
RAILROADS

CHAPTER 230.

[S. B. No. 52—Bronson.]

RAILROADS, CLEARANCE OF OBSTRUCTIONS.

AN ACT Concerning Railroads, Regulating the Size of Engines, Motors and Cars, and also the Clearance of Obstructions Thereon.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **TO WHOM APPLICABLE.**] That the provisions of this Act shall apply to any railroad corporation or to any person or persons while engaged as common carriers in the transportation by railroad of passengers or property within the state, to which the regulative power of this state extends.

§ 2. **WHEN TO TAKE EFFECT, SIZE OF ENGINES, MOTORS AND CARS, AND WHAT EXEMPT.**] That on and after the first day of January, 1915, it shall be unlawful for any such common carrier to haul or permit to be hauled or used on its lines, any engine, motor or car used in commerce to which this Act applies or to which the regulative power of this state extends, which shall exceed a maximum width of ten feet and six inches over all its widest outside dimension, or which shall exceed a maximum height of fourteen feet and two inches, measured from the top of the track rail to the top of the car loaded or empty without extending the clearance as provided for in Section 3 of this Act in the same proportion, unless authorized by the railroad commissioners; and the provisions of this Section shall not apply to the loaded contents of open flat cars and cars without roofs and foreign cars, wrecking cars, snow plows, pile drivers and caboose cupolas. *Provided*, however, this shall not apply to rolling stock now in service.

§ 3. **CLEARANCE REQUIRED.**] That on or after the first day of January, 1915, it shall be unlawful for any such common carrier to erect or maintain on any standard gauge road on its line or on any standard gauge side track used in connection therewith, for use in any traffic mentioned in Section 1 of this Act, any coal chute, stock pen, pole, mail crane, stand pipe, hog drencher, embankment of earth or natural rock, or any fixed or permanent structure or obstruction upon its line of railroad, or on any side track used in con-

nection therewith at a distance less than eight feet, measured from the center line of track, which said structure or obstruction adjoins on standard gauge roads; nor shall any overhead wires, bridges, viaducts or other obstructions passing over and above its tracks, as aforesaid, be maintained at a less height than twenty-one feet, measured from the top of the track rail; *provided*, that station freight house platforms which have a vertical height of not more than four feet, measured from the top of the track rail, may be erected and maintained at a less distance from the center of the track which they adjoin than herein specified. *Provided*, further, that this Act shall not apply to any warehouse, storehouse, elevator or other permanent structure now situated or located upon the right of way of any railroad in this state, which is leased, owned or used by any person or corporation doing business with any railroad, or any railroad terminal or yard now established. And *provided*, further, that this Act shall not apply to loading platforms erected at sidings or stations between terminals now in use.

§ 4. REPORT OF OBSTRUCTIONS. HOW MADE.] That on or before the first day of January, 1914, every common carrier subject to the provisions of this Act, shall report to said railroad commission the number of coal chutes, bins, stock chutes, stand pipes, hog drenchers, embankments of earth or natural rock or other fixed and permanent structure or obstruction overhead or otherwise upon its line of railroad that do not conform with the minimum clearance line specified in Sections 2 and 3 of this Act, giving exact location and kind of such structures and the material used in their construction; also the reason, if any, why such structures, or any of them, should not be made to conform to the clearance established by this Act; and the said railroad commission is hereby authorized, after a thorough investigation, to exempt from the provisions of this Act any warehouse, storehouse, permanent structure, elevator, loading or unloading platform, bridge, tunnel, retaining wall of masonry, embankment of earth, natural rock or permanent overhead structure or any obstruction erected or established prior to the passage of this Act, that is in closer proximity to the tracks of such carrier than minimum side and top clearance specified by this Act.

§ 5. DISTANCE BETWEEN TRACTS.] That on and after the first day of January, 1915, it shall be unlawful for any such common carrier to construct any track used for the purpose of switching or moving any cars engaged in the movement of traffic within the

regulative power of this state, where the center line of such track is at a distance of less than 13 feet from the center line of any other parallel track which it adjoins; *provided*, that the distance between said tracks specified in this section may be diminished or closed up a necessary distance from track intersections, turnouts and switch points.

§ 6. OBSTRUCTIONS TO BE REMOVED.] It shall be unlawful for any such common carrier to permit the space between such of its tracks as are ordinarily used by yard men and their employees in the discharge of their duties, to become or remain obstructed by any obstacle that will interfere with the work of said employees or subject such employees to unnecessary hazard. Such space between said tracks as aforesaid, and between the rails of said track must be kept in such condition as to permit said employees to pass safely over and between said tracks or to use the same day or night and under all weather conditions, without unnecessary hazard.

§ 7. PENALTY.] That any common carrier subject to the provisions of this Act violating any of the provisions thereof, shall be liable to a penalty of \$100.00 for each and any such violation; and each day that any locomotive engine or car is operated or used, or structure or obstruction is maintained in violation of this Act, shall constitute a separate offense; such penalty to be recovered in a suit or suits to be brought by the state's attorney in the district court having jurisdiction in the locality where such violation shall have been committed, and it shall be the duty of said state's attorney under the direction of the railroad commission to bring such suits upon duly verified information being lodged with him by any person of such violation being committed, and it shall also be the duty of such railroad commission to lodge with such state's attorney information of any such violation as may come to its knowledge.

§ 8. CONTRIBUTORY NEGLIGENCE CANNOT BE CHARGED.] That any employee of such common carrier who, while in the performance of his duty and while engaged in any commerce mentioned, subject to the regulative power of this Act in Section 1, may be injured or killed by any locomotive, car, structure or obstruction used or retained contrary to the provisions of this Act, shall not be deemed to have assumed the risk thereby occasioned or to have been guilty of contributory negligence, although the employee continued in the employ of such common carrier after the unlawful use of such locomotive, car, permanent overhead structure, or obstruction, of any kind or character mentioned

in this Act shall have been brought to his knowledge; and the retention under the exemption authorized in Section 4 of this Act shall be at the sole risk of the carrier, and the permission granted in this Act to the carrier to construct station or freight house platforms four feet high measured from the top of the track rail and near to the center line of the track or tracks as provided in Section 3 of this Act, shall be at the sole risk of carrier, as aforesaid in this section.

Approved March 12, 1913.

CHAPTER 231.

[H. B. No. 459—Twichell.]

SWEEPING PASSENGER COACHES.

AN ACT Regulating the Sweeping of Railway Coaches or Cars While Occupied by Passengers, and Providing a Penalty Therefor.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. The sweeping of railroad coaches or cars while occupied by passengers, except such sweeping be done with a vacuum cleaner, or other similar device, or except when the floor of such car shall previously have been thoroughly moistened with water or oil, or by the use of sufficient sweeping compound to keep down the dust, is hereby prohibited.

§ 2. Any person or corporation violating the provisions of this Act shall be punishable by a fine not exceeding twenty-five dollars.

Approved March 13, 1913.

CHAPTER 232.

[H. B. No. 80—Sorlie.]

SANITARY REGULATIONS FOR RAILROAD STATIONS.

AN ACT Providing Closets or Privies for the Accommodation of the Public at Railroad Stations, and Keeping Them and the Waiting Room in a Sanitary Condition, and Penalty for Violation Thereof, and Repealing Chapter 238 of the Session Laws of 1911.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CLOSETS, WHERE PROVIDED.] All railroad companies operating railroads in North Dakota shall provide and maintain at any and all railroad stations in the state where

passengers' tickets are sold, within reasonable access of the depot, a water closet, earth closet, or privy for the accommodation of railroad employees and the traveling public, or where a sewerage system is maintained within three hundred feet of such station waiting room then and in that case the water closet shall be within the station house. Entirely separate compartments for men and women shall be provided. The water closet, earth closet or privy for males shall also have urinals arranged with conduits of galvanized iron, or other impervious material, draining into a sewer, vault, or other suitable place which will prevent the creation of a nuisance.

§ 2. AUTHORITY TO INSPECT.] The board of railroad commissioners of the state, or the local health officer, or health commissioner of the township, incorporated village or city in which the depot is located shall have authority to inspect such water closets, earth closets, or privies from time to time, and if they are found to be in an unsanitary condition he or they shall notify the proper officials of the railroad company, stating in what respect such water closets, earth closets, or privies are unsanitary, and it shall be the duty of the railroad company within a reasonable time to make such alterations or repairs as will remove the unsanitary conditions complained of.

§ 3. WAITING ROOMS, HOW AND WHEN CLEANED.] The waiting rooms at the railroad stations in this state shall be scrubbed or washed at least once a week with some standard disinfectant, and such waiting rooms shall at all times be maintained in a comfortable and sanitary condition.

§ 4. REPEAL.] Chapter 238 of the Session Laws of 1911 is hereby repealed.

§ 5. PENALTY.] Any person, firm, or corporation failing to comply with the provisions of this act shall upon conviction be punished by a fine of not less than twenty dollars or more than one hundred dollars.

Approved Februray 25, 1913.

CHAPTER 233.

[S. B. No. 88—McBride.]

HEADLIGHTS ON LOCOMOTIVES.

AN ACT to Promote the Safety of Employees and Travelers Upon Railroads by Compelling Common Carriers Engaged in the Transportation of Passengers or Property in This State to Equip Locomotives with Headlights of Not Less Than Twelve Hundred Candle Power, and to Provide a Penalty for the Violation of the Same.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. RAILROADS. EMPLOYES, WHO?] The provisions of this act shall apply to any common carrier or carriers, their officers, agents and employees engaged in the transportation of passengers or property by a railroad in the state of North Dakota. The term "railroad" as used in this Act shall include all roads in use by common carriers operating a railroad, whether owned or operated under a contract, agreement, or lease; and the term "employees" as used in this act, shall be held to mean persons who are engaged in, or connected with the movement of any trains. *Provided*, however, that in passing through or working within the yard limits of any station or terminal a light of lesser candlepower may be used.

§ 2. STEAM LOCOMOTIVES. HEADLIGHTS.] That from and after the first day of July, 1914, it shall be unlawful for a common carrier, its officers and agents subject to this act, to use any locomotive engine propelled by steam in moving traffic, or in the transportation of passengers or property within this state in main line service, between the hours of sunset and sunrise, unless said locomotive engine shall be equipped with a headlight or at least 1,200 candle power of light, when measured without the aid of a reflector. *Provided*, however, that in passing through or working within the yard limits of any station or terminal a light of lesser candle power may be used. *Provided*, however, that said common carrier may use its switch engines, for switching purposes only, without having provided the same with a headlight as herein required, if said carrier shall so determine. *Provided*, that this act shall not apply to any engine, the equipment of which shall have failed during the trip, if it is shown that the equipment was in efficient and effective working condition when the trip was begun.

§ 3. PENALTY.] That any common carrier or carriers violating this Act, or any provision thereof, shall be liable to a penalty of \$100.00 for each and every such violation, to be recovered in a suit to be brought by the Attorney Gen-

eral of the state of North Dakota; and it shall be the duty of such attorney general to bring suit upon duly verified information being lodged with him that such violation have occurred.

§ 4. CUMULATIVE. NO REPEAL.] Nothing in this chapter contained shall in any maner be construed as repealing, on (or) in any manner altering any other act or part of acts heretofore adopted by the legislature of this state; by the remedies herein provided shall be cumulative and in addition to all other requirements now existing in relation thereto.

Approved March 12, 1913.

CHAPTER 234.

[S. B. No. 161—McDowell.]

COOPERAGE OF CARS.

AN ACT Requiring Railroad Companies to Line and Cooper Cars Tendered to Grain Shippers and Shippers of Flour and Flour Mill Products, or to Reimburse Shippers Therefor.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Every railroad corporation or common carrier doing business in this state shall when requested by any shipper of wheat, flax or other grain, flour or flour mill products, furnish to such shipper a box car or box cars properly lined or coopered for receiving and containing the kind of grain flour or flour mill products sought to be shipped and if such railroad, railroad corporation or common carrier shall furnish any car not so lined or coopered to such shipper and shall fail to prepare and put in readiness such car within four hours after notice by such shipper to its agent at point of shipment that such car is not in proper condition such shipper may repair such car at his own expense and recover such sum so expended in a civil action against such railroad corporation or common carrier.

§ 2. EMERGENCY.] Whereas an emergency exists in that many cars of grain will be shipped before the first of July 1913 many such cars may require such repairs, therefore this act shall go into effect upon its passage and approval.

Approved March 12, 1913.

CHAPTER 235.

[S. B. No. 270—Bond.]

STORAGE, UNCLAIMED MERCHANDICE.

AN ACT to Amend Section 2272 of the Revised Codes of the State of North Dakota for the Year 1905, Relating to the Storage of Unclaimed Goods, Wares and Merchandise Carried by Railroads and Transportation Companies.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. That Section 2272 of the Revised Codes of the State of North Dakota for 1905 is hereby amended to read as follows:

§ 2272. TO WHOM APPLIED.] This article shall not be construed to apply to any implement transfer company, or to any railroad or transportation company; *provided*, such railroad or transportation company shall, within forty-eight hours after receipt of such goods, wares and merchandise, notify the consignee of the arrival thereof in writing, and in case such consignee, or his assigns, fails and neglects to call for or receive said goods, wares or merchandise within thirty days after such receipt of same by any railroad or transportation company as aforesaid, said railroad or transportation company must then turn over said goods, wares or merchandise to a licensed bonded storage company or warehouseman in the city, town or village in which said goods, wares or merchandise are then located, if any there be, and if not, to the licensed bonded storage company or warehouseman in the city, town or village on the line of the carrier nearest to the place where such goods, wares or merchandise are then located, upon the payment of the charges of said carrier thereon, which charges thus paid by said bonded storage company or warehouseman to said carriers shall be a lien on said goods, wares or merchandise.

§ 2. All acts or parts of acts inconsistent with the provisions of this Act are hereby repealed.

§ 3. Whereas, an emergency exists at the present time, in that the goods are now shipped for storage at Grand Forks and Minneapolis, and the owner thereof on making claim is compelled to pay freight from that point to destination, this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1913.