

## Carriers

## CHAPTER 218

## COMMON CARRIERS, RAIL TRANSPORTATION

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

**218.01** [Repealed, Ex1957 c 10 s 8]

**218.011 DEFINITIONS.**

Subdivision 1. For the purposes of this chapter and chapters 219 and 222, the terms defined in this section have the meanings given them.

Subd. 2. "Common carrier" shall mean railroad companies, except private railroads; express companies; and persons, natural or artificial, engaged in rail transportation as common carriers for hire.

Subd. 3. "Railroad" shall include all railways, bridges, car floats, lighters and ferries used by or operated in connection with any railroad; and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement or lease; and also all switches, spurs, tracks, terminals and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, including all freight depots, yards and grounds, used or necessary in the transportation or delivery of any such property.

Subd. 4. "Transportation" shall include locomotives, steam, diesel or electric powered engines, cars and other vehicles, vessels and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation and transfer in transit, ventilation, refrigeration, or icing, storage and handling of property transported.

Subd. 5. "Department" means the department of transportation.

Subd. 6. "Commissioner" means the commissioner of the department of transportation.

Subd. 7. "Board" means the transportation regulation board.

**History:** Ex1957 c 10 s 1; 1976 c 166 s 14; 1980 c 460 s 3; 1980 c 534 s 18

**218.02** [Repealed, Ex1957 c 10 s 8]

**218.021 COMMON CARRIERS, UNLAWFUL ACTS.**

Subdivision 1. It shall be unlawful for any common carrier:

(1) To charge, demand, collect or receive for any service a greater or a lesser sum than that fixed in its published schedules.

(2) To make or give any undue or unreasonable preference or advantage, or any undue or unreasonable prejudice or disadvantage, to any person, company, firm, corporation, transit point or locality or to any particular description of traffic.

(3) By any special rate, rebate, drawback or other device, directly or indirectly, to charge, demand, collect or receive a greater or less compensation for any service rendered in the transportation of any property within this state than the regular established schedule of rates and charges for like and contemporaneous service for any other per-

son, or for the public generally; or, directly or indirectly, to offer or give any shipper, in connection with or as an inducement or reward for receiving any property for transportation, any gift, gratuity or free pass or any rate less than that offered to the public.

(4) Except as expressly permitted, to charge a greater rate per ton or per ton mile for a single carload of freight of any kind or class than for a greater number of carloads of the same kind or class, to and from the same points of origin or destination.

(5) To charge or receive any greater compensation for the transportation of a quantity of property for a shorter than for a longer distance over the same line, the shorter being included within the longer; but this shall not be so construed as to authorize any carrier to charge or receive as great compensation for a shorter as for a longer distance; or to charge or receive any greater compensation per ton per mile for the contemporaneous transportation of the same class of freight for a longer than for a shorter distance over the same line in the same general direction, or from the same original point of departure or to the same point of arrival; but this shall not be construed so as to authorize any carrier to charge as high a rate per ton per mile for a longer as for a shorter distance.

(6) To charge or receive for the transportation of freight of any description for any distance within this state a greater amount than is at the same time charged or received for a like quantity of freight of the same class over a greater distance of the same railway; or to charge or receive at any point upon its road a higher rate for receiving, handling or delivering freight of the same class or quantity than it shall at the same time charge or receive to any other point upon the same line; or to charge or receive for freight of any description over its railway a greater amount than at the same time is charged or received for the transportation of a like quantity of freight of the same class being transported over any portion of the same railway of equal distance; or to charge or receive from any person a greater amount than it shall at the same time charge or receive from any other person for the same class and like quantity of freight at the same point upon its railway; or to charge or receive from any person for the transportation of any freight upon its railway a greater amount than it shall at the same time charge or receive from any other person for the transportation of a like quantity of freight of the same class being transported from the same point over an equal distance of the same railway; or to charge or receive from any person for the use and transportation of any railway car upon its railroad for any distance, a greater amount than is at the same time charged or received from any other person for the use and transportation of any railway car of the same class or number for a like purpose being transported over a greater distance of the same railway; or to charge or receive from any person for the use and transportation of any railway car upon its railroad a greater amount in the aggregate than it shall at the same time charge or receive from any other person for the use and transportation of any railway car of the same class for a like purpose being transported from the same original point of an equal distance of the same railway; provided, however, where two or more railroads serve a common point one having a shorter mileage than the other from a given point, the railroad having the longer mileage may be authorized by the board to meet the rate made by the shortest line.

(7) To charge or receive more for transporting a car of freight than is charged or received per car for several cars of a like class of freight over the same railway for the same distance; or to charge or receive more for transporting a ton of freight than is charged or received per ton for more than a ton but less than a carload of like class over the same railway for the same distance; or to charge or receive more for transporting one hundred pounds of freight than is charged or received per hundred pounds above one hundred pounds but less than a ton of like class over the same railway for the same distance.

Subd. 2. Nothing herein shall prohibit carriage, storage or handling of property free or at reduced rates for the United States, the state, or any governmental subdivision thereof, ministers of religion, persons who have taken a vow of poverty as members of a religious order, missionaries, students of educational institutions or inmates of charitable institutions, or for charitable purposes, or for exhibition at fairs or at exposi-

tions, nor prohibit the interchange of freight transportation and message service between railroad, motor bus and telegraph companies.

**History:** *Ex1957 c 10 s 2; 1959 c 183 s 1; 1971 c 25 s 67; 1976 c 166 s 15; 1977 c 285 s 1; 1980 c 460 s 4; 1980 c 534 s 19; 1982 c 561 s 5; 1987 c 49 s 5*

### **218.025 TRANSPORTATION RATES FOR SHIPPING ROAD BUILDING MATERIALS.**

The board may make schedules of intrastate rates for railroads for the transportation of sand, gravel, crushed rock, and other materials to be used in the construction or maintenance of public roads and streets by or under the direction of public authorities, which rates may be lower than those charged for transporting the same kind of freight for all other purposes.

**History:** *1957 c 943 s 27; 1971 c 25 s 67; 1976 c 166 s 16; 1980 c 534 s 20*

### **218.03 [Repealed, Ex1957 c 10 s 8]**

### **218.031 COMMON CARRIERS, DUTIES.**

Subdivision 1. Except as otherwise directed or authorized, it shall be the duty of every common carrier:

(1) To prescribe in the first instance, and to publish upon not less than 20 days' public notice in the case of new or increased rates or ten days' public notice in the case of reduced rates, in such manner as may be required by the commissioner and law, all schedules of rates and charges and classifications thereof, together with the rules governing the same, and minimum weights for transportation of freight articles between points or stations in the state, and terminal and switching charges. A new or changed contract rate shall become effective in accordance with the provisions of United States Code, title 49, section 10713. The board may, for good cause, reduce the notice period specified in this clause.

(2) To comply with every duly authorized rule or directive of the commissioner or board except as the same may be stayed, pending appeal therefrom.

(3) To put into effect and observe all schedules of rates and charges and classifications and any amendments or changes therein duly ordered by the board, except as the same may be stayed, pending appeal.

(4) To maintain as may be directed by the commissioner for public inspection at stations and depots all schedules showing all classifications, rates and charges for transportation of freight currently in force applying from such station. Such schedules shall state the places between which property will be carried and show the classification of freight, the distance tariff, a table of distances between stations, any terminal charges and any rules in any way affecting the aggregate of such rates and charges.

(5) Upon request of an owner or consignor of freight to the initial company, whenever the initial line does not reach the place of destination, or the distance from the place of origin to destination may be shortened, to transfer such freight to a connecting line without change in cars if in carload lots, except such change be free of charge to the shipper and receiver; and to transfer with or without change in cars of less than carload lots at a reasonable joint through rate agreed upon by the connecting carriers or prescribed by the board, not greater than the maximum rates allowed by law, provided any unloading and reloading which is necessary shall be at cost and the charge for such transfer included in the joint rate.

(6) To provide the same switching, transfer and handling facilities for local as for interstate traffic.

(7) Upon written demand of the owner, to construct, maintain and operate side tracks and reasonable facilities connecting with any grain warehouse, dock, wharf, mill, coal yard, quarry, brick or lime kiln, sand or gravel pit, crushed rock or concrete plant or manufactory as may be required by the board, and on such terms as may be agreed upon, or, on failure of agreement, as may be prescribed by the board.

(8) To issue receipts or bills of lading covering all property received for transportation from any point in the state to any other point in the state, and to respond for any loss, damage or injury to such property caused by it or any carrier to whom such property may be delivered or over whose line it may pass.

(9) To refund all overcharges for freight, baggage or express, and pay for any loss, damage or injury to property while in its possession, within 90 days after the filing of a claim for such overcharge, loss or damage.

(10) To keep its accounts so as to show, as far as practicable, the earnings derived from, and the expenses incurred in, handling intrastate business in such form as the commissioner shall prescribe, including the separation of accounts for each operating division, wholly or partly within the state. Such accounts shall show the total cost of operating through trains and the total cost of operating the local or distributing trains of each operating division, wholly or partly within the state, during the fiscal year to be fixed by the commissioner, the total number of tons of revenue and nonrevenue freight, the number of tons of each carried one mile on the through trains and on the local trains, respectively, the number of tons and ton miles of revenue and nonrevenue freight carried on through or local trains which are exclusively intrastate, and the gross tons and ton miles made by through and local trains on each division. The accounts shall show the total revenue and nonrevenue train and engine miles and the total revenue and nonrevenue car miles (the nonrevenue car miles to be shown loaded and empty separately) produced by such railroad in the state in each operating division, the number of each of the above train, engine and car mileage produced in handling the through trains and in handling the local trains, the total locomotive miles produced in switching on each division and such further information related to the income or cost of intrastate business as the commissioner may require. The commissioner may require such accounts to be kept with reference to the intrastate passenger business of each carrier and the train, car and engine mileage incurred in such business in this state as the commissioner may deem necessary.

(11) During pendency of any litigation, when rates prescribed by the board have not been put into effect, to keep a correct account of every charge made by it for any services to which such rates apply in excess of the rates prescribed, showing in each case the difference between the amount actually charged and the amount allowed to be charged, the date of the transaction, the stations between which the business was carried and the names and addresses of the consignor and consignee, and to report such information in full to the board on its request.

Subd. 2. Every common carrier shall furnish to the commissioner:

(1) All schedules of rates, fares and charges, every part and classification thereof, together with minimum weights and rules with respect thereto, and any and all amendments, modifications or changes therein.

(2) All information duly required in blanks and forms furnished by the commissioner.

(3) A copy of all annual reports and valuation data furnished to the Interstate Commerce Commission not later than June 30th, covering the preceding calendar year, together with any additional information regarding valuation of its properties requested by the commissioner.

(4) A report of accidents, wrecks and casualties occurring in this state in such manner and form and at such times as prescribed by the commissioner. All such reports administered by the department of public safety shall be received and administered in accordance with the provisions of section 169.09, subdivision 13. All other reports shall be open to public inspection but shall not be admissible in evidence in any suit or action for damages growing out of such accident, wreck or casualty.

(5) All tariff agreements or arrangements with other carriers.

(6) All joint schedules of rates, fares or classifications.

Subd. 3. Nothing in this chapter shall limit the liability of common carriers at common law with reference to property in their custody, including absolute responsibil-

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ity for the acts of their agents with reference thereto, nor shall liability be limited by contract or otherwise, except as stated in their published classification schedules.

Subd. 4. A common carrier, issuing any receipt or bill of lading, shall be entitled to recover from the carrier on whose line loss, damage or injury shall have been sustained, such amount as it may be required to pay to the owners of the property as evidenced by any receipt, judgment or transcript thereof.

Subd. 5. Any railroad company may construct and maintain at its own expense any bridges and the approaches thereto so as to answer for ordinary travel and, unless within one mile from a toll bridge previously built by an incorporated bridge company over the same stream, may charge and collect for its use reasonable toll, subject to the approval of the proper county board. A toll shall be uniform and the rates shall be conspicuously posted on or near the toll house. The company may contract with any person or corporation for the payment of a fixed sum yearly or otherwise in lieu of toll.

Subd. 6. An action or proceeding may be instituted, upon verified complaint of the commissioner or board or any interested person in any district court of any county wherein a common carrier has a principal office or into which its railroad extends, for the enforcement of any provision of this chapter, or any order, rule or directive of the commissioner or board, and the court may grant provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, including temporary mandatory or restraining orders. Except when there is a constitutional right to trial by jury not expressly waived, all such proceedings shall be tried summarily by the court and such matters shall take precedence over all other matters except criminal cases.

Subd. 7. Every claim against a common carrier for any overcharge or difference in weight or for loss, damage or injury to property while in its possession, shall first be filed with either the agent at point of origin or of destination or with the freight claims department of the carrier. It shall not be filed until after arrival of shipment or some part thereof at destination or until after a lapse of reasonable time for the arrival thereof. It shall consist of: (a) original bill of lading or shipping receipt, (b) paid freight bill, (c) bill of claimant, (d) original invoices or certified copies, when necessary. True copies may be used or, in the absence thereof, an explanation. If a claim is not paid or adjusted within 90 days of its filing, suit may be commenced in any court of competent jurisdiction, in which all persons similarly situated may intervene or be joined and, if claimant prevails, a penalty of ten percent, plus legal interest, reasonable attorneys' fees, costs and disbursements shall be allowed.

Subd. 8. In all proceedings under this section, any final and duly promulgated material order, rule or directive of the commissioner or board and all schedules of rates, fares or charges fixed by the board shall be deemed and taken in all courts as prima facie fair and reasonable.

Subd. 9. In all proceedings under this section, the court may order payment of costs, counsel fees and disbursements as it deems just and reasonable.

Subd. 10. Any common carrier which shall do or cause to be done any unlawful act, or fail to perform any duty prescribed, or violate any duly established order, rule or directive of the commissioner or board, or which shall aid or abet in the performance of any unlawful act or in the failure to perform any such duty, shall be liable in damages to any person injured thereby, and that person, if that person recovers, shall be allowed, in addition to damages, reasonable attorneys' fees, together with costs and disbursements.

**History:** *Ex1957 c 10 s 3; 1971 c 25 s 67; 1971 c 160 s 1; 1975 c 313 s 1; 1976 c 166 s 17; 1980 c 534 s 21-24; 1Sp1981 c 4 art 2 s 17; 1982 c 561 s 6; 1983 c 77 s 1; 1985 c 248 s 70; 1986 c 444*

**218.04** [Repealed, Ex1957 c 10 s 8]

**218.041 DUTIES OF TRANSPORTATION REGULATION BOARD AND COMMISSIONER.**

Subdivision 1. With respect to all common carriers including express companies the commissioner shall investigate the management thereof, the manner in which their businesses are conducted, and the adequacy of the services they are affording the public and shall prescribe uniform systems of keeping and rendering accounts and the time within which such systems shall be adopted. The board shall make all appropriate orders relating to continuation, termination, modification or extension of services and facilities with a view to properly promoting the security and convenience of the public.

Subd. 2. The board shall, in accordance with the provisions of United States Code, title 49, sections 10101 to 11917:

(1) Exercise the jurisdiction over common carriers vested in the board by law.

(2) Review and ascertain the reasonableness and equalities of all schedules of rates and charges or any part or classification thereof, including joint through rates, and, if found unreasonable or discriminatory, establish new schedules and prescribe the form and manner of filing, posting and publication thereof.

(3) Order the issuance of any franchises, permits or certificates of convenience and necessity.

(4) The board may unite two or more stations or commercial centers into a common rate point and fix the mileage that shall govern between the common rate point and any or all other points in the state. The distance so fixed shall not apply as a measure of the rate for the movement of freight for similar distances between other points.

(5) Prescribe a schedule of joint through railway rates for freight over two or more connecting lines of railway and revise the same from time to time. In so doing, the board shall consider, among other things, rates established for shipments within this state for like distances over single lines, rates charged by the railway companies operating such connecting lines for joint interstate shipments, and the increased cost, if any, of a joint through shipment as compared with a shipment over a single line for like distances. In establishing rates for shipments in less than carload lots, in cases where connecting railways are not required to have common stations or stopping place for loading or unloading freight at connecting points, the board shall regulate the transportation of such freight from the usual unloading place of one railway to the usual loading place of the other. The share of any railway company of any joint through rates shall not be construed to fix the charge that it may make for a similar distance over any part of its line for any single rate shipment, or the share of any other joint rate. Where the line of a railway company connects the point of shipment with the point of destination but would require a longer haul than a joint haul for which a joint rate has been established, the board may authorize charging the joint rate for the single haul without affecting the charge upon any other part of its line except that the charge for a like kind of property must not be greater for a shorter than for a longer distance upon that railroad, all of the shorter hauls being included within the longer.

(6) Define switching and drayage service to apply to the movement of traffic within and between points and fix reasonable maximum rates for the same, which shall be independent of any rates that may be made for line haul transportation. If it is necessary that any car in such transfer pass over the tracks of more than one railroad within such limits, the company first so transferring such car shall receive the entire charge therefor and be liable to each company doing subsequent switching for its just share of such charge as may be agreed upon among the companies, or, in the event of disagreement, as prescribed by the board.

Subd. 3. [Repealed, 1Sp1981 c 4 art 2 s 24]

Subd. 4. The board shall, upon petition:

(1) At all points of intersection and crossings of different railroads, or where two railroads are not more than one-half mile apart, and at all terminals, prescribe ample facilities by track connection, joint use of tracks, freight platforms and depots, warehouses, docks over which general merchandise is handled and forwarded, and other

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necessary appliances and conveniences for the transfer, forwarding and handling of general merchandise and parcel freight between such railroads and between such railroads and such docks, warehouses and vessels at such docks.

(2) Determine the proportionate share of each company in the cost of providing connecting and transfer facilities in the event the companies fail to agree.

(3) Direct construction, maintenance and operation at any points prescribed by law of all side tracks and reasonable facilities connecting any road with any grain warehouse or mill, dock, wharf, coal yard, quarry, brick or lime kiln, sand or gravel pit, crushed rock or concrete plant, or manufactory adjacent thereto, and prescribe the terms therefor.

(4) Prescribe reasonable rules for handling property, passenger, baggage, express and mail, partly over privately owned rights-of-way and partly over highways, so that reasonable and adequate accommodations and service may be afforded.

(5) Prescribe the extent to which any designated carrier, upon its petition, may be relieved from the operation of the principles established by section 218.021, subdivision 1, clauses (5), (6) and (7).

(6) Direct the repair, reconstruction or replacement of any inadequate or unsafe trackage, structure or facility.

Upon receipt of a petition for action pursuant to this subdivision the board shall give notice to all persons known to it to have an interest in the matter and publish notice of the petition in the State Register. The board may grant the petition 30 days after notice has been fully made. If the board receives a written objection to the petition from any person within 20 days after the notice of filing has been fully made, the exemption shall be granted or denied only after a contested case hearing has been held on the matter. The board may elect to hold a contested case hearing if no objections to the petition or application are received. If a timely objection is not received and the board declines to act without hearing, the petitioner may request within 30 days of receiving a notice of denial, and shall be granted, a contested case hearing on the application.

Subd. 5. The commissioner shall:

(1) Investigate and determine whether any common carriers are granting rebates or, in any other particular, failing to comply with laws or with orders, rules or directives of the commissioner or the board;

(2) Appear and press before the Interstate Commerce Commission any petition, whether filed by a resident of the state or otherwise, charging any common carrier doing business in this state with any violation of the Interstate Commerce Act of the United States, whenever the department deems the matter to be one of public interest;

(3) Institute and prosecute all actions and proceedings in the appropriate courts for the enforcement of the provisions of this chapter, the orders, rules and directives of the commissioner and the board issued thereunder and any violations thereof.

Subd. 6. The commissioner may:

(1) Subpoena books, papers or accounts kept by any regulated business within or without the state, or compel production of verified copies;

(2) Prepare all forms or blanks for the purpose of obtaining information which the commissioner may deem necessary or useful for the proper exercise of the authority and duties of the commissioner or the board in connection with regulated businesses, and prescribe the time and manner within which the blanks and forms shall be completed and filed;

(3) Inspect, at all reasonable times, and copy the books, records, memoranda, correspondence or other documents and records of any business under the commissioner's jurisdiction;

(4) Examine, under oath, any officer, agent or employee of a business under the commissioner's jurisdiction concerning its business and affairs; and

(5) Prescribe rules, duly promulgated in accordance with chapter 14, relating to rates, care in handling and other livestock transportation matters.

Subd. 7. The board may upon its discretion and without hearing:

(1) Upon application by a carrier stating that it desires to establish a rate for a temporary period for the protection of the interest of the carriers or its shippers, authorize and establish the temporary rate, and extend the rate as the circumstances of the case may require, and permit the restoration of the rate existing at the time of the application without further proceedings.

(2) Approve the establishment, change, or alteration of any rate, charge or classification, minimum rate, or rule governing the same, to which a common carrier is a party, upon application of the common carrier in writing, when the application appears to be noncontroversial.

(3) Authorize, on less than ten days' public notice, schedules containing classifications, rates, fares and charges for the transportation of freight and passengers.

(4) Retain general ratemaking authority in intrastate transportation of livestock.

Subd. 8. The board, or the commissioner, as appropriate, may take action to promulgate rules in areas including, but not limited to the following: rates, routes, depots, schedules, quality of service, and safety requirements relating to intrastate rail passenger service.

**History:** *Ex1957 c 10 s 4; 1971 c 25 s 67; 1976 c 166 s 18; 1977 c 346 s 12; 1980 c 460 s 6; 1980 c 534 s 25; 1980 c 614 s 123; 1Sp1981 c 4 art 2 s 18-20; 1982 c 424 s 130; 1982 c 561 s 7,8; 1983 c 77 s 2; 1985 c 248 s 70; 1986 c 444*

**218.05** [Repealed, Ex1957 c 10 s 8]

**218.051** [Repealed, 1976 c 166 s 119]

**218.06** [Repealed, Ex1957 c 10 s 8]

**218.061** [Repealed, 1976 c 166 s 119]

**218.07** [Repealed, Ex1957 c 10 s 8]

### **218.071 RULES AND ORDERS OF COMMISSIONER AND BOARD; OFFENSES AND PENALTIES.**

Subdivision 1. The board and commissioner may promulgate rules, orders and directives necessary to carry out the respective duties conferred on them by this chapter. The rules, orders, and directives may not be contrary to United States Code, title 49, sections 10101 to 11917. Every duly adopted rule, order or directive of the board or commissioner shall have the full force and effect of law.

Subd. 2. Unless a different penalty or punishment is specifically prescribed, any person, firm or corporation who performs any unlawful act, or fails to perform any duty imposed by this chapter, or to obey any valid and final order, rule or directive of the commissioner or board, or who assists and aids therein, shall be guilty of a misdemeanor, and, if the violation be a continuing one, shall be guilty of a new offense for each day of such continuance, and for each offense shall be punished by a fine of one hundred dollars (\$100).

Subd. 3. Any common carrier, willfully granting any special rate, rebate, drawback, or directly or indirectly charging, demanding or collecting a greater or less compensation than provided by its regular established schedule of rates and charges, shall be punished by a fine not exceeding \$10,000 for each such offense.

Subd. 4. Any common carrier failing to comply with any order of the commissioner or board shall be subject to a penalty of fifty dollars (\$50) for each and every day of such failure to comply, to be recovered for the state in a civil action by the commissioner.

**History:** *Ex1957 c 10 s 7; 1971 c 25 s 67; 1976 c 166 s 19; 1980 c 534 s 26; 1982 c 561 s 9; 1983 c 77 s 3; 1984 c 628 art. 3 s 11; 1986 c 444*

**218.08-218.73** [Repealed, Ex1957 c 10 s 8]