

**218.031 COMMON CARRIER, DUTIES.**

Subdivision 1. **Notice, compliance, freight transfer, facilities, records, accounting.** 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 commissioner 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 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 commissioner, 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 commissioner, 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 commissioner, and on such terms as may be agreed upon, or, on failure of agreement, as may be prescribed by the commissioner;

(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 commissioner 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 commissioner on the commissioner's request.

**Subd. 2. Information furnished commissioner.** Every common carrier shall furnish to the commissioner a report of accidents, wrecks, and casualties occurring in this state in a manner and form and at the times prescribed by the commissioner. All such reports administered by the Department of Public Safety must be received and administered in accordance with section 169.09, subdivision 13. All other reports are open to public inspection but are not admissible in evidence in any suit or action for damages growing out of such accident, wreck, or casualty.

**Subd. 3. Liability.** Nothing in this chapter shall limit the liability of common carriers at common law with reference to property in their custody, including absolute responsibility 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. Loss recovery.** 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. Bridge, toll.** 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. Court actions, venue, remedies.** An action or proceeding may be instituted, upon verified complaint of the commissioner 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, 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. Claim.** 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. Order and rule considered fair and reasonable.** In all proceedings under this section, any final and duly promulgated material order, rule or directive of the commissioner and all schedules of rates, fares or charges fixed by the commissioner shall be deemed and taken in all courts as prima facie fair and reasonable.

**Subd. 9. Court costs, fees, and disbursements.** 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. Liability for damages and attorneys' fees.** 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 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; 1998 c 403 s 29; 2001 c 213 s 21*