation (1) fails to correct a violation of sections 219.45 to 219.53 when ordered by the commissioner or board within the time provided in the order, and (2) does not appeal the order, then failure to correct the violation as ordered by the commissioner or board constitutes a new and separate offense distinct from the original violation of sections 219.45 to 219.53.

Subd. 3. Duties of attorney general. The penalty must be recovered in a suit brought in the name of the state by the attorney general in a court having jurisdiction in the locality where the violation was committed. Under the direction of the commissioner or board, the attorney general shall bring suit upon receipt of duly verified information from any person of a violation being committed. The commissioner or board shall lodge with the attorney general information of any violation as may come to their knowledge.

History: (4759) 1913 c 307 s 7; 1937 c 238 s 4; 1971 c 25 s 67; 1976 c 166 s 43; 1980 c 534 s 42; 1985 c 265 art 4 s 1

219.52 WARNING SIGNS; STRUCTURES IN CLEARANCES.

If a structure is nearer the track than as provided by sections 219.45 to 219.53, the

board shall provide for warning signs to be placed on it of a design and type as the board considers proper unless the board determines a sign is unnecessary. Railroad inspectors of the department of labor and industry shall report to the commissioner and attorney general any violation of sections 219.45 to 219.53 of which they may obtain knowledge.

History: (4760) 1913 c 307 s 8; 1937 c 238 s 5; 1971 c 25 s 67; 1976 c 166 s 44; 1980 c 460 s 23; 1980 c 534 s 43; 1985 c 265 art 4 s 1

219.53 CONTRIBUTORY NEGLIGENCE.

An employee of a common carrier who, while performing duties and engaged in any commerce mentioned in section 219.45, subject to the regulative provisions of sections 219.45 to 219.53, is injured or killed by reason of (1) a violation of section 219.50, (2) a structure or obstruction erected or maintained before the passage of or in violation of sections 219.45 to 219.53, or (3) a structure or obstruction erected or maintained in closer proximity to the rails than provided in sections 219.45 to 219.53 shall not be deemed to have assumed the resultant risk or to have been guilty of contributory negligence although the employee continued in the employ of the common carrier after becoming aware of the use of the permanent overhead or side structure or obstruction mentioned in sections 219.45 to 219.53.

An exercise of the permission provided for in section 219.47 is at the sole risk of the carrier.

History: (4761) 1913 c 307 s 9; 1985 c 265 art 4 s 1

219.54 FREIGHT PLATFORMS.

Within 30 days after written notice, served in the same manner as a summons in district court, from the governing body of a statutory city containing 250 inhabitants or more, a railroad company shall provide platforms at stations as required by the city and at other stations and sidings when required by the board. These platforms must:

- (1) be immediately alongside of the railroad company's tracks or sidetracks;
- (2) have approaches at each end;
- (3) be suitable and convenient for loading and unloading heavy machinery and other freight upon and from the railroad company's cars;
- (4) be at least 12 feet wide, strongly built, and floored with planking at least three inches thick;
- (5) be at least 32 feet long, exclusive of approaches;
- (6) be the height of the floor of an ordinary boxcar; and
- (7) have approaches of such grade that heavily loaded vehicles and equipment can be driven on them.

Any company failing to comply with this section shall forfeit to the state not less than \$500 nor more than \$1,000 for every 30 days that the failure continues.

History: (4762) RL s 2003; 1923 c 142 s 1; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1976 c 166 s 45; 1980 c 460 s 24; 1980 c 534 s 44; 1985 c 265 art 4 s 1

219.55 LOADING PLATFORMS.

When required by the board, a railroad company shall construct and maintain at each station and siding a suitable platform for loading grain, livestock, and other commodities into its cars for shipment. The board may require the enlargement of the platform or the construction of additional platforms at a station or siding, when it deems it necessary for that purpose. A company that fails to construct the platform within 60 days after service of the board's order requiring construction, shall forfeit to the state \$25 for each day that the platform remains unconstructed.

History: (4763) RL s 2004; 1971 c 25 s 67; 1976 c 166 s 46; 1980 c 534 s 45; 1985 c 265 art 4 s 1

219.551 LOCOMOTIVES; WATER AND TOILET FACILITIES.

Subdivision 1. Scope of definitions. As used in this section, the following words and phrases, unless a different meaning is plainly required, have the meanings given them.

Subd. 2. Initial terminal defined. "Initial terminal" means the terminal within the state of Minnesota from which an operating unit is dispatched and at which regular maintenance forces are available to repair defective water coolers and toilet facilities.

Subd. 3. Operating unit defined. "Operating unit" means a locomotive or one of the locomotives in a consist, but does not include a switch engine.

Subd. 4. Consist defined. "Consist" means two or more locomotives coupled together and used to propel other railroad rolling stock.

Subd. 5. Water. Each operating unit or a switch engine used as a single unit when put into service from an initial terminal must be provided with paper cups and at least one gallon of potable water supplied by a water cooler which must be sanitary, clean, and operating.

Subd. 6. Toilet. Each operating unit purchased new, not reconditioned, and put into service from an initial terminal must be equipped with a dry hopper, gas or electric incinerator, or other suitable toilet facility, if the operating unit is used for a road operation of 50 miles or more away from the initial terminal. After July 1, 1972, each consist used in road operations of 50 miles or more away from the initial terminal must have at least one operating unit equipped with a dry hopper, gas or electric incinerator, or other suitable toilet facility; provided, however, in the case of transfer or switching service or emergency or emergency need for additional diesel power equipment, this requirement does not apply. When put into service from an initial terminal, diesel toilet facilities must be sanitary, clean, and operating. Unless otherwise actually required by operating conditions or emergency, the operating unit having the toilet facilities must be positioned at the head end of a consist.

Subd. 6a. Failure of toilet or water facilities. The diesel toilet facilities and water cooler facilities required by this section must be kept sanitary, clean, and operating. When a failure of the required equipment and standards of maintenance occurs after a locomotive has commenced to move in service, the railroad operating that locomotive is not in violation of this section if the failure is corrected at the next initial terminal.

Subd. 7. Penalty. A person, company, corporation, or its receiver operating a railroad in violation of this section is guilty of a misdemeanor and, upon conviction, is liable for a penalty of not less than \$25 nor more than \$200 for each offense. The use of an operating unit not equipped as provided in this section constitutes a separate offense for every day or part of a day so used. The penalty must be recovered in a suit brought in the name of the state in any court having jurisdiction in the county in which the initial terminal is situated, by the attorney general or by the county attorney of that county.

History: 1969 c 86 s 1-4; 1971 c 142 s 1; 1973 c 113 s 1-3; 1985 c 265 art 4 s 1; 1987 c 329 s 21

219.558 DEFINITIONS.

As used in sections 219.559 and 219.56, the following terms have the meanings given them:

(a) "Caboose" means a railroad car or coach that meets the standards of section 219.56 and is used on a train to carry a train crew.

(b) "Terminal" means a system of tracks, whose boundaries are set by a railroad, used for coupling or uncoupling cars.

(c) "Placarded car" means a railroad car that is required by federal regulations to display placards because the car contains hazardous materials.

(d) "Block signals" means a series of signals that control the movement of trains within a section of track.

History: 1988 c 697 s 1

219.559 OCCUPIED CABOOSE IN REAR; EXCEPTION.

Subdivision 1. **Caboose required.** Except as provided in subdivision 2, a railroad company may not operate a freight train 2,000 feet long or longer, if the train is handling placarded cars or is operated without block signals, unless the rear car is a caboose that is occupied by at least one member of the train crew.

Subd. 2. **Exceptions.** (a) A defective freight car that cannot be entrained except behind the caboose may be the rear car from the point at which it is entrained, unless that point is a terminal where repairs can be made, to the first repair terminal.

(b) This section does not apply to:

(1) a train used in terminal service two miles or less from the limits of the terminal;
 (2) a train operated on a short line railroad classified by the Interstate Commerce Commission as a class III line haul railroad;

(3) a railroad company that operates a railway in this state and in two adjoining states, if the total trackage of the railroad company, including trackage rights, is more than 950 miles and less than 1,000 miles;

(4) a unit grain train while it is transporting only grain as defined in section 17.41;
 or

(5) a unit taconite train while it is transporting only taconite ore, tailings, or other mined mineral ore.

Subd. 3. **Shortwave radio.** No railroad company may operate a caboose unless it is equipped with an operable shortwave radio with the same frequency as the shortwave radio on the lead locomotive of the train.

Subd. 4. **Penalty.** A railroad company violating this section is subject to a civil penalty of \$350 for each offense. The operation of a train in violation of this section constitutes a separate violation for each day or part of a day it is so operated. The penalty must be recovered in a civil action by a railway employee, a railway labor organization as defined under the Railway Labor Act, or another interested person in a court having jurisdiction in a county in or through which the railroad line runs. The civil penalty is payable to the state. The court may issue an order requiring compliance with this section. The court shall award the prevailing party in the civil action attorney fees and costs.

History: 1988 c 697 s 2

219.56 CABOOSE CARS.

It is unlawful for a person, corporation, or company operating a railroad to require or permit the use of caboose cars unless the caboose cars (1) are at least 24 feet in length, exclusive of platforms; (2) have a door at each end; (3) have a dry hopper, gas or electric incinerator, or other suitable toilet facilities; (4) have cupolas, bay windows, platforms, guard rails, grab irons, and steps for the safety of persons getting on or off the caboose cars; and (5) are equipped with at least two four-wheeled trucks. Shatterproof glass must be used in the doors of the caboose when the present glass is replaced. Each caboose, when placed in service, must be provided with paper cups and at least one gallon of potable water supplied by a water cooler, which is kept sanitary, clean, and operating. When failure of the required equipment or standards of maintenance occurs after a caboose has commenced to move in service, the railroad operating that caboose is not in violation of this section if the failure is corrected at the next initial terminal as defined in section 219.551, subdivision 2. Caboose cars built or purchased after January 1, 1968, must have underframing and superstructure constructed of steel or a material of equivalent strength and, after January 1, 1972, must also be equipped with a cushioned underframe or cushioned draft gears and shatterproof glass in all doors and windows. When caboose cars are operated at the rear of a train, as required by section 219.559, they must be equipped with a marker or markers which may consist of flags, lamps, flashing lights, or reflectorized devices.

History: (4879) 1909 c 382 s 1; 1941 c 230; 1967 c 155 s 1; 1969 c 49 s 1; 1971 c 141 s 1; 1973 c 115 s 1; 1985 c 265 art 4 s 1; 1988 c 697 s 3

219.561 TRACK MOTOR CARS; EQUIPMENT.

Subdivision 1. **Lights.** From and after January 1, 1950, a person, firm, or corporation operating or controlling a railroad shall equip each of its track motor cars used during the period from 30 minutes before sunset to 30 minutes after sunrise with:

(1) an electric headlight of such construction and of sufficient candlepower to render plainly visible at a distance of not less than 300 feet in advance of the track motor car a track obstruction, landmark, warning sign, or grade crossing; and

(2) a rear electric red light of such construction and of sufficient candlepower as to be plainly visible at a distance of 300 feet.

Subd. 2. **Windshields and tops.** Upon request of the section lead supervisor in any section operated by a railroad referred to in subdivision 1, a track motor car must be equipped within 90 days with a windshield and top wide and high enough to reasonably protect the employees from weather. However, a railroad company is not required in any one year to equip more than an additional 25 motor cars with that equipment.

Subd. 3. **Penalty.** A person, firm, or corporation operating or controlling a railroad and using or permitting to be used on its line in this state a track motor car in violation of this section is guilty of a misdemeanor.

History: 1949 c 680 s 1,2; 1961 c 405 s 1; 1985 c 265 art 4 s 1; 1986 c 444

219.562 MOTOR VEHICLES DESIGNED FOR HIGHWAY USE; EQUIPMENT.

Subdivision 1. **Requirements.** A motor vehicle designed for highway use and used by a railroad company operating in this state for transporting employees, tools, and supplies must be equipped to provide:

(1) adequate heating in all kinds of inclement weather;

(2) adequate, safe seating facilities so that each employee transported may be seated;

(3) a communication system between the cab and the rear compartment;

(4) suitable and adequate containers or boxes to hold tools, equipment, and supplies, so located and attached to the vehicle that the containers or boxes and the tools, equipment, or supplies will not shift, topple, or roll; and

(5) toilet facilities if the motor vehicle is used to transport more than nine employees to and from headquarters.

Subd. 1a. **Exception for emergency.** For an emergency arising from common disaster or adverse weather such as flooding, washout, excessive snow or icing, or derailment or defect in track requiring prompt repair, motor vehicles which do not meet the standards in subdivision 1 may be used only during the emergency.

Subd. 2. [Repealed, 1975 c 282 s 2]

Subd. 3. **Dispute.** Should a dispute arise as to the adequacy of the facilities provided for in subdivision 1, it may be submitted for final determination to the board after notice of the hearing to affected parties.

Subd. 4. **Penalty.** A railroad company, or its officer or agent, violating this section is guilty of a misdemeanor.

History: 1973 c 64 s 1-4; 1975 c 282 s 1; 1976 c 166 s 47; 1980 c 534 s 46; 1985 c 265 art 4 s 1

219.565 ENGINEERS WHO CANNOT READ.

An officer of a corporation is guilty of a gross misdemeanor if that officer knowingly employs, as an engineer or engine driver to run locomotives or trains on a railway, a person who cannot read the timetables and ordinary handwriting.

Also, a person is guilty of a gross misdemeanor if that person is unable to read the timetables of the road and ordinary handwriting and acts as an engineer or runs a locomotive or train on a railway.

History: (10261) RL s 4999; 1985 c 265 art 4 s 1

219.566 INTOXICATION OF EMPLOYEES ON TRAINS OR BOATS.

Every person (1) employed upon a railway as engineer, conductor, baggage master, brake tender, switch tender, fire tender, bridge tender, flagger, or signaler; (2) having charge of stations, starting, regulating, or running trains upon a railway; or (3) employed as captain, engineer, or other officer of a vessel propelled by steam, who is intoxicated while discharging those duties, is guilty of a gross misdemeanor.

History: (10262) *RL s 5000; 1985 c 265 art 4 s 1*

219.567 FAILURE TO RING BELL.

An engineer driving a locomotive on a railway who fails (1) to ring the bell or sound the whistle on the locomotive, or have it rung or sounded, at least 80 rods from a place where the railway crosses a traveled road or street on the same level, except in cities, or (2) to continue ringing the bell or sounding the whistle at intervals until the locomotive and attached train have completely crossed the road or street, is guilty of a misdemeanor.

History: (10263) *RL s 5001; 1985 c 265 art 4 s 1*

219.568 OTHER VIOLATIONS OF DUTY.

An engineer, conductor, brake tender, switch tender, train dispatcher, or other officer, agent, or servant of a railway company, who is guilty of a willful violation or omission of duty as an officer, agent, or servant, by which human life or safety is endangered and for which no punishment is specially prescribed, is guilty of a misdemeanor.

History: (10264) *RL s 5002; 1985 c 265 art 4 s 1*

219.57 PREVENTION OF FIRE.

Subdivision 1. Spark arrester. A company operating a railroad shall use upon each locomotive engine a good and efficient spark arrester, which the master mechanic shall have examined each time before leaving the roundhouse. The master mechanic and the employee making the examination are responsible for the good condition of the spark arrester. However, the company is not relieved from its responsibility under this section.

Subd. 2. Clear right-of-way. A 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, annually.

Subd. 3. Fires tended, reported. No company shall permit its employees to leave a deposit of fire, live coals, or ashes in the immediate vicinity of woodland or land liable to be overrun by fire. An engineer, conductor, or train crew member discovering fire adjacent to the track shall report it promptly at the first telegraph or telephone station reached.

Subd. 4. Extinguishment and prevention instruction. In dry seasons a railroad company shall instruct its employees in the prevention and extinguishment of fires and have warning placards furnished by the director of the division of lands and forestry of the department of natural resources conspicuously posted at every station in the vicinity of forest and grass lands. When a fire occurs near the line of its road, the railroad company shall concentrate help and adopt measures available for its extinguishment.

Subd. 5. Patroller. In dry seasons the railroad company shall employ at least one patroller 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 fire could usually be set by sparks from a passing locomotive.

Subd. 6. Penalty. A railroad company violating this section is guilty of a misdemeanor punishable by a fine of not less than \$50 nor more than \$200 and costs of prosecution for each offense.

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A railroad employee violating this section is guilty of a misdemeanor punishable by a fine of not less than \$50 nor more than \$100 and costs of prosecution or by imprisonment in the county jail not exceeding 90 days.

History: (4911) *RL s 2037; 1909 c 182 s 1; 1911 c 9 s 1; 1967 c 905 s 5; 1969 c 1129 art 3 s 1; 1985 c 265 art 4 s 1; 1987 c 329 s 21*

219.58 [Repealed, 1980 c 460 s 32]

219.59 [Repealed, 1980 c 460 s 32]

219.60 [Repealed, 1980 c 460 s 32]

219.61 [Repealed, 1980 c 460 s 32]

219.62 [Repealed, 1980 c 460 s 32]

219.63 [Repealed, 1980 c 460 s 32]

219.64 ASSUMPTION OF RISK; CONTRIBUTORY NEGLIGENCE.

An employee of a common carrier who is killed or injured due to improperly adjusted and filled frogs, switches, and guardrails or by a locomotive, tender, car, similar vehicle, or train in use contrary to federal or state railroad safety laws and standards shall not be held to have assumed the risk of death or injury by continuing in the employment of the carrier after obtaining knowledge of the unlawful use of the locomotive, tender, car, similar vehicle, or train; nor may the employee be held to have contributed to the injury when the carrier has violated federal or state railroad safety laws and standards and the violation contributed to the death or injury of the employee.

History: (4920) *1907 c 202; 1909 c 488 s 7; 1980 c 460 s 25; 1985 c 265 art 4 s 1*

219.65 [Repealed, 1980 c 460 s 32]

219.66 [Repealed, 1980 c 460 s 32]

219.661 SPEEDOMETERS; LEGISLATIVE FINDINGS.

The legislature finds that the safe operation of locomotives by common carriers by rail within the state requires that they be equipped with fully operable speedometers within view of the engineer or operator of the locomotive.

History: *1975 c 406 s 1; 1985 c 265 art 4 s 1*

219.662 SPEEDOMETERS REQUIRED; REPORTS.

Subdivision 1. Requirement. No railroad locomotive may be operated without a speedometer or speed recorder functioning correctly within three miles per hour and within the view of the engineer or operator of the locomotive.

Subd. 2. Compliance. A railroad complies with subdivision 1 if, (1) by the first day of October 1975, it has at least one-third of its locomotives equipped with speed indicators or speed recorders as required in subdivision 1, (2) by the first day of October 1976, an additional one-third of the locomotives are so equipped, and (3) by the first day of October 1977, its remaining locomotives are so equipped.

Subd. 3. Yard switching service. Locomotives operated or used exclusively within designated yard limits in switching service need not be equipped in accordance with this section.

Subd. 4. Failure of required equipment. If the required equipment fails after a locomotive has commenced to move in service, the railroad operating that locomotive is not in violation of this section and section 219.661 if the defect is corrected at the next initial terminal, as defined in section 219.551, subdivision 2, where regular maintenance forces are available to repair or replace the equipment.

Subd. 5. Notice of compliance. A railroad shall notify the commissioner of the date that each locomotive comes into compliance with this section. The notification shall state the serial number or other identification of the locomotive.

Subd. 6. Compliance list or schedule. A railroad affected by this section shall

maintain at a designated location a list or schedule of the locomotives referred to in subdivision 5. It shall set forth, along with other information, the date that the speed indicator or speed recorder was calibrated and found to be functioning in accordance with this section. It shall advise the commissioner as to the designated location.

Subd. 7. **Enforcement.** The commissioner shall enforce this section and may issue orders proper to require compliance with it.

History: 1975 c 406 s 2; 1976 c 166 s 49-51; 1985 c 265 art 4 s 1

219.67 [Repealed, 1980 c 460 s 32]

219.68 [Repealed, 1945 c 21 s 8]

219.681 REMOVAL OF RAILROAD TRACKS.

A company operating a line of railroad in this state shall not abandon, close for traffic, or remove a spur, industrial, team, switching, or side track which has been used directly by the shipping public for loading or unloading freight without first obtaining the approval of the board.

History: 1945 c 21 s 1; 1971 c 25 s 67; 1976 c 166 s 52; 1980 c 534 s 48; 1985 c 265 art 4 s 1

219.69 RAILROAD SHOPS OR TERMINALS MAY NOT BE ABANDONED.

A company operating a line of railway in the state shall not abandon a shop or terminal located within this state or move a shop or change the location of a terminal except as provided in sections 219.70 and 219.71. A company violating sections 219.69 to 219.71 shall forfeit to the state not less than \$200 nor more than \$1,000 for each day the violation continues.

History: (4926-1) 1931 c 64 s 1; 1985 c 265 art 4 s 1

219.691 VIOLATION; FORFEITURE.

A company violating sections 219.681, 219.692, 219.741, 219.743, 219.751, and 219.755 shall forfeit as a penalty to the state the sum of \$1,000 which may be recovered in a civil action.

History: 1945 c 21 s 5; 1985 c 265 art 4 s 1; 1987 c 384 art 2 s 51

219.692 TREBLE DAMAGES.

A person injured by a company's violation of sections 219.681, 219.691, 219.741, 219.743, 219.751, and 219.755 has a cause of action against that company for treble the amount of damages to the person or the person's property resulting from the violation.

History: 1945 c 21 s 6; 1985 c 265 art 4 s 1; 1987 c 384 art 2 s 52

219.695 TERMINAL, SHOP.

Subdivision 1. **Terminal defined.** "Terminal," as used in sections 219.69 to 219.71, means a city in which 12 or more persons employed in railroad train and engine service have established a legal residence.

Subd. 2. **Shop defined.** "Shop," as used in sections 219.69 to 219.71, means a place (1) in which 12 or more persons are employed by a railroad as mechanics to repair railroad equipment, and (2) located in a city in which the mechanics have established a legal residence.

History: (4926-2) 1931 c 64 s 2; 1973 c 123 art 5 s 7; 1985 c 265 art 4 s 1

219.70 APPLICATION TO ABANDON; POWER OF BOARD.

A company desiring to abandon a shop or terminal or to change the location of a shop or terminal in this state shall first apply to the board in writing. Before passing upon the application the board shall order a hearing.

History: (4926-3) 1931 c 64 s 3; 1971 c 25 s 67; 1976 c 166 s 53; 1980 c 460 s 26; 1980 c 534 s 49; 1985 c 265 art 4 s 1

219.71 HEARING; ORDER.

In the hearing on the abandonment or removal of a shop or terminal, if the board determines that the abandonment or removal will result in efficiency in railroad operation and will not substantially injure the public or be detrimental to the public welfare, the petition may be granted; otherwise it must be denied.

History: (4926-4) 1931 c 64 s 4; 1971 c 25 s 67; 1976 c 166 s 54; 1980 c 534 s 50; 1985 c 265 art 4 s 1

219.72-219.74 [Repealed, 1945 c 21 s 8]

219.741 APPLICATION FOR REMOVAL.

A railroad company desiring to abandon, close for traffic, or remove tracks described in section 219.681 shall first apply to the board in writing. Before passing upon the application the board shall provide public notice of the application and that interested persons may object to the application within 30 days after publication of the notice. On determining that a public hearing is unnecessary for resolution of the material issues relating to the application, the board, no sooner than 30 days after publishing the notice, may enter an order finally disposing of the application. On determining otherwise, the board may not act on the application until a contested case hearing has been conducted under chapter 14.

History: 1945 c 21 s 2; 1971 c 25 s 67; 1976 c 166 s 55; 1977 c 346 s 13; 1980 c 534 s 51; 1Sp1981 c 4 art 2 s 23; 1985 c 265 art 4 s 1; 1986 c 468 s 4

219.742 [Repealed, 1980 c 534 s 86]

219.743 EXCEPTIONS.

Sections 219.681 and 219.741 do not apply to:

- (1) logging or ore roads constructed and used exclusively for logging or mining purposes;
- (2) tracks described in section 219.681 which are used exclusively for logging or mining purposes; or
- (3) a railroad which is not a common carrier.

History: 1945 c 21 s 4; 1985 c 265 art 4 s 1; 1987 c 384 art 2 s 53

219.75 [Repealed, 1945 c 21 s 8]

219.751 RESTORATION OF TRACKS FOR SERVICE.

Subdivision 1. Order. When informed of the abandonment, closing for traffic, or removal of track in violation of section 219.681, the commissioner, without delay, shall order the company which committed the violation to restore the track for service and to resume service on it, and if the track has been removed, to relay the track.

Subd. 2. Failure to obey order; district court powers. If the company fails to obey an order of the commissioner made pursuant to subdivision 1, the commissioner, upon verified petition alleging the failure, may apply to the district court of the county in which the company has a principal office, or into which a line of railroad of the company extends, for the enforcement of the order or other appropriate relief. The court, upon such notice as it may direct, shall hear the matter as in a case of an appeal from an order. At the hearing the findings of fact upon which the order is based are prima facie evidence of the matters therein stated, and the court may grant provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, and may impose a fine of not more than \$500 for each day's failure to obey any writ, process, or order of the court in addition to other penalties provided in sections 219.691 and 219.692. A temporary mandatory or restraining order may be made in the proceeding, despite any undetermined issue of fact, upon terms as the court may direct.

History: 1945 c 21 s 7; 1971 c 25 s 67; 1976 c 166 s 57; 1985 c 265 art 4 s 1

219.753 CRANES ON TRACKS; DETECTORS; PENALTY.

A crawler crane, a locomotive crane, or a truck crane, as defined in the definitions of occupational safety and health administration standards of the United States Department of Labor, which operates upon a railroad track and has a boom which extends 12 feet or more vertically above the ground or the rails, must be equipped with a warning device able to detect an electrical line which comes within 15 feet of the boom. When an electrical line is detected, no person is required to operate the crane unless the electricity is shut off or the electrical line is rerouted in a manner to prevent contact with the machine. Violation of this section by a person or corporation is a misdemeanor.

History: 1975 c 286 s 1; 1985 c 265 art 4 s 1

219.755 SECTION 645.35 NOT TO APPLY.

Section 645.35 does not apply to sections 219.681, 219.691, 219.692, 219.741, 219.743, and 219.751.

History: 1945 c 21 s 8; 1985 c 265 art 4 s 1; 1987 c 384 art 2 s 54

219.76 FIRE CAUSED BY ENGINE; INSURABLE INTEREST.

A railroad corporation owning or operating a railroad in this state is responsible in damages to every person and corporation whose property is injured or destroyed by fire communicated directly or indirectly by the locomotive engines in use upon its railroad line. Each railroad corporation shall have an insurable interest in the property upon the route of its railroad line and may procure insurance in its own behalf for its protection against the damages.

History: (4932) RL s 2041; 1909 c 378 s 1; 1985 c 265 art 4 s 1

219.761 EXTINGUISHING LOCOMOTIVE FIRES; REIMBURSEMENT.

Subdivision 1. Reimbursement. A railroad operating in Minnesota is liable for all reasonable expenses of extinguishment when a fire or fire hazard emergency is proximately caused by a railroad locomotive, rolling stock, or employees on a railroad right-of-way or operating property. If the fire department of a local government or nonprofit firefighting corporation extinguishes a fire arising from one occurrence and deems that it is entitled to reimbursement for its expenses, it shall, within 60 days after the first full day after extinguishment, give the railroad, by mail, written notice stating the circumstances of the fire as then known. The notice may be given to the railroad at any address at which the owner has an office, agent, or other place of business in this state. The date of the mailing is the date of service of the notice.

If after notice and claim for reimbursement, the railroad working the right-of-way refuses to reimburse the local government or nonprofit firefighting corporation for expenses incurred, the claimant may recover by civil action reasonable expenses, costs, disbursements, and attorney's fees.

Subd. 2. Information in claim. All claims must set forth the basis of the claim including the time, date, place, and circumstances of the claim. A claim must also include an itemization of costs incurred to extinguish the fire. The state fire marshal, in consultation with fire department chiefs and representatives of the interested railroads, may recommend that additional information be included in a claim.

Subd. 3. Other costs, remedies. (a) If the railroads are required to pay property taxes pursuant to chapter 272 or any other law, they shall also pay the fees and assessments required of property owners situated within the same political subdivision for firefighting and protection expenses.

(b) Neither the enactment of this section nor its subsequent repeal or termination alters the statutory or common law rights, duties, or obligations of railroad companies with regard to fires caused directly or indirectly by a railroad locomotive, rolling stock, or employees on a railroad right-of-way or operating property.

History: 1977 c 95 s 1; 1981 c 32 s 2; 1985 c 265 art 4 s 1

219.77 RAILROAD EMPLOYER LIABILITY.

A company, person, or corporation, owning or operating as a common carrier or otherwise a steam railroad or railway in the state, is liable in damages to an employee suffering injury while engaged in that employment; or, in case of death of the employee, to the personal representative for the benefit of the surviving spouse and children of the employee; and if none, then to the employee's parents; and if none, then to the next of kin dependent upon the employee, for injury or death resulting in whole or in part from the negligence of the officers, agents, or employees of the employer, or by reason of a defect or insufficiency in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment due to the employer's negligence.

History: (4933) 1915 c 187 s 1; 1923 c 333 s 1; 1951 c 51 s 1; 1985 c 265 art 4 s 1; 1986 c 444

219.78 [Repealed, 1951 c 51 s 2]

219.79 CONTRIBUTORY NEGLIGENCE NOT TO BAR.

Subdivision 1. When damages reduced. In an action brought against an employer under or by virtue of sections 219.77 to 219.83, to recover damages for death or personal injury of the employee, the fact that the employee may have been guilty of contributory negligence does not bar a recovery but the damages must be diminished by the jury in proportion to the amount of negligence attributable to that employee.

Subd. 2. When damages not reduced. An employee who is injured or killed may not be found guilty of contributory negligence when the employer's violation of a statute enacted for the safety of employees contributed to the injury or death of the employee.

History: (4935) 1915 c 187 s 3; 1985 c 265 art 4 s 1

219.80 ASSUMPTION OF RISK NO DEFENSE.

In an action brought against an employer under or by virtue of sections 219.77 to 219.83 to recover for injuries to or the death of an employee, the employee may not be held to have assumed the risk of the employment.

History: (4936) 1915 c 187 s 4; 1935 c 69 s 1; 1985 c 265 art 4 s 1

219.81 CONTRARY CONTRACTS DECLARED VOID.

Any contract, rule, or device whatever, the purpose or intent of which is to enable an employer to escape liability created by sections 219.77 to 219.83, is to that extent void. In an action brought against the employer under or by virtue of sections 219.77 to 219.83, the employer may set off any sum the employer has contributed or paid to any insurance, relief, benefit, or indemnity that may have been paid to the injured employee, or to the persons entitled to it on account of the injury or death for which the action was brought.

History: (4937) 1915 c 187 s 5; 1985 c 248 s 70; 1985 c 265 art 4 s 1; 1986 c 444

219.815 EMPLOYER INCLUDES RECEIVER.

"Employer," as used in sections 219.77 to 219.83, includes a receiver or other person charged with the duty of management and operation of a business employing labor.

History: (4938) 1915 c 187 s 6; 1985 c 265 art 4 s 1

219.82 SURVIVAL OF RIGHT OF ACTION.

A right of action given by sections 219.77 to 219.83 to a person suffering injury survives to the personal representative for the benefit of the surviving spouse and children of the employee; and if none, then of the employee's parents; and if none, then of the next of kin dependent upon the employee, but in such cases there shall be only one recovery for the same injury.

History: (4939) 1915 c 187 s 7; 1923 c 333 s 3; 1985 c 265 art 4 s 1; 1986 c 444

219.83 LIMITATION OF ACTION.

No action may be maintained under sections 219.77 to 219.83 unless commenced within two years from the day the cause of action accrues.

History: (4940) 1915 c 187 s 8; 1985 c 265 art 4 s 1

219.84 [Repealed, 1980 c 460 s 32]

219.85 RAILROAD STATIONS, AGENCY SERVICE.

Agency service at common carrier railroad stations must be that required by the public convenience and necessity. No station may be abandoned nor agency service reduced, discontinued, established, reestablished, or expanded without the consent of the board after public notice and opportunity for hearing is afforded. The board, on its own motion or upon the petition of an interested party, may order station agency service at a station established, reestablished, or expanded after notice and an opportunity for hearing. When an application has been filed to close or abandon a station or to change station agency service, the board shall provide public notice of the application and that interested persons may object to the application within 30 days after publication of the notice. On determining that a public hearing is unnecessary for resolution of the material issues relating to the application, the board, no sooner than 30 days after publishing the notice, may enter an order finally disposing of the application. On determining otherwise, the board may not act on the application until a contested case hearing has been conducted under chapter 14.

History: (4887) RL s 2029; 1961 c 138 s 1; 1971 c 25 s 67; 1976 c 166 s 58; 1980 c 460 s 28; 1980 c 534 s 52; 1985 c 265 art 4 s 1; 1986 c 468 s 5

219.86 [Repealed, 1980 c 460 s 32]

219.87 [Repealed, 1980 c 460 s 32]

219.88 STATIONS; NAME OF CITY; EXCEPTIONS.

Subdivision 1. Publications to use. Every railway company, telegraph company, express company, or other company or corporation doing business as a common carrier which has or maintains a station in a city within the state shall publish in its printed matter published for the public, and use as the name of that station only, the name of the city in which the station is located or by which the city is or may be incorporated.

Subd. 2. Use of name different from city. A railway company, telegraph company, express company, or other common carrier is prohibited from using or continuing to use within the state a different name for its station from that of the city where the station is located or from that which is in use by the local government post office, unless a city or post office on the same division of a railroad in this state has a name which is so similar as to be confusing in the dispatch of train orders.

History: (4895, 4896) 1905 c 252 s 1,2; 1973 c 123 art 5 s 7; 1985 c 265 art 4 s 1

219.89 [Repealed, 1980 c 460 s 32]

219.90 [Repealed, 1980 c 460 s 32]

219.91 [Repealed, 1980 c 460 s 32]

219.92 NEW ROADS.

Subdivision 1. Completion notice; filings.

Before opening to public use a railroad branch, extension, or other railroad constructed by a railroad company, the company (1) shall notify the commissioner that it is finished, safe for operation, and in full compliance with federal track safety standards, and (2) shall file with the commissioner a map and profile of the construction with a table of grades, curvatures, and mileage, a statement of other characteristics of the road, and an itemized statement showing the actual cost of the construction; all in a form complying with the federal track safety standards and attested to by oath of the president or other managing officer and the chief engineer of the company.

Subd. 2. Inspection. Before the new line is operated as a public road, the commissioner shall inspect it or have it inspected by the state federal track safety inspectors, and furnish the company with a certificate showing compliance with subdivision 1 and that the road has been inspected and found safe for operation.

Subd. 3. Use before completion. When found desirable to operate before completion a portion of a newly built railroad or a new branch, extension, or otherwise, the commissioner, on application, may authorize the operation of the new portion pending completion of the entire road under terms and conditions the commissioner may impose in the interests of the public.

History: (4903) *RL s 2032; 1907 c 260 s 1; 1913 c 126 s 1; 1971 c 25 s 67; 1976 c 166 s 61; 1980 c 460 s 29; 1985 c 265 art 4 s 1*

219.93 STOPPING TRAINS AT CROSSINGS.

A company operating a railroad shall have all trains on the railroad come to a full stop not less than ten nor more than 60 rods before reaching a railroad junction or crossing at grade, unless stoppage is rendered unnecessary by an interlocking plant or other device approved by the written order of the commissioner or by the court upon appeal.

History: (4905) *RL s 2033; 1971 c 25 s 67; 1976 c 166 s 62; 1985 c 265 art 4 s 1*

219.94 [Repealed, 1980 c 460 s 32]

219.95 [Repealed, 1980 c 460 s 32]

219.96 [Repealed, 1980 c 460 s 32]

219.97 FORFEITURES; VIOLATIONS; PENALTIES.

Subdivision 1. [Repealed, 1980 c 460 s 32]

Subd. 2. [Repealed, 1980 c 460 s 32]

Subd. 3. [Repealed, 1980 c 460 s 32]

Subd. 4. Violation of sections 219.16 to 219.30. A person, firm, or corporation violating sections 219.16 to 219.30 is guilty of a misdemeanor. The violation of section 219.22 does not of itself constitute contributory negligence as a matter of law.

Subd. 5. Violation of section 219.37. A railroad or receiver or lessee of the railroad failing or neglecting to comply with section 219.37 shall forfeit and pay to the state \$200 for every mile of a ditch which it fails to keep clean during any season. This amount must be collected in a civil action brought by the attorney general or by the county attorney of the county through or into which that railroad extends.

Subd. 6. Violation of section 219.56. A person, corporation, or company operating a railroad in the state and violating section 219.56 is guilty of a misdemeanor and, upon conviction, is liable for a penalty of not less than \$10 nor more than \$50 for each offense. The use of a caboose car prohibited in section 219.56 constitutes a separate offense for every day or part of a day so used.

The penalty must be recovered in a suit brought in the name of the state in a court having jurisdiction in a county in or through which the line of railroad may run, by the attorney general or by the county attorney of a county in or through which the line of railroad may be operated. Fines and penalties recovered by the state under this subdivision must be paid into the state treasury.

Subd. 7. Violation of section 219.85. A company failing to comply with section 219.85 shall forfeit to the state for each violation not less than \$500 nor more than \$1,000. Each period of 30 days that the failure continues constitutes a separate offense.

Subd. 8. [Repealed, 1980 c 460 s 32]

Subd. 9. [Repealed, 1980 c 460 s 32]

Subd. 10. Violation of section 219.88. A railway company, telegraph company, express company, or other common carrier failing to comply with section 219.88 shall forfeit to the city where the station is located the sum of \$100 for each day that the

failure continues. However, before a company is deemed in default, the council of the city where the station is located shall notify the company to change the name of the station to the same name as that of the city within 60 days after service of the notice.

Subd. 11. [Repealed, 1980 c 460 s 32]

Subd. 12. **Violation of section 219.92.** A carrier failing to comply with section 219.92 or with an order of the commissioner made under section 219.92 shall forfeit \$100 for each day's default, to be recovered in a civil action in the name of the state.

Subd. 13. **Violation of section 219.93.** Upon the complaint of any person, a company operating a railroad violating section 219.93 shall forfeit not less than \$20 nor more than \$100 to be recovered in a civil action before a county or municipal judge of the county in which the violation occurs. One-half of the forfeiture must go to the complainant and one-half to the school district where the violation occurs.

Subd. 14. [Repealed, 1980 c 460 s 32]

Subd. 15. [Repealed, 1980 c 460 s 32]

Subd. 16. [Repealed, 1980 c 460 s 32]

History: (4726, 4731, 4732, 4743-17, 4751, 4880, 4888, 4890, 4893, 4897, 4900, 4904, 4905, 4906, 4910, 4925) *RL s* 1993; 2030; 2033; 2034; 2036; 1905 c 208 s 2; 1905 c 252 s 3; 1905 c 287 s 2; 1907 c 276 s 3; 1909 c 377 s 2; 1909 c 382 s 2; 1913 c 93 s 2; 1913 c 126 s 2; 1919 c 335 s 3; 1921 c 244 s 2; 1925 c 336 s 17; 1941 c 338 s 1; 1941 c 390 s 1; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1976 c 166 s 63,64; 1980 c 460 s 30; 1983 c 359 s 22; 1985 c 265 art 4 s 1

219.98 FEES FOR APPLYING FOR BOARD ORDER.

A person other than the state, a state agency, or a political subdivision, who applies for an order of the board relating to clearances under section 219.47, permitting the abandonment or removal of track under section 219.741, or permitting abandonment of a station or discontinuance or reduction of agency service under section 219.85, shall pay, at the time the application is filed, into the state treasury a fee of \$100. A person other than the state, a state agency, or a political subdivision, applying for an order of the board under any other provision of this chapter shall pay, at the time the application is filed, into the state treasury a fee of \$50.

History: *ISp*1985 c 10 s 82