

shall be fined not to exceed \$500.00 or be imprisoned in the county jail not to exceed one year or both such fine and imprisonment.

§ 4. This act shall not be construed to cover horse races, rodeos, bicycle races or any entertainment wherein motor power shall not be used in the production of power or speed.

§ 5. EMERGENCY.] An emergency is hereby declared to exist, and this act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1929.

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## RAILROAD COMMISSIONERS

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### CHAPTER 198

(H. B. No. 223—Committee on Delayed Bills.)

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#### CERTIFICATES PUBLIC CONVENIENCE AND NECESSITY PUBLIC UTILITIES

An Act to amend and re-enact Chapter 235 of the 1927 Session Laws relating to certificates of public convenience and necessity of public utilities.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That Chapter 235 of the 1927 Session Laws be amended and re-enacted to read as follows:

No public utility, as defined in Section 4609c2, Supplement to the 1913 Compiled Laws of North Dakota, shall henceforth begin the construction or operation of a public utility plant or system, or of any extension thereof, without first obtaining from the board of railroad commissioners of this state a certificate that public convenience and necessity require or will require such construction and operation; provided, that this section shall not be construed to require any such public utility to secure such certificate for an extension within any municipality or district within which it has heretofore lawfully commenced operations, or for an extension within or to territory already served by it necessary in the ordinary course of its business, or for an extension into territory contiguous to that already occupied by it and not receiving similar service from another utility, or for which no certificate of public convenience and necessity has been issued to any other public utility; but if any public utility in constructing or extending its line, plant or system, unrea-

sonably interferes with or is about to unreasonably interfere with the service or system of any other public utility, the board of railroad commissioners on complaint of the public utility claiming to be injuriously affected may, after notice and hearing, make such order and prescribe such terms and conditions as are just and reasonable.

§ 2. No such public utility shall henceforth exercise any right or privilege under any franchise or certificate hereafter granted, or under any franchise heretofore granted, the exercise of which has been suspended or discontinued for more than one year, or if within one year from the granting of such franchise it has not commenced construction under such franchise, without first obtaining from said board of railroad commissioners a certificate that public convenience and necessity require the exercise of such right or privilege.

§ 3. No public utility need secure a certificate of public convenience and necessity hereunder in order to exercise rights under an ordinance hereafter granted, where it has not suspended operation of its plant and where such franchise merely replaces or renews an expiring or expired franchise.

§ 4. Before any certificate may issue under this act, a certified copy of the articles of incorporation or charter of utility, if the applicant be a corporation, shall be filed with said board of railroad commissioners, and upon the hearing on said application shall submit evidence showing that such applicant has received the consent, franchise, permit, ordinance, or other authority of the proper municipality or other public authority, if required, or has or is about to make application therefor. The board shall have the power, after notice and hearing to issue such certificate as prayed for or to refuse to issue the same, or to issue it for the construction or operation of a portion only of the contemplated facility, line, plant or system, or extension thereof, or for the partial exercise only of said right or privilege, conditioned upon the applicant having secured or securing the consent, franchise, permit, or ordinance or other authority of the proper municipality or other public authority, and may attach to the exercise of the rights granted by any certificate such terms and conditions as in its judgment the public convenience and necessity may require. Whenever a public utility engages or is about to engage in the construction or operation as described in this act, without having secured a certificate of public convenience and necessity as required by the provisions hereof, any interested municipality, other public authority, utility or person may file a complaint with the board of railroad commissioners. The board may thereupon, or upon its own motion without complaint, with or without notice, make its order requiring the public utility complained of to cease and desist from such construction or operation until the

board makes and files its decision, or until further order of the board. The board may, after notice and hearing, make such order and prescribe such terms and conditions as are just and reasonable.

§ 5. Any municipality, other public authority, utility or person affected by order of the board of railroad commissioners in any matter relating to the subject matter of this act may prosecute and conduct an appeal to the courts in the same manner as an appeal lies from any other order or decision of the board, as provided in Sections 4609c34, 4609c35 and 4609c36, Supplement to the 1913 Compiled Laws of North Dakota.

§ 6. All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 8, 1929.

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## RAILROAD CORPORATIONS

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### CHAPTER 199

(H. B. No. 138—Bishop.)

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#### FREE PASSES, FRANKS, ETC.

An Act to amend and re-enact Section 4799 of the Compiled Laws of North Dakota for 1913, relating to free passes, franks and special privileges prohibited. Exceptions.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ I. AMENDMENT.] That Section 4799 of the Compiled Laws of North Dakota for 1913 be and the same is hereby amended and re-enacted to read as follows:

§ 4799. FREE PASSES, FRANKS AND SPECIAL PRIVILEGES PROHIBITED. EXCEPTIONS.] No common carrier subject to the provisions of this article, shall, directly or indirectly, issue or give any free ticket, free pass or free transportation for passengers except to its employees, and their families, its officers, bona fide agents, surgeons, physicians, attorneys at law, and their families; to ministers of religion, traveling secretaries of railroad, Young Men's Christian Association, inmates of hospitals and charitable, eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals and the necessary agents employed in such transportation; to in-