RAILROADS

Act 300 of 1909

AN ACT to define and regulate common carriers and the receiving, transportation, and delivery of persons and property; to prevent the imposition of unreasonable rates; to prevent unjust discrimination; to insure adequate service; to provide for certain powers and duties of certain state agencies and officials; to provide for the promulgation of rules; and to prescribe penalties for violations of this act.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- Am. 1984, Act 10, Imd. Eff. Feb. 16, 1984

The People of the State of Michigan enact:

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462.2 Michigan railroad commission; qualifications and duties of commissioners; removal; pecuniary interest prohibited; oath; compensation and expenses; chairperson; meetings; quorum; vacancy; investigations, inquiries, and hearings; employees and appointments; offices; rules; conferences.

Sec. 2.

(1) The commissioners shall have the following qualifications: One shall be an attorney having knowledge of and experience in law relating to common carriers; the others shall have knowledge of traffic and transportation matters. Each of the commissioners shall devote to the duties of his office all the time necessary to insure the prompt and complete performance of all official duties, and the commission shall, so far as possible, arrange so that at all times during business hours, at least 1 member shall be in attendance at the principal office of the commission every business day in the year.

(2) The governor may at any time remove a commissioner for any neglect of duty or malfeasance in office. Before such removal, he shall give the commissioner a copy of the charges against him, and shall fix a time when he can be heard in his own defense, which shall not be less than 10 days thereafter, and the hearing shall be open to the public. If he shall be removed, the governor shall file in the office of the secretary of state a complete statement of the charges made against the commissioner and his finding thereon, with a record of the proceedings, it being herein provided and declared that such discretionary power in the governor to make such removal is a sound and reasonable discretion to be exercised for the good of the state, and not arbitrarily.

(3) A person so appointed shall not be pecuniarily interested in a railroad or in the business of transporting persons or property in this state or elsewhere, and if a commissioner shall voluntarily become so interested, his office shall ipso facto, become vacant. If a commissioner becomes so interested otherwise than voluntarily, he shall, within a reasonable time, divest himself of such interests; failing so to do, his office shall become vacant, and the governor shall proceed as provided for in subsection (2).

(4) Before entering upon the duties of his office, each of the commissioners shall take and subscribe the constitutional oath of office.

(5) The compensation of commissioners and the schedule for reimbursement of expenses shall be established annually by the legislature.

(6) The commissioners appointed under this act shall forthwith, after their appointment and qualification, meet at the city of Lansing and organize by electing 1 of their members

chairman. On January 15 in each odd numbered year the commissioners shall meet at the offices of the commission and elect a chairman, who shall serve for 2 years and until his successor is elected. A majority of the commissioners shall constitute a quorum to transact business, and a vacancy shall not impair the right of the remaining commissioners to exercise all of the powers of the commission so long as the majority remains. Any investigation, inquiry, or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner when so directed by the commission or its chairman. All such investigations, inquiries or hearings of a commissioner shall be and be deemed to be the investigations, inquiries, and hearings of the commission, and every decision and order made by a commissioner, when approved and confirmed by the commission and ordered filed in its office, shall be and be deemed to be the decision and order of the commission. An interested party shall be entitled to a rehearing before the full commission on request served upon the commission within 5 days after service of the order upon the party. In the absence of a quorum of the commission at the time appointed for a hearing before the commission, the hearing may be continued to a later date by a single member of the commission present or, in the absence of a member, by the secretary.

(7) The commission may appoint a secretary at a salary to be established annually by the legislature and a chief clerk at a salary to be established annually by the legislature, and employ not more than 5 clerks, and such inspectors, examiners and experts as may be necessary to perform what may be required of them, and shall fix their compensation. It shall be the duty of any such inspector, on the order of the commission, and he shall have the right to inspect all equipment, cars, power houses, trolley lines, tracks, and property of every common carrier as defined in this act. Each such inspector shall likewise have the right to inspect freight in cars or warehouses of those common carriers, and all waybills, bills of lading, and shipping receipts of such transportation companies, so that they may determine whether the classification and rating of the freight is in conformity with the published tariffs and classifications of the transportation companies. The inspectors shall be employed at a fixed compensation.

(8) The secretary shall take and subscribe to an oath similar to that of the commissioners, and shall keep full and correct records of all transactions and proceedings of the commission, and shall perform such other duties as may be required by the commission. Any person ineligible to the office of a commissioner shall be ineligible to the office of secretary. The secretary shall devote his entire time to the office.

(9) The commission may appoint a chief inspecting engineer at a salary to be established annually by the legislature, to be fixed by the commission, whose duty it shall be under the instructions of the commission, to make such inspections and reports as may be ordered by the commission as regards the public safety, health, and convenience, and which the commission may deem essential to full and thorough information as to physical condition of the properties of the various common carriers of the state and the proper enforcement of the police regulations enacted for the control and management of the same. The engineer shall have such general knowledge of the requirements of railroad operation, signal appliances, and safety devices as shall fit him to perform the duties imposed upon him by the provisions of this act.

(10) The commission shall be known collectively as "Michigan railroad commission," and in that name may sue and be sued. It shall have a seal with the words "Michigan railroad commission," and such other design as the commission may prescribe engraved thereon, by which it shall authenticate its proceedings and of which the court may take judicial notice.

(11) The commission shall have its offices at Lansing, and shall be provided suitable offices, necessary office furniture, supplies, stationery, books, periodicals, maps, printing, and

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all its necessary expenses shall be audited and paid as other necessary state expenses are audited and paid. The commission may hold meetings at other places than its offices when the convenience of the parties so requires. The commissioners, secretary, clerks, and inspectors and such experts as may be employed, shall be entitled to receive from the state their actual and necessary expenses while traveling on the business of the commission, such expenditures to be sworn to by the person who incurred the expense and to be approved by the chairman of the commission. Members of the commission, when traveling on official business of the commission pertaining to railroads, and employees of the commission when traveling on official business of the commission pertaining to railroads and by the direction of the commission, shall be carried free in performance of their duties, on all railroads within this state, upon all trains and cars, and upon any parts of those trains or cars. Any such person who shall suffer himself to be carried free on any train or car by any such railroad company, when not traveling on official business of the commission and not by direction of the commission, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than $100.00 nor more than $500.00 or by imprisonment for not more than 90 days, or by both such fine and imprisonment in the discretion of the court.

(12) The commission shall have the power to adopt and publish rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings of common carriers and other parties before it, and all hearings shall be open to the public.

(13) The commission may confer by correspondence, by attending conventions, or otherwise, with the railroad commissioners of other states, with the interstate commerce commission, or with any other bodies considering any matters pertaining to common carriers.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8110 ;-- CL 1929, 11018 ;-- CL 1948, 462.2 ;-- Am. 1975, Act 73, Imd. Eff. May 20, 1975

Admin Rule: R 247.3101 et seq.; R 460.1 et seq.; R 460.2011 et seq.; and R 460.2051 et seq. of the Michigan Administrative Code.

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462.2a Applicability of act.

Sec. 2a.

This act does not apply to a railroad or a railroad, bridge, or tunnel company regulated by the railroad code of 1993, Act No. 354 of the Public Acts of 1993, being sections 462.101 to 462.451 of the Michigan Compiled Laws. In case of a conflict between this act and Act No. 354 of the Public Acts of 1993 with respect to the regulation of railroads and railroad, bridge, and tunnel companies, Act No. 354 of the Public Acts of 1993 shall control.

History: Add. 1994, Act 316, Imd. Eff. Oct. 6, 1994

462.3 Definitions; scope.

Sec. 3.

(a) The term "common carrier" as used in this act shall be construed to mean and embrace all corporations, companies, individuals, associations of individuals, their lessees, trustees or receivers appointed by any court whatsoever who now or may hereafter own, operate, manage or control as a common carrier in this state, any railroad or part of any railroad, whether operated by steam, electricity or other motive power, or cars or any other equipment used thereon, or bridges, switches, spurs, tracks, sidetracks, terminal facilities, or any docks, wharves or storage elevators used in connection therewith or any kind of terminal facilities

used or necessary in the transportation of persons or property designated herein, and also all freight depots, yards and grounds used or necessary for the transportation or delivery of any said property and whether the same are owned by said railroad or otherwise; or any express company, car loaning companies, freight or freight line companies and all associations or persons, whether incorporated or otherwise, that shall do business as common carriers upon or over any line of railroads in this state, or any common carrier engaged in the transportation of passengers and property wholly by rail or partly by rail and partly by water.

(b) The term "transportation" shall include cars and other vehicles and all instrumentalities and facilities of shipment, or carriage, irrespective of ownership, or of any contract expressed or implied for the use thereof, and all services in connection with the receipt, delivery, elevation, switching and transfer in transit, ventilation, refrigeration or icing, storage and handling of persons or property transported.

(c) The term "railroad" as used in this act shall be construed to mean all railroads, whether operated by steam, electric or other motive power: Provided, That the provision of this act shall not apply to any logging or other private railroad not doing business as a common carrier: Provided further, Nothing in this act contained shall be construed to authorize the commission to interfere with, lessen or impair or to authorize the impairment of any franchise provision, contract or agreement as to rate of fare now existing between any municipality, city, village, or township and any tram railway, street railway, interurban or suburban railway company, or to increase or lessen the rate of fare fixed by such franchise, contract or agreement, or to deprive any tram railway, street railway, interurban or suburban railway company of the right to charge for the carriage of passengers the rate of fare authorized and fixed by any franchise, grant or contract made or entered into between any municipality, city, village or township and any such tram railway, street railway, interurban or suburban railway company; Provided further, That nothing in this act contained shall apply to street and electric railroads engaged solely in the transportation of passengers within the limits of cities or within a distance of 5 miles of the boundaries thereof.

(d) The provisions of this act shall apply to the transportation of passengers and property between points within this state, and to the receiving, switching, delivering, storing and handling of such property, and to all charges connected therewith, including icing and mileage charges: Provided, however, That this provision shall not be construed as a limitation on the authority of the commission created by this act to prescribe car service and demurrage rules applicable to all traffic beginning or ending within this state.

(e) Express companies and sleeping car companies doing business for hire within this state are hereby defined to be common carriers.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- Am. 1911, Act 173, Eff. Aug. 1, 1911 ;-- CL 1915, 8111 ;-- CL 1929, 11019 ;-- CL 1948, 462.3

462.4 Common carrier; duty to serve; rates; through routes; rates; joint rates.

Sec. 4.

(a) Every common carrier is hereby required to furnish reasonably adequate service and facilities and shall provide and furnish transportation of passengers and property upon reasonable requests therefor, and all charges made for any service in connection therewith, or for the receiving, switching, delivering, storing, transporting or handling of such persons or property shall be reasonable and just, and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful;

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(b) All railroads incorporated under the general railroad law of this state, as between themselves, and all electric railroads, as between themselves, shall establish through routes and just and reasonable rates applicable thereto, except as hereinafter provided;

(c) Whenever passengers or property are transported over 2 or more connecting lines of railroad between points in this state, and the railroad companies have made joint rates for the transportation of the same, such rates and all charges in connection therewith shall be just and reasonable, and every unjust and unreasonable charge is prohibited and declared to be unlawful: Provided, That a less charge by such railroads for their proportion of such joint rates than is made locally between the same points on their respective lines shall not for that reason be construed as a violation of the provisions of this act, nor render such railroads liable to any of the penalties hereof.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8112 ;-- CL 1929, 11020 ;-- CL 1948, 462.4

462.5 Free transportation; penalty; freight; tickets.

Sec. 5.

(a) No common carrier, subject to the provisions of this act shall hereafter, directly or indirectly, issue or give any free ticket, free pass, or free transportation for passengers, except to its employes or their families, its officers, agents, surgeons, physicians or attorneys at law and members of their families; or to former railroad employes and members of their families, when such employes have become disabled in the railway service, or retired upon pension, and to the members of the families of deceased employes; to ministers of religion, traveling secretaries of railroad young men's christian associations, persons engaged exclusively 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 inmates of the national homes or state homes or homes for disabled volunteer soldiers, and sailors' homes, including those about to enter and those returning home after discharge, boards of managers of such homes; to necessary caretakers of live stock, poultry, fruit and vegetables; to employes on sleeping cars and express cars; to linemen of telegraph and telephone companies and others engaged in the care and operation of telegraph and telephone lines; to railroad postal employes, post office inspectors, custom inspectors and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested, persons injured or killed in accidents and members of the families of the same, and physicians and nurses attending such persons, and dependent relatives of injured or deceased employes, and such other persons as the commission may from time to time by special order designate: Provided, That this provision shall not be construed to prohibit the interchange of passes for the officers, agents, attorneys and employes of common carriers and their families; nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence or otherwise calamitous visitation: Provided further, That nothing shall be construed to prohibit the exchange of mileage for advertising in publications of general circulation. Any common carrier wilfully violating this provision shall be deemed guilty of a misdemeanor and for such offense, on conviction, shall pay to the state of Michigan a penalty of not less than 100 dollars nor more than 500 dollars, and any person, other than persons excepted in this provision, who uses any such free ticket, free pass or free transportation, shall be subjected to a like penalty;

(b) Nothing herein shall prevent the carriage, storage or handling of freight free, or at reduced rates for the United States, the state or any political subdivision thereof, or any

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municipality thereof, or for charitable purposes, or to and from fairs and expositions for exhibition thereat, or household goods, or other personal property of railroad employes, or the interchange of franks for the free transportation of personal property of the officers, agents, attorneys and employes of common carriers and their families; nor to prohibit any common carrier from carrying property free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitations, or the issuance of mileage, commutation, excursion passengers' or party tickets: Provided, That such tickets shall be obtainable by all persons applying therefor under like circumstances and conditions without discrimination.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8113 ;-- CL 1929, 11021 ;-- CL 1948, 462.5

462.6 Switch connection with private side track; order of commission; rules; spur track; payment of cost and expenses; disagreement.

Sec. 6.

(a) Any railroad, subject to the provisions of this act, upon application of any shipper tendering traffic for transportation, shall construct, maintain and operate upon reasonable terms a switch connection with any private side track, when such connection is reasonably practicable and can be put in with safety and will furnish sufficient business to justify the construction and maintenance of same, and shall furnish cars and transport to the best of its ability any traffic tendered to, over or from such private side track, without discrimination in favor of or against any such shipper: Provided, This shall not be construed to compel a railroad to remove from or deliver on a private side track traffic tendered in less than car lots: Provided further, That shipments of live stock, perishable property and explosives shall have precedence over all other classes of merchandise. If any railroad shall fail to install and operate any such switch or connection as aforesaid, on application therefor in writing by any shipper, any shipper may make complaint to the commission, as provided by section 22 of this act, and the commission shall make investigation of the same, and it shall determine as to the safety, practicability and justification thereof, and shall fix a reasonable compensation therefor, and the commission shall make an order as provided in section 22 of this act, directing the railroads to comply with the provisions of this section in accordance with such order, and such order shall be enforced as hereinafter provided for the enforcement of all other orders by the commission, other than orders for the payment of money. The commission shall have power, and is hereby authorized, to fix and establish reasonable switching rules and regulations, and establish reasonable limits for said switching and reasonable rates therefor, including rules and regulations regarding absorption of switching rates;

(b) Every railroad shall provide a reasonable, adequate and suitable spur track to and to and upon the grounds of any mill, elevator, storehouse, warehouse, dock, wharf, pier, manufacturing establishment, lumber yard, coal dock or other industry or enterprise, wherever such spur track does not necessarily exceed 2 miles in length and is practically indispensable to the successful operation of any such industry or enterprise, and shall connect such spur track with its main track and operate the same in connection therewith: Provided, That such railroad may require the person or persons, firm, corporation or association primarily to be served thereby, to pay the legitimate cost and expense of acquiring by condemnation or purchase where necessary the rights of way for such spur track, and of constructing the same, in which case the total estimated cost thereof shall be deposited with the railroad before the railroad shall be required to incur any expense whatever therefor. No railroad shall, however, be required to provide a spur track where it is unusually unsafe and dangerous: Provided, That in the event of the failure of said shipper and the said railroad to agree, the necessity for,

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reasonableness of, and practical safety of such spur track and connection and the operation thereof shall be decided by the said public utilities commission upon complaint and hearing as provided in section 22 of this act.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8114 ;-- Am. 1921, Act 390, Eff. Aug. 18, 1921 ;-- CL 1929, 11022 ;-- CL 1948, 462.6
Compiler's Notes: For provisions of section 22, referred to in this section, see MCL 462.22.

462.7 Interchange of traffic; preferred freight; routing by shippers or initial carrier; steam railroads and interurban and suburban railroads; drawing cars and merchandise of connecting lines; local traffic; intrastate traffic.

Sec. 7.

(a) All railroads subject to the provisions of this act shall afford all reasonable and proper facilities by the establishment of switch connections between one another and the establishment of depots and otherwise for the interchange of traffic between their respective lines and for the receiving, forwarding and delivering of passengers and property to and from their several lines and those connecting therewith, and shall transfer and deliver without unreasonable delay or discrimination any freight or cars or passengers destined to any point on its own line or on any connecting line, and shall not discriminate in their rates and charges between such connecting lines: Provided, Precedence may be given to live stock and perishable property. Nothing in this act shall be construed as requiring any railroad to give the use of its tracks or terminal facilities to another railroad engaged in like business, except that carload traffic shall be received and transported from any junction point or transfer point or intersection with another railroad in any city or town, destined to team tracks or other sidings in the same city or town as hereinafter provided. Any person or any officer or agent of any corporation or company who shall deliver property for transportation to any common carrier subject to the provisions of this act shall have the right and privilege of routing such shipments and of prescribing and directing over what connecting line property so shipped shall be transported, and it shall be the duty of the initial carrier to observe the direction of such person or such officer or agent of any corporation or company, and to cause such freight to be transported over such connecting line as may be directed and required by such shipper. When freight is shipped in intrastate commerce and any person or officer or agent of any corporation or company who shall deliver property for transportation does not prescribe over what connecting line such property shall be transported, it shall be the duty of the initial carrier to so route the freight as to give the property the benefit of the lowest rate published between points of origin and destination;

(b) Where it is practicable and the same may be accomplished without endangering the equipment, tracks or appliances of either party, the commission may, upon application, require steam railroads and interurban and suburban railroads to interchange cars, carload shipments, less than carload shipments and passenger traffic, and for that purpose may require the construction of physical connections upon such terms as it may determine and such suburban and interurban railroads may be used for handling of freight in carload lots in steam railroad freight cars between shippers or consignees and the steam railroads, in the same manner and under the same general conditions, except as to motive power, as belt line railroads and terminal railroads are now or may hereafter be used for like purposes;

(c) Every corporation owning a railroad in use shall, at reasonable times and for a reasonable compensation, draw over the same the merchandise and cars of any other corporation or individual having connecting tracks: Provided, Such cars are of the proper

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gauge, are in good running order and equipped as required by law and otherwise safe for transportation and properly loaded: Provided further, If the corporations cannot agree upon the times at which the cars shall be drawn or the compensation to be paid, the said commission shall, upon petition of either party and notice to the other, after hearing the parties interested, determine the rate of compensation and fix such other periods, having reference to the convenience and interests of the corporation or corporations and the public to be accommodated thereby and the award of the commission shall be binding upon the respective corporations interested therein until the same shall have been revised;

(d) Every common carrier operating within this state shall receive and transport at reasonable rates any and all carload traffic offered for transportation under the usual conditions locally consigned between points in the same city or town and shall receive and transport at reasonable rates from any junction point or transfer point or intersection with another railroad in such city or town any and all such carload freight destined to team tracks or other sidings on any line operated by the delivering carrier, and shall deliver such car or cars upon such team tracks or sidings in the city or town where such car or cars are received from such connecting line when required so to do: Provided, That when delivery is requested which will involve the use of a private siding not owned or controlled by consignee, said consignee shall file with both receiving and delivering carriers written permission signed by the owner or lessee of such private siding authorizing the use of same. When the particular delivery desired cannot be accomplished owing to the congestion of cars upon such siding or team tracks, it shall be the duty of the delivering carrier to notify consignee of such conditions and it shall be the duty of consignee upon receipt of such notice to advise upon what other siding delivery will be accepted or whether or not it is desired that such car or cars shall be held waiting the opportunity for delivery upon the siding originally designated as the destination;

(e) That any common carrier, railroad or transportation company receiving property for transportation from a point in the state of Michigan to another point within the state of Michigan, shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage or injury to such property caused by it or by any common carrier, railroad or transportation company to which said property may be delivered or over whose line or lines such property may pass, and no contract, receipt, rule or regulation, shall exempt such common carrier, railroad or transportation company from the liability hereby imposed: Provided, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under existing law: Provided further, That the property so received for transportation shall move entirely within the boundaries of the state of Michigan between the points of shipment and its destination: And provided further, That the common carrier, railroad or transportation company issuing such receipt or bill of lading shall be entitled to recover from the common carrier, railroad or transportation company, on whose line or lines the loss, damage or injury shall have been sustained, the amount of such loss, damage or injury as it may be required to pay to the owners of such property as may be evidenced by any receipt, judgment or transcript thereof.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- Am. 1911, Act 139, Imd. Eff. Apr. 25, 1911 ;-- Am. 1913, Act 370, Eff. Aug. 14, 1913 ;-- Am. 1913, Act 389, Eff. Aug. 14, 1913 ;-- Am. 1915, Act 278, Eff. Aug. 24, 1915 ;-- CL 1915, 8115 ;-- Am. 1917, Act 387, Eff. Aug. 10, 1917 ;-- CL 1929, 11023 ;-- CL 1948, 462.7

462.8 Railroads to furnish cars; shortage, preference, regulation by commission; demurrage.

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Sec. 8.

Every railroad shall, when within its power so to do, and upon reasonable notice, furnish suitable cars to any and all persons who may apply therefor, for the transportation of any and all kinds of freight in carload lots. Every common carrier shall have sufficient cars and motive power to meet all requirements for the transportation of passengers and property which may reasonably be anticipated. In case of insufficiency of cars at any time to meet all requirements, such cars as are available shall be distributed among the several applicants therefor without discrimination between shippers or between points of shipment, whether competitive or non-competitive: Provided, Preference may be given to shipments of live-stock and perishable property. The commission shall have power to make and enforce, and shall make and enforce reasonable regulations for the furnishing and distribution of freight cars to shippers and switching the same, and for the loading and unloading thereof, and for the weighing of the cars and the freight offered for shipment over any line of railroad and shall fix a reasonable per diem demurrage to be paid for the detention of cars by shipper or consignee (which said car service and demurrage rules and regulations shall be applicable to all traffic whether the same begin or end within the state of Michigan), and for the failure or delay of the railroad in the furnishing of such cars and for the failure of the railroad to move the cars the number of miles per day as ordered by the commission.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- Am. 1911, Act 173, Eff. Aug. 1, 1911 ;-- CL 1915, 8116 ;-- CL 1929, 11024 ;-- CL 1948, 462.8

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462.9 Charges for longer and shorter hauls; governing rate.

Sec. 9.

It shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater fare or rate for the transportation of passengers or like kinds of property under substantially similar circumstances and conditions for a shorter than a longer distance over the same line, in the same direction, the shorter being included within the longer distance, but this act shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter distance as for a longer distance: Provided, however, That upon application to the commission appointed under the provisions of this act such common carrier may, in special cases after investigation by the commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property, and the commission may from time to time prescribe the extent to which a designated common carrier may be relieved from the operation of this section of this act. When there are 2 or more rates in effect between the same points, via the same route, the lowest published rate shall be the only legal rate applicable in this state. In the event a published through rate exceed any combination of 2 or more local rates between the same points within the state, the combination forming the lowest rate shall govern.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- Am. 1915, Act 277, Eff. Aug. 24, 1915 ;-- CL 1915, 8117 ;-- CL 1929, 11025 ;-- CL 1948, 462.9

462.10 Schedule of rates; filing with commission; public inspection; rate change; joint tariff; form of schedules; filing and publication of rates required; complaints; military traffic.

Sec. 10.

(a) Every common carrier subject to the provisions of this act shall file with the commission created by this act and print and keep open to public inspection in each of its depots and offices, schedules showing all rates, fares and charges for transportation, both of passengers and property, between different points on its own route, and between points on its own route and on the route of any other carrier, when a through route and joint rate have been established. If no joint rate over the through route has been established, the several carriers in such through route shall file, print and keep open to public inspection as aforesaid the separately established rates, fares and charges applied to the through transportation. The schedules printed as aforesaid by any common carrier, shall plainly state the places between which property and passengers will be carried and shall contain the classification of freight in force and shall also state separately all terminal charges, storage charges, icing charges and all other charges which the commission may require, all privileges or facilities granted or allowed and any rules or regulations which in any wise change, affect or determine any part of or the aggregate of such aforesaid rates, fares and charges, or the value of the service rendered to the passengers, shipper or consignee: Provided, That where local switching tariffs are in effect at a competitive point, it shall be sufficient if the schedule state that the terminal charges shall be subject to the rules of such local switching tariffs. Such schedules shall be printed plainly in large type, and copies for the use of the public shall be kept on file for public inspection in every depot, station or office of such carrier where passengers or freight respectively are received for transportation or where tickets are sold, in such form that they will be accessible to the public and can conveniently be inspected. The provisions of this section shall apply to all traffic and transportation and facilities defined in this act;

(b) No change shall be made in the schedule of rates, fares or charges or joint rates, fares or charges which have been filed and published by common carriers in compliance with the requirements of this section, except after 30 days' notice to the commission and to the public published as aforesaid, which shall plainly state the changes proposed to be made in the schedule of rates, fares or charges or joint rates, fares or charges then in force and the time when such changed rates, fares or charges or joint rates, fares or charges will go into effect, and no such rates, fares or charges or joint rates, fares or charges shall be discontinued, except after giving such notice as is required for changing rates, fares or charges or joint rates, fares or charges, and the proposed changes in such rates, fares or charges or joint rates, fares or charges shall be shown by printing and filing new tariffs thereto or by showing such changes or discontinuance by issuing and filing of supplements in the regular manner now provided and keeping same open to public inspection: Provided, That the commission may, in its discretion and for good cause shown, allow changes upon less time than the notice herein specified, or modify the requirements in this section in respect to publishing, posting and filing of tariffs, either in particular instances or by general order applicable to special or peculiar circumstances or conditions: Provided further, That upon the filing with the commission by a common carrier of any tariff or supplement showing any change in rates, fares or charges or joint rates, fares or charges or a discontinuance of any rate or rates, fares or charges or joint rates, fares or charges, it shall be lawful for the said commission and it is hereby authorized, acting upon its own initiative or upon complaint, to postpone the date when such new rate or rates or joint rates, fares or charges or discontinuance of rate or rates or joint rates, fares or charges, shall become effective to such time not to exceed in all 45 days as shall give the said commission opportunity to investigate the reasonableness of such proposed rate or rates or discontinuance of rate or rates, and it shall thereupon be lawful for said commission and it is hereby authorized to proceed with all convenient speed with an investigation upon at least 5 days' notice to said common carrier either upon its own initiative or upon complaint as to the

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reasonableness of said rate or rates or the discontinuance of said rate or rates, follow the procedure as near as may be, and make its order therein in the manner hereinafter provided in section 22 of this act, such investigation to take precedence of all matters of a different nature pending before the commission;

(c) The names of the several carriers which are parties to any joint tariff shall be specified therein and each of the parties thereto, other than the one filing the same, shall file with the commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the commission, and where evidence of concurrence or acceptance is filed it shall not be necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties;

(d) The commission may determine and prescribe the form in which the schedules required by this section to be kept open to the public inspection shall be prepared and arranged and may change the form from time to time as may be found expedient;

(e) Such schedules shall, so far as is practicable, conform to the forms prescribed by the interstate commerce commission;

(f) No carrier, unless otherwise provided by this act, shall engage or participate in the transportation of passengers or property as defined in this act, unless the rates, fares and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this act, nor shall any carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property or for any service in connection therewith between the points named in such fares and charges which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares and charges so specified, nor extend to any shipper or person any privilege or facilities in the transportation of persons or property, except such as are specified in such tariff;

(g) Within 2 years after the delivery of any shipment of freight at destination, and not after, any person aggrieved may complain to the commission that the charge exacted for the transportation of such freight between points in Michigan is irregular or exorbitant, and thereupon the commission shall have power to investigate such complaint, and to hear the same and to decide upon the merits thereof, in the manner provided by section 22 of this act. If, upon such hearing, the commission shall decide that the rate or charge exacted is irregular or exorbitant it shall find what, in its judgment, would have been a reasonable rate or charge for the service complained of. If the rate or charge so found shall be less than the charge exacted and the commission shall determine that any party complainant is entitled to an award of damages under the provisions of this act for a violation thereof, the commission shall make an order authorizing and directing the carrier to pay the complainant the sum to which he is entitled on or before a day named. In case of the refusal of the carrier to make such refund, the party aggrieved thereby may maintain an action in the courts of this state to recover the amount of such excessive charge as found by said commission, and in the trial thereof the findings of the commission shall be prima facie evidence of the truth of the facts found by it, and no carrier shall be permitted to avail itself in the defense of such action that the shipment involved was in fact made on the published tariff rate in force at the time such shipment was made, but no carrier making a refund upon the order of the commission or pursuant to a judgment of court as herein provided, shall be liable for any penalty or forfeiture, or subject to any prosecution under the laws of this state on account of making such refund;

(h) In time of war or threatened war preference and precedence shall, upon the demand of the governor of the state, be given over all other traffic to the transportation of troops and

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material of war, and carriers shall adopt every means within their control to facilitate and expedite the military traffic;

(i) Every common carrier within this state shall within 90 days, unless further time be granted by the commission, file in the office of the commission copies of all schedules of rates, including joint rates in force on its line or lines between points within this state on the date this act takes effect, not previously filed by such carrier with the Michigan railroad commission.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- Am. 1911, Act 139, Imd. Eff. Apr. 25, 1911 ;-- CL 1915, 8118 ;-- Am. 1923, Act 256, Eff. Aug. 30, 1923 ;-- CL 1929, 11026 ;-- CL 1948, 462.10

462.11 Special contract rates.

Sec. 11.

Nothing in this act shall be construed to prevent concentration, commodity, transit and other special contract rates, but all such rates shall be open to all shippers for a like kind of traffic under similar circumstances and conditions, and shall be subject to the provisions of this act as to the printing and the filing of the same: Provided, All such rates shall be under the supervision and regulation of the commission.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8119 ;-- CL 1929, 11027 ;-- CL 1948, 462.11

462.12 Freight classification.

Sec. 12.

The classification of freight in this state shall be uniform on all railroads.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8120 ;-- CL 1929, 11028 ;-- CL 1948, 462.12

462.13 Maintenance of depot facilities; joint maintenance by connecting railroads; discontinuance of passenger service; approval of commission; appeal of order of commission.

Sec. 13.

(a) Every railroad, unless excused therefrom by the order of the commission made after petition and hearing, shall provide and maintain adequate depots and depot buildings, including facilities for checking baggage and the sale of tickets at its regular stations and at such other points as the commission shall direct, for the accommodation of passengers, which buildings shall be kept clean, well-lighted and warm for the accommodation of the traveling public. All railroads shall keep and maintain adequate and suitable freight depots, buildings, switches and sidetracks for the receiving, handling and delivering of freight transported or to be transported by such railroads. Upon the filing of complaint with the commission and hearing thereon as provided in section 22, the commission is authorized to make full inquiry in the matter of station facilities, train service, name of station, etc., at the station in question, and make such orders in regard to the building of depots, interurban railway shelters, name of station, stopping of trains or cars, necessary sidings and other track accommodations as it shall deem for the public interest and shall be just and reasonable. No order shall be made by the commission with reference to the name of a station until the change so ordered shall have been

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asked for by a majority vote of the citizens of the township, incorporated village or city in which such station is located.

(b) Where 2 or more railroads connect they shall, if so ordered by the commission after hearing, provide at the junction point a joint depot and suitable accommodations for passengers and merchandise. If the railroads cannot agree in providing such accommodations and for the maintenance thereof, the commission may determine the character of the accommodations to be provided and apportion the cost thereof and the expense of the maintenance of the same between the several roads.

(c) Passenger service shall not be discontinued in this state without the permission of the commission and unless the railroad desiring to discontinue such service shall first file a petition with the commission, and hearing is held thereon as provided in section 22. The commission at such hearing shall inquire into the convenience and necessity of the service to the public and shall render its decision thereon. At any hearing upon such petition any person, association, corporation, municipality or governmental unit whose interests shall be adversely affected by the discontinuance of the service, may petition the commission for leave to intervene in said proceedings and participate therein as a party. If it shall appear to the commission from the state of the applicant's interests that the interests may be adversely affected by the discontinuance of service, the commission shall grant permission to intervene. The provisions of this act shall not apply to temporary or seasonal trains.

(d) Any common carrier, or other party in interest, being dissatisfied with any order of the commission made under the provisions of this section, shall have the same rights to appeal and review as provided under section 26, as amended.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8121 ;-- CL 1929, 11029 ;-- Am. 1941, Act 134, Imd. Eff. May 26, 1941 ;-- CL 1948, 462.13 ;-- Am. 1965, Act 15, Imd. Eff. Apr. 16, 1965

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462.14 Sidetracks, spurs and branches; control by commission; abandonment or removal, procedure.

Sec. 14.

The commission shall have control and jurisdiction over all sidetracks, spurs and branches insofar as the same are used or operated by common carriers. No change or discontinuance in the service from, to or on such sidetracks, spurs and branches or abandonment or removal of said sidetracks, spurs or branches, except sidetracks or spurs solely required for the convenient operation of its engines and trains and private industrial sidetracks, shall be made except after 10 days' notice to the commission and to the public published as aforesaid, which shall plainly state the change or discontinuance proposed to be made in such service or the sidetrack, spur or branch proposed to be abandoned or removed and the time when such change, discontinuance or abandonment or removal will go into effect; and the proposed change, discontinuance or abandonment or removal shall be shown by printing and filing new tariffs or notice thereof or by showing such change, discontinuance or abandonment or removal by issuing and filing supplements or notice in the regular manner now provided and keeping same open to public inspection: Provided, That the commission may allow changes upon less time than the notice herein specified or modify the requirements in this section in respect to publishing and posting of tariffs either in particular instances or by a general order applicable to special or peculiar circumstances or conditions: Provided further, That it shall be lawful for the said commission and it is hereby authorized, acting upon its own initiative or upon complaint, to postpone the date when such change, discontinuance or abandonment or removal shall become effective to such time not to exceed in all 45 days as shall give the said

commission opportunity to investigate the reasonableness of such proposed change, discontinuance or abandonment or removal, and it shall thereupon be lawful for such commission, and it is hereby authorized to proceed with all convenient speed with an investigation upon at least 5 days' notice to said common carrier, either upon its own initiative or upon complaint as to the reasonableness of said change, discontinuance or abandonment or removal, and shall follow the proceedings as near as may be and make its orders thereon either approving or refusing such change, discontinuance or abandonment or removal or prescribing the terms and conditions upon which such change, discontinuance or abandonment or removal shall be made, in the manner hereinafter provided in section 22 of this act, such investigation to take precedence of all matters of a different nature pending before the commission, except investigations as to change or discontinuance of rates, fares or charges or joint rates, fares or charges then pending before said commission.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- Am. 1911, Act 139, Imd. Eff. Apr. 25, 1911 ;-- CL 1915, 8122 ;-- CL 1929, 11030 ;-- CL 1948, 462.14
Compiler's Notes: For provisions of section 22, referred to in this section, see MCL 462.22.

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462.15 Continuous carriage of freight; unlawful acts.

Sec. 15.

It shall be unlawful for any common carrier to enter into any combination, contract or agreement, express or implied, to prevent by change of time, schedule, carriage in different cars, or by other means or devices, the carriage of freight from being continuous from the place of shipment to the place of destination, and no break of bulk, stoppage or interruptions by such common carrier shall prevent the carriage of freight from being and being treated as 1 continuous carriage from place of shipment to the place of destination, unless such break, stoppage or interruption was made in good faith for some necessary purpose and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8123 ;-- CL 1929, 11031 ;-- CL 1948, 462.15

462.16 Rate discrimination unlawful; compensation for incidental service.

Sec. 16.

If any common carrier or any agent or officer thereof shall, directly or indirectly, by any special rate, rebate, drawback, or by any means of false billing, false classification, false weighing, or by any other device whatsoever, charge, demand, collect or receive from any person, firm or corporation, a greater or less compensation for any service rendered or to be rendered by it for the transportation of persons or property or for any service in connection therewith than that prescribed in the public tariffs then in force, or established as provided herein, or than it charges, demands, collects or receives from any other person, firm or corporation for a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, or shall knowingly and willfully assist or willfully suffer and permit such greater or less compensation to be charged, demanded, collected or received, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful. It shall be unlawful for any common carrier to demand, charge, collect or receive from any person, firm or corporation a less compensation for the transportation of property or for any service rendered or to be

rendered by said common carrier in consideration of said person, firm or corporation furnishing any part of the facilities incident thereto: Provided, Nothing shall be construed as prohibiting any common carrier from procuring any facilities or service incident to transportation and paying a reasonable compensation therefor.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8124 ;-- CL 1929, 11032 ;-- CL 1948, 462.16

462.17 Traffic discrimination unlawful.

Sec. 17.

It shall be unlawful for any common carrier, subject to the provisions of this act, to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation or locality or any particular description of traffic in any respect whatsoever, or to subject any particular person, company, firm, corporation or locality or any particular description of traffic to any undue or unreasonable disadvantage or prejudice in any respect whatsoever.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8125 ;-- CL 1929, 11033 ;-- CL 1948, 462.17

462.18 Receiving rebate or discrimination; penalty.

Sec. 18.

It shall be unlawful for any person, firm or corporation knowingly to accept or to receive any rebate concession or discrimination in respect to transportation of any property wholly in this state or for any service in connection therewith, whereby any such property shall, by false billing, false classification, false weighing or any other device whatsoever, be transported at a less rate than that named in the published tariffs in force as provided herein or whereby any service or advantage is received, other than is therein specified. Any person, firm or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than 500 dollars or by imprisonment in the county jail for a term of not to exceed 3 months, or by both in the discretion of the court for each offense.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8126 ;-- CL 1929, 11034 ;-- CL 1948, 462.18

462.19 Civil liability.

Sec. 19.

If any common carrier shall do, or cause to be done, or permit to be done, any matter, act or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing required to be done by it, or by any lawful order made under the provisions of this act by the Michigan railroad commission, such common carrier shall be liable to the person, firm or corporation injured thereby in double the amount of damages sustained in consequence of such violation: Provided, That any recovery as is in this section provided shall in no manner affect a recovery by the state of the penalty prescribed for such violation.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8127 ;-- CL 1929, 11035 ;-- CL 1948, 462.19

462.20 Failure to report unlawful.

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Sec. 20.

It shall be unlawful for any officer, agent or employe of any common carrier to willfully fail or refuse to fill out and return any blank or make any report as required by this act, or to willfully fail or refuse to answer any questions therein propounded, or to knowingly or willfully give a false answer to any such question or to evade the answer to any such question where the fact inquired of is within his knowledge, or to, upon proper demand, willfully fail or refuse to exhibit to any commissioner or any commissioners, or any person authorized to examine the same, any book, paper or account of such common carrier which is in his possession or under his control.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8128 ;-- CL 1929, 11036 ;-- CL 1948, 462.20

462.21 Fees; disposition.

Sec. 21.

The commission shall charge and collect the following fees: For copies of papers and records not required to be certified or otherwise authenticated by the commission, 10 cents for each folio; for certified copies of official documents and orders filed in its office, 15 cents for each folio; for certifying a copy of any report made by a corporation to the commission, 50 cents; for each certified copy or the annual report of the commission, for certified copies of evidence and proceedings before the commission not required by this act to be furnished gratis, 15 cents for each folio. No fees shall be charged or collected for copies of papers, records or official documents furnished to public officers for use in their official capacity, or for the annual reports of the commission in the ordinary course of distribution. All fees charged and collected by the commission shall belong to the people of the state, and shall be paid monthly, accompanied with a detailed statement thereof, into the treasury of the state to the credit of the general fund.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8129 ;-- CL 1929, 11037 ;-- CL 1948, 462.21

462.22 Rate investigation on complaint; hearing, order for change in schedules; separate hearings; dismissal; rate investigation on motion of commission; order; complaint by common carrier; through rates; joint rates.

Sec. 22.

(a) Upon complaint in writing of any person, firm or corporation or association, or of any mercantile, agricultural or manufacturing society, or of any body politic or municipal organization, that any of the rates, fares, charges or classifications, or any joint rate or rates are in any respect unreasonable or unjustly discriminatory, or that any regulation or practice whatsoever affecting the transportation of persons or property or any service in connection therewith, is in any respect unreasonable or unjustly discriminatory, or that any service is inadequate, the commission shall notify the common carrier complained of that complaint has been made and shall furnish a copy of the said complaint with said notice, and 20 days after such notice has been given the commission may proceed to investigate the same as hereinafter provided. Before proceeding to make the investigation, the commission shall give the said common carrier and the complainants at least 10 days' notice of the time and place when and where such matters will be considered and determined, and said parties shall be entitled to be heard and shall have process to enforce the attendance of witnesses. Such hearings may be

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continued from time to time in the discretion of the commission. If, upon such investigation, the rate or rates, joint rate or rates, fares, charges or classifications, regulation, practice or service complained of shall be found to be unreasonable, inadequate or unjustly discriminatory, the commission shall have power to and it shall determine and by order fix and order substituted therefor, such rate or rates, joint rate or rates, fares and charges, as is or are just and reasonable, and which shall be the maximum to be charged in the future, and such classifications, regulation, practice or service as is or are just, reasonable and adequate, and which shall be imposed and followed or service rendered in future in lieu of that found to be unreasonable, inadequate or unjustly discriminatory, and in either case the commission shall make an order that the common carrier cease and desist from such violation, and shall conform to the regulation and practice so prescribed, and it shall cause a certified copy of each such order to be delivered to an officer or station agent of the common carrier affected thereby, which order shall, of its own force, take effect and become operative 20 days after the service thereof. All common carriers to which the order applies shall, on or before the date when such order becomes effective, make such changes in schedules on file as shall be necessary to make the same conform to such order, and no change shall within 2 years thereafter be made by any such common carrier in any such rates, fares or charges, or in any such joint rate or rates, without the approval of the commission. Certified copies of all other orders of the commission shall be delivered to the common carriers thereby affected in like manner, and the same shall take effect within such times thereafter as the commission shall prescribe;

(b) The commission may, when the complaint is made of more than 1 rate or charge, order separate hearings thereon, and may consider and determine the several matters complained of separately and at such times as it may prescribe. No complaint shall of necessity at any time be dismissed because of the absence of direct damage to the complainant;

(c) Whenever the commission shall believe that any rate or rates or charge or charges may be unreasonable or unjustly discriminatory, or that any service is inadequate, and that any investigation relating thereto should be made, it may, upon its own motion, investigate the same. Before making such investigation, it shall present to the common carrier a statement in writing, setting forth the rate or charge to be investigated. Thereafter, on 10 days' notice to the common carrier of the time and place of such investigation, the commission may proceed to investigate such rate or charge in the same manner and make like orders in respect thereto as if such investigation had been made upon complaint;

(d) This section shall be construed to permit any common carrier to make complaint of like effect as though made by any person, firm, corporation or association, mercantile, agricultural or manufacturing society, body politic or municipal organization;

(e) The commission may, after hearing on a complaint, establish through routes and joint rates as the maximum to be charged and the terms and conditions under which such through routes shall be operated when the common carriers complained of have refused or neglected to voluntarily establish such through routes and joint rates: Provided, No reasonably satisfactory through route and joint rate exist. Whenever the common carrier or common carriers, in obedience to an order of the commission or otherwise, in respect to joint rates, fares or charges, shall fail to agree among themselves upon the apportionment or division thereof, the commission may after hearing make a supplemental order prescribing the just and reasonable proportion of such joint rate, fare or charge to be received by each common carrier party thereto, which order shall take effect as part of the original order.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8130 ;-- CL 1929, 11038 ;-- CL 1948, 462.22

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462.23 Commissioners; powers; issuance of subpoena by court; witness fees; depositions; record of proceedings.

Sec. 23.

(a) Each of the commissioners, for the purposes mentioned in this act, shall have power to administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of papers, way bills, books, accounts, documents and testimony. In case of disobedience on the part of any person or persons, or willful failure to comply with any order of the commission or any commissioner or any subpoena, or upon the refusal of any witness to testify regarding any matter upon which he may be lawfully interrogated, or to produce any books or papers in his custody or control which he shall have been required by any commissioner to produce, it shall be the duty of the circuit court or any court, or a judge thereof, upon application of a commissioner, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein, and in addition said commissioner shall have the powers vested in justices of the peace and notaries public to compel witnesses to testify and to produce books and papers;

(b) Each witness who shall appear before the commission by its order shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in circuit court, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of the commission: Provided, That no witnesses subpoenaed at the instance of parties other than the commission shall be entitled to compensation from the state for attendance and travel, unless the commission shall certify that his testimony was material and necessary to the matter investigated;

(c) The commission or any party may, in any investigation, cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the circuit courts;

(d) A full and complete record shall be kept of all proceedings had before the commission on any investigation had under section 22 of this act and all testimony shall be taken down by a stenographer appointed by the commission. When any complaint is served upon the commission under the provisions of section 26 of this act the commission shall, before said action is reached for trial, cause the certified transcript of all proceedings had and testimony taken upon such investigation to be filed with the clerk of the circuit court of the county where the action is pending. A transcribed copy of the evidence and proceedings, or any specific part thereof, or any investigation, taken by the stenographer, certified by him to be a true and correct transcript of all the testimony on the investigation or of a particular witness, or of any specific part thereof, carefully compared by him with his original notes, and to be a correct statement of the evidence and proceedings had on such investigation so purporting to be taken and transcribed shall be received in evidence with the same effect as if such stenographer were present and testified to the facts so certified. A copy of such transcript shall be furnished upon demand, free of cost, to any party to such investigations, and to all other persons on payment of a reasonable amount therefor.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8131 ;-- CL 1929, 11039 ;-- CL 1948, 462.23

462.24 Orders of commission; rescission or amendment.

Sec. 24.

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The commission may, at any time upon application of any person or any common carrier, and upon at least 10 days' notice to the parties interested, including the common carrier, and after opportunity to be heard as provided in section 22, rescind, alter or amend any order fixing any rate or rates, fares, charges or classifications, or any other order made by the commission, and certified copies shall be served and take effect as herein provided for original orders.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8132 ;-- CL 1929, 11040 ;-- CL 1948, 462.24

462.25 Rates; classification and regulations prescribed by commission to be prima facie lawful; express companies.

Sec. 25.

All rates, fares, charges, classification and joint rates fixed by the commission and all regulations, practices and services prescribed by the commission shall be in force and shall be prima facie, lawful and reasonable until finally found otherwise in an action brought for the purpose pursuant to the provisions of section 26 of this act, or until changed or modified by the commission as provided for in section 24 of this act.

(a) It shall be unlawful for any express company operating or doing business in the state of Michigan to charge or collect a greater amount for the transportation of merchandise or other property within this state than the rates and charges set forth and contained in the schedule of rates, tariffs and classifications on file at each station and office to or from which said rates, tariffs and classifications are intended to apply; a copy of which said schedule of rates, tariffs and classifications shall be filed with the railroad commission by the issuing carrier or some duly authorized agent or representative of such carrier;

(b) It shall be unlawful for any express company operating and doing business in the state of Michigan to discriminate in favor of or against any shipper or shippers or to refuse or fail to receive and transport proffered merchandise or other property, providing such merchandise or other property is a proper subject for shipment by express and in proper condition at the time of presentation for shipment from any point where such express company shall maintain or conduct an office or station, or to or from any junction point or points where the line of such express company intersects with the line of any other express company or to or from any common terminal to any point on its own line, and the charge and compensation for the transportation of such merchandise or other property by 2 or more express companies shall not exceed by 30 per cent the maximum charge for the same distance on any 1 line, such maximum charge being determined as hereinafter prescribed;

(c) All express companies operating within this state shall publish and continue in force and effect through or joint rates between all points at which offices are maintained on the line of all express companies operating within the state of Michigan: Provided, That such express companies may divide charges for transportation in such a manner as to allow participating carriers an agreed minimum proportion when the division of such charges on a mileage basis would not allow a sufficient minimum;

(d) The following schedule of rates shall be the present maximum basic general merchandise schedule chargeable within the state of Michigan:

1 to 55 miles inclusive, 50 cents per 100 pounds;

56 to 75 miles inclusive, 55 cents per 100 pounds;

76 to 85 miles inclusive, 60 cents per 100 pounds;

86 to 95 miles inclusive, 65 cents per 100 pounds;

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96 to 105 miles inclusive, 70 cents per 100 pounds;

106 to 130 miles inclusive, 75 cents per 100 pounds;

131 to 150 miles inclusive, 80 cents per 100 pounds;

151 to 170 miles inclusive, 85 cents per 100 pounds;

171 to 190 miles inclusive, 90 cents per 100 pounds;

191 to 210 miles inclusive, 1 dollar per 100 pounds;

211 to 230 miles inclusive, 1 dollar 10 cents per 100 pounds;

231 to 250 miles inclusive, 1 dollar 20 cents per 100 pounds;

251 to 275 miles inclusive, 1 dollar 30 cents per 100 pounds;

276 to 300 miles inclusive, 1 dollar 40 cents per 100 pounds;

(e) The graduated table or schedule of charges now in force relating to shipments of merchandise or other property in quantities less than 100 pounds shall continue in operation except as hereinafter provided;

(f) The Michigan railroad commission shall have control and supervision over all express companies operating within this state, and upon complaint made to it or upon its own motion and after hearing had thereon, in accordance with the rules now in force relative to hearings on complaints by and against common carriers, may from time to time within its discretion change, alter and amend the maximum schedule of rates hereinbefore set forth, and may from time to time upon proper application or upon its own motion and hearing had thereon, as above prescribed, change, alter and amend any graduated table or schedule of charges on merchandise or other property transported or to be transported, the weight of which is less than 100 pounds;

(g) Any express company operating or doing business within the state of Michigan, upon receipt of any property or merchandise, providing such property or merchandise is a proper subject for shipment by express and in proper condition at time of presentation, shall unless otherwise requested by the shipper forward same via the nearest and most practical route, having in mind the frequency of train service at different junction points.

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History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- Am. 1911, Act 139, Imd. Eff. Apr. 25, 1911 ;-- CL 1915, 8133 ;-- CL 1929, 11041 ;-- CL 1948, 462.25

462.26 Appeal to court of appeals; injunction; equitable powers; preliminary injunction; additional evidence; judgment on amended order or original order; appeal to circuit court; burden of proof.

Sec. 26.

(1) Except as otherwise provided in section 7 of Act No. 299 of the Public Acts of 1972, being section 460.117 of the Michigan Compiled Laws, section 5 of Act No. 246 of the Public Acts of 1921, being section 460.205 of the Michigan Compiled Laws, section 12 of Act No. 165 of the Public Acts of 1969, being section 483.162 of the Michigan Compiled Laws, section 20 of Act No. 19 of the Public Acts of 1967, being section 486.570 of the Michigan Compiled Laws, and except as otherwise provided in this section, any common carrier or other party in interest, being dissatisfied with any order of the commission fixing any rate or rates, fares, charges, classifications, joint rate or rates, or any order fixing any regulations, practices, or services, may within 30 days from the issuance and notice of that order file an appeal as of

right in the court of appeals. The court of appeals shall not have jurisdiction over any appeal that is filed later than the 30-day appeal period provided for in this subsection.

(2) An appeal of any decision or order of the Michigan public service commission that is pending in the circuit court on the effective date of this subsection shall proceed and be decided in that court and appealed pursuant to the applicable law in effect immediately prior to the effective date of this subsection, if on that date, the appeal has progressed beyond the filing of a complaint and answer. All other pending cases shall be transferred promptly by the circuit court to the court of appeals.

(3) An appeal from any commission order that is filed in a timely manner but is incorrectly initiated in either the circuit court for the county of Ingham or the court of appeals shall be transferred by that court, on its own motion or on motion of a party, to the proper court and shall proceed as if timely filed in that court.

(4) No injunction shall issue except upon application to the court of appeals following notice to the commission and a hearing. The court of appeals shall have the same equitable powers as possessed by the circuit court in chancery in the county of Ingham prior to the effective date of subsection (2).

(5) Beginning on the effective date of this subsection and until December 31, 1988, and within the time for filing an appeal, a party seeking a preliminary injunction may apply for such relief pursuant to subsection (4) and may request that the court of appeals transfer such application to the circuit court for the county of Ingham. Upon request, the court of appeals shall transfer an application for a preliminary injunction to the circuit court for a determination. The circuit court shall have the same equitable powers as possessed by the circuit court in chancery in the county of Ingham prior to the effective date of this subsection. The circuit court shall grant or deny an application within the time period prescribed by the court of appeals. An order of the circuit court granting or denying an application shall be transferred by that court to the court of appeals and made part of the record in the pending appeal. An appeal of a circuit court order issued under this subsection shall not be necessary to confer upon the court of appeals full and complete jurisdiction to enforce, vacate, or modify an order of the circuit court.

(6) Within 28 days from the filing of an appeal, a party may make application to the commission to present additional evidence. A copy of the application for additional evidence shall be filed in the court of appeals and the court shall stay further appellate proceedings pending the commission's receipt and consideration of the proposed evidence. If the commission finds that the proposed evidence is different from or in addition to the evidence presented at the original hearing, the commission shall receive the additional evidence. After considering the additional evidence, the commission may alter, modify, amend, or rescind its order relating to the rate or rates, fares, charges, classifications, joint rate or rates, regulations, practice, or service complained of, and shall report its decision to the court of appeals within the time period prescribed by the court. If the commission rescinds its order, the appeal shall be dismissed. If the commission alters, modifies, or amends its order, that amended order shall take the place of the original order, and the court of appeals shall render its decision based on the amended order. If the original order is not rescinded or amended by the commission, judgment shall be rendered upon the original order.

(7) An appeal from a commission order pertaining to the application of existing commission rules, tariffs, or rate schedules to an individual customer in a contested case shall be filed in the circuit court for the county of Ingham within 30 days of the issuance and notice of an order.

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(8) In all appeals under this section the burden of proof shall be upon the appellant to show by clear and satisfactory evidence that the order of the commission complained of is unlawful or unreasonable.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- Am. 1915, Act 145, Eff. Aug. 24, 1915 ;-- CL 1915, 8134 ;-- CL 1929, 11042 ;-- CL 1948, 462.26 ;-- Am. 1951, Act 129, Eff. Sept. 28, 1951 ;-- Am. 1986, Act 312, Eff. Apr. 1, 1987 ;-- Am. 1987, Act 12, Imd. Eff. Mar. 31, 1987

462.27 Process; practice and evidence; incriminating testimony; perjury; immunity; orders as evidence.

Sec. 27.

(a) In all actions and proceedings in court arising under this act all such process shall be served and the practice and rules of evidence shall be the same as in actions in equity, except as otherwise herein provided. Every sheriff or other officer empowered to execute civil process shall execute any process issued under the provisions of this act, and shall receive such compensation therefor as may be prescribed by law for similar services;

(b) No person shall be excused from testifying or from producing books and papers in any proceedings based upon or growing out of any violation of the provisions of this act on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to penalty or forfeiture, but no person having so testified shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may have testified or produced any documentary evidence: Provided, That no person so testifying shall be exempted from prosecution or punishment for perjury in so testifying: Provided further, The immunity hereby conferred shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath, or produces evidence documentary or otherwise under oath;

(c) Upon application of any person the commission shall furnish certified copies, under seal of the commission and signed by the commission or its secretary, of any order made by it, which shall be prima facie evidence in any court or proceedings of the facts stated therein.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8135 ;-- CL 1929, 11043 ;-- CL 1948, 462.27

462.28 Common carriers; authority of commission; blanks; inspection; order to produce books; penalty.

Sec. 28.

(a) The commission shall have authority to inquire into the management of the business of any common carrier and shall keep itself informed as to the manner and shall have the right to obtain from any common carrier all necessary information to enable the commission to perform the duties and carry out the objects for which it is created;

(b) The commission shall cause to be prepared for the purposes designated in this act blanks which shall conform as nearly as practicable to the forms prescribed by the interstate commerce commission, and shall when necessary furnish such blanks to each common carrier. Any common carrier receiving from the commission any such blanks shall cause the same to be properly filled out so as to answer fully and correctly each question therein propounded, and in case it is unable to answer any question it shall give a full and sufficient reason for such failure; and said answer shall be verified under oath by the proper officer of said common carrier and returned to the commission at its office within the time fixed by the commission.

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The making of a false affidavit or the filing of the same shall be deemed perjury and punishable as such under the statutes of Michigan defining perjury;

(c) The commission or any commissioner, or any person or persons employed by the commission for that purpose, shall, upon demand, have the right to inspect the books and papers of any common carrier, and to examine under oath any officer, agent or employe of such common carrier in relation to any matter which is the subject of complaint or investigation: Provided, That any person other than 1 of said commissioners who shall make such demand shall produce his authority to make such inspection under the hand of the commission or its secretary, and under the seal of said commission;

(d) The commission may require by order or subpoena, to be served upon any common carrier in the same manner that a subpoena is served in a law action in the circuit court, the production within this state, at such time and place as it may designate, any books, papers or accounts relating to any matter which is the subject of complaint or investigation, kept by such railroad in any office or place without the state of Michigan, or verified copies in lieu thereof, if the commission shall so order, in order that an examination thereof shall be made by the commission or under its direction, and such subpoena may issue to any sheriff in any county of the state. Any common carrier failing or refusing to comply with such order or subpoena within a reasonable time shall for each day it shall so fail or refuse, forfeit and pay into the state treasury a sum of not less than 100 dollars nor more than 1,000 dollars, to be recovered in an action at law brought in the name of the Michigan railroad commission.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8136 ;-- CL 1929, 11044 ;-- CL 1948, 462.28

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462.29 Common carriers; contracts and free transportation lists; annual free transportation list.

Sec. 29.

(a) Every common carrier whenever required by the commission shall, within a time to be fixed by the commission, deliver to the commission for its use, copies of all contracts which relate to the transportation of persons or property or any service in connection therewith, made or entered into by it with any other common carrier or any shipper or shippers, producers or consumers or other person or persons doing business with it;

(b) Every common carrier shall, on or before the first day of February, 1910, and annually thereafter and oftener if required by the commission, file with the commission a verified list of all free tickets, free passes and free transportation issued or given by it during the year ending the thirty-first day of December preceding, together with the full names and addresses of recipients thereof and the reason for issuing the same: Provided, That this section shall not be deemed to require the filing of a list of such free tickets, free passes and free transportation issued or given by such common carrier to its employes or their families, its officers, agents, surgeons, physicians or attorneys-at-law and members of their families, or the officers, agents, attorneys and employes of other common carriers and their families, except such list be specially ordered by the commission.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8137 ;-- CL 1929, 11045 ;-- CL 1948, 462.29

462.30 Common carriers; annual statement, contents, time; blanks; additional information; earnings and income, report.

Sec. 30.

Every common carrier doing business in this state, or which shall hereafter do business in this state, and every person, firm or corporation owning property in this state which is used for common carrier purposes, shall on or before the first day of May, 1918, and on or before the same day in each year thereafter, make and transmit to the commission at its office in Lansing a full and true statement, under oath of the proper official of such carrier of the financial and operating transactions of such carrier relative to the state of Michigan for the year ending the thirty-first day of December preceding, which statement for the state of Michigan shall be similar in character and detail to the annual report, if any, required to be made by such carriers to the interstate commerce commission. The said commission shall cause to be made suitable blanks at the expense of the state and forward the same to such common carrier, upon which to make reports required by this act. The said railroad commission may require of such common carrier, subject to the provisions of this act, any other or additional information relating to the management of such carrier and to the condition of its respective property utilized for common carrier purposes and such other subjects as in its judgment may be necessary in order to gain full information in regard thereto. Every common carrier doing business in this state shall, when so ordered by the commission, report to the railroad commission its earnings and income statement for the period designated in such order, and the proper blanks for that purpose shall be furnished by the commission.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8138 ;-- Am. 1917, Act 205, Eff. Aug. 10, 1917 ;-- CL 1929, 11046 ;-- CL 1948, 462.30
Compiler's Notes: Amendatory Act 205 of 1917 erroneously referred to this section as CL 1915, § 8132.

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462.31 Freight tariffs; filing.

Sec. 31.

Any freight tariffs issued by common carriers relating to interstate traffic in this state or by any common carrier relating either to interstate or to intrastate traffic wholly by water routes in this state shall be on order of the commission filed in the offices of the commission within such time as such order shall prescribe.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8139 ;-- CL 1929, 11047 ;-- CL 1948, 462.31

462.32 Unreasonable rate or practice; regulation by commission.

Sec. 32.

Whenever, after hearing and investigation as provided in this act, the commission shall find that any charge, regulation or practice affecting the transportation of passengers or property, or any service in connection therewith not herein specifically designated, is unreasonable or unjustly discriminatory, it shall have the power to regulate the same as provided in section 22 of this act.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8140 ;-- CL 1929, 11048 ;-- CL 1948, 462.32

462.33 Accidents; report; investigation, expense.

Sec. 33.

Every common carrier shall, whenever an accident occurs within this state upon its line or road or on its depot grounds or yards, give such notice thereof and make such report thereof to

the commission as the regulations of the commission shall require. In the event of any accident the commission, if it deem the public interests require it, shall cause an investigation to be made forthwith, which investigation shall be held within the locality of the accident, unless for greater convenience of those concerned it shall order the investigation to be held at some other place, and said investigation may be adjourned from place to place, as may be found necessary and convenient. The commission shall seasonably notify an officer of the company of the time and place of the investigation. The cost of such investigation shall be certified by the chairman of the commission, and the same shall be audited and paid by the state in the same manner as other expenses are audited and paid, and record or file of said proceedings and evidence shall be kept by said commission.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8141 ;-- CL 1929, 11049 ;-- CL 1948, 462.33
Admin Rule: R 460.1451 et seq. of the Michigan Administrative Code.

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462.34 Equipment and structures; inspection; notice of repairs; orders as to rate of speed and use of defective equipment; penalties, forfeitures.

Sec. 34.

Whenever the commission shall have reasonable grounds to believe, either on complaint or otherwise, that any of the equipment, cars, tracks, bridges or other structures of any common carrier of this state are in a condition which renders any of them dangerous or unfit for the transportation of passengers with reasonable safety, or unreasonably endangering the employes of such carrier, it shall be its duty to inspect and examine, or cause to be inspected, examined and tested by some competent person or persons, and for that purpose it, the said commission, may employ some other person possessing especial knowledge and skill in the construction of railroads and bridges, as an expert, and if, on such examination, in its opinion any such equipment, cars, tracks, bridges or other structures be dangerous or unfit for the transportation of passengers with reasonable safety, or unreasonably endanger the employes of such carrier, it shall be its duty to give the superintendent or other executive officer of the corporation, working or operating said defective, dangerous or unfit equipment, car, track or bridge or other structure, notice of the condition thereof, and of the repairs or changes necessary to place the same in a reasonably safe condition, and of the time within which such repairs or changes shall be made. It may also order and direct the rate of speed of passing trains or cars over such dangerous or defective track, bridge or other structure, until the said repairs shall be made. If any superintendent or other executive officer aforesaid, receiving such notice or order to direct the proper subordinate officers of said corporation to run the passenger trains or cars over such defective track, bridge or other structure, at the speed so prescribed by the commission, or if any engineer, conductor or other employe of such company shall knowingly disobey such order, every such superintendent, officer, conductor or employe shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 43 of this act. The said commission shall have power to wholly prohibit the running of passenger trains or cars over such defective, dangerous or unfit track, bridge or other structure, or the use of such dangerous, unfit or defective equipment or car, if said company shall neglect or without reasonable cause fail to make such repairs within the time prescribed by the commission; and such company, for each and every day that ensues thereafter, and until such changes or repairs are made, shall forfeit and pay to the state the sum of 100 dollars. In case of the employment of an expert, as provided for in this section, the commission shall issue a certificate, which shall set forth the amount of time said expert has been employed, and the pay he is to receive therefor, which certificate shall entitle the holder

thereof to receive the amount mentioned therein in the same manner as other employes of the state are paid.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8142 ;-- CL 1929, 11050 ;-- CL 1948, 462.34

462.35 Rules regarding maximum speed limits; order; effective date of speed limit.

Sec. 35.

(1) The state transportation department shall promulgate rules establishing the standards by which the director of the department shall determine maximum speed limits for railroad locomotives when used in passenger train operations and for passenger railroad trains. The rules shall provide that the director base his or her determinations on engineering, traffic, and safety inspections; on federal railroad safety standards; and on state on-site inspection criteria provided for in the rules.

(2) The speed limits established by the director shall designate expressly those portions of the railroad routes in this state to which the speed limits shall apply for passenger train operations. The maximum speed limit for passenger train operations may vary on specified portions of a route on the basis of safety and other factors.

(3) Before making a determination establishing a maximum speed limit, the director of the state transportation department shall give consideration to local governmental comments. After determining the maximum speed limit, the director of the state transportation department shall issue an order notifying each city, village, and township of the effective date of the speed limit, which date shall not be less than 30 days following the date of the order. The speed limit shall take effect on the specified date unless an appeal, by resolution of the local governing body or by the operating railroad, is filed with the state transportation commission before the proposed effective date of the speed limit as is set forth in the order. If a timely appeal is filed, the order shall not take effect within that city, village, or township unless the order is approved or modified by resolution of the state transportation commission following consideration of the appeal by the commission. If the commission approves or modifies an order by resolution, the effective date of the speed limit shall be established in the resolution of the commission, and the director shall issue a revised order with regard to that city, village, or township.

History: Add. 1984, Act 10, Imd. Eff. Feb. 16, 1984

462.36 Equipment and structures; authority of commission.

Sec. 36.

Authority is hereby given to the said commission, and it shall be its duty, if it shall deem it advisable, to prescribe the use of such modern generally approved system of protection for the safe operation of trains or cars at all crossings and junctions of railroads in this state, and at all crossings of draw bridges, upon which trains or cars are operated by steam, electricity or other power, such as will secure safety in the operation of trains or cars at such crossings, junctions and draw bridges, and to apportion the cost of construction, operation and maintenance of such system of protection among the several companies in such proportion as to the commission shall seem just. The commission, having determined such form of protection, shall immediately cause a description thereof over its official signature to be delivered to an officer of the railroad affected thereby, with notice that the same must be adopted and put into practical force within a reasonable time to be fixed by the commission.

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History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8144 ;-- CL 1929, 11052 ;-- CL 1948, 462.36
Admin Rule: R 460.1451 et seq. of the Michigan Administrative Code.

462.37 Equipment and structures; hearing prior to order.

Sec. 37.

No order of the commission, made in pursuance of the provisions of sections 35 and 36 shall be made except upon examination, at which representatives of the common carriers affected shall be entitled to be heard, after notice.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8145 ;-- CL 1929, 11053 ;-- CL 1948, 462.37

462.38 Equipment and structures; refusal to obey order; penalty.

Sec. 38.

Any common carrier that shall willfully neglect or refuse to obey or conform to any order of the commission made pursuant to either of sections 35 or 36 shall be liable to a penalty in the sum of 500 dollars, and to a like penalty for every week thereafter until such order shall have been complied with: Provided, That in cases in which an application for rehearing shall be made, or an action in court shall be begun and prosecuted in good faith and with diligence, the liability for the continuing penalty herein prescribed shall not apply or begin until after the decision of the commission or rehearing of the final order of the courts in such action.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8146 ;-- CL 1929, 11054 ;-- CL 1948, 462.38

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462.39 Fences; inspection, construction.

Sec. 39.

The railroad commission shall have power, and it shall be its duty, if it shall deem it practicable, in all cases to inspect and determine the sufficiency of all fences required by law to be constructed and maintained by railroad companies, and it may prescribe the manner of constructing and the time within which it shall be done.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8147 ;-- CL 1929, 11055 ;-- CL 1948, 462.39

462.40 Bill of lading; liability of carrier; statements of charges.

Sec. 40.

Whenever any property is received by any common carrier subject to the provisions of this act to be transported from 1 place to another in the state, it shall upon demand by the shipper issue a receipt or bill of lading therefor, naming therein the classification of such freight and the rate of freight at which the same is to be carried; and no common carrier shall limit or change its common law liability by contract or otherwise as to its responsibility for the negligent act of its agents and servants with reference to property in its custody as a common carrier: Provided, That nothing herein contained shall be so construed as to abridge or in anywise lessen the liability of any such common carrier as it now is under existing laws. All statements rendered for transportation charges shall show character of shipments, weight, rate and total charges before demanding payment.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8148 ;-- CL 1929, 11056 ;-- CL 1948, 462.40

462.41 Violations; investigation; enforcement of act.

Sec. 41.

This commission shall inquire into any neglect or violation of the laws of this state by any such common carrier hereinbefore defined doing business therein, or by its officers, agents or employes thereof, and shall have the power and it shall be its duty to enforce the provisions of this act as well as all other laws relating to common carriers and report all violations thereof to the attorney general. Upon the request of the commission it shall be the duty of the attorney general, or the prosecuting attorney of the proper county, to aid in any investigation, prosecution, hearing or trial had under the provisions of this act, and to institute and prosecute all necessary actions or proceedings for the enforcement of this act and of all other laws of this state relating to common carriers, and for the punishment of all violations thereof. Any forfeiture and penalty herein provided shall be paid to the state treasurer and shall be recovered and suit therefor shall be brought in the name of the state of Michigan in the circuit court of any county having jurisdiction of the defendants. The attorney general of Michigan, or any prosecuting attorney selected by the said commission in any county where such action is pending, shall be the counsel in any proceeding, investigation, hearing or trial prosecuted or defended by the commission.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8149 ;-- CL 1929, 11057 ;-- CL 1948, 462.41

462.42 Investigation of claims.

Sec. 42.

All claims against any common carrier for loss or damage to property from any cause, or for over-charge upon any shipments, or for any other service, if not acted upon within 90 days from the date of filing of such claim with the common carrier may be investigated by the commission in its discretion, and the result of such investigation may be embodied in a special report and the next annual report of the commission.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8150 ;-- CL 1929, 11058 ;-- CL 1948, 462.42

462.43 Liability for violations; penalty.

Sec. 43.

Any common carrier subject to the operation of this act, or whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent or person employed by such corporation, who alone or with any other corporation, company, person or party, shall willfully do or cause to be done, or shall willfully suffer or permit to be done any act, matter or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or who shall willfully omit or fail to do any act, matter or thing in this act required to be done, or shall cause or willfully suffer or permit any act, matter or thing so directed or required by this act to be done, not to be so done, or shall do or abet any such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, or who shall willfully disobey or knowingly fail or neglect to obey any lawful order made under the provisions of this act by the Michigan railroad commission, or shall aid and abet any such disobedience or omission or failure shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court having jurisdiction of misdemeanors, if a penalty for such

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offense be not elsewhere provided in this act, be subject to a fine of not to exceed 500 dollars for each offense, in the discretion of the court, or if the convicted party be a natural person, he shall be liable to be punished by imprisonment in the county jail for a period of not to exceed 3 months, or both such fine and imprisonment in the discretion of the court.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8151 ;-- CL 1929, 11059 ;-- CL 1948, 462.43

462.44 Police powers vested in commission.

Sec. 44.

The police powers of the state over railroads, street railways, interurban railways and suburban street railways, whether operated by steam, electricity or other motive power, organized or doing business in this state, shall be and the same are hereby vested in the railroad commission, and it is hereby made the duty of said railroad commission to exercise the same in accordance with the requirements of the law.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8152 ;-- CL 1929, 11060 ;-- CL 1948, 462.44

462.45 Substantial compliance.

Sec. 45.

A substantial compliance with the requirements of this act shall be sufficient to give effect to all rules, acts and regulations of the commission, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8153 ;-- CL 1929, 11061 ;-- CL 1948, 462.45

462.46 Rights of action; penalties cumulative.

Sec. 46.

This act shall not have the effect to release or waive any right of action by the state or by any person for any right, damage, penalty or forfeiture which may have arisen or which may hereafter arise under any law of this state, and all penalties and forfeitures accruing under this act shall be cumulative, and a suit for and recovery of one shall not be a bar to the recovery of any other penalty or damage.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8154 ;-- CL 1929, 11062 ;-- CL 1948, 462.46

462.47 Mandamus; injunction; civil remedies.

Sec. 47.

In addition to all the other remedies provided by this act for the prevention and punishment of any and all violations of the provisions hereof and of all orders of the commission, the commission, and likewise any person, firm or corporation interested, may compel compliance with the provisions of this act and with the orders of the commission by proceedings in mandamus, injunction or by other appropriate civil remedies.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8155 ;-- CL 1929, 11063 ;-- CL 1948, 462.47

462.48 Record of proceedings; report to governor, contents, publication.

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Sec. 48.

The commission shall keep a record of all its findings, decisions, determinations and investigations under this act or under any other act prescribing its duties and powers, and shall, on January first of each year, render to the governor a full and complete report of all such findings, decisions, determinations and investigations, together with a statement of all moneys expended by it or on its order, and of all salaries paid by or to it. It shall include in such report such recommendations as it shall desire to make on the conduct of railroad business in the state of Michigan, and such portion or abridgment of the reports of the various railroad corporations made to it as it shall deem to be of interest to the general public. Not more than 1,500 copies of this report shall be published, except by special authority of the board of state auditors.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8156 ;-- CL 1929, 11064 ;-- CL 1948, 462.48

462.49 Powers, duties and privileges transferred to commission; saving clause.

Sec. 49.

All powers, duties and privileges imposed and conferred under existing laws upon the commissioner of railroads, the railroad and street crossing board, the crossing board as defined by section 6232 of the Compiled Laws of 1897, and the board of railway consolidations as defined by section 6255 of the Complied Laws of 1897, and upon the Michigan railroad commission under existing laws are hereby imposed and conferred upon the commission created under the provisions of this act; and wherever in said acts or either of them the commissioner of railroads, the railroad and street crossing board, the crossing board, and the board of railway consolidations, the Michigan railroad commission, or either of said officials or boards, are named, the same shall be construed to mean and apply to and name the Michigan railroad commission created by this act: Provided, That the powers and duties conferred upon the Michigan railroad commission by Act 312 of the Public Acts of 1907, shall continue to be exercised by that commission until the commission provided in section 1 of this act has qualified and organized: Provided further, That all hearings, investigations and complaints pending upon the organization of the commission provided for in section 1 of this act which shall have been begun by or before the commission organized under Act 312 of the Public Acts of 1907, may be continued and orders issued therein in all respects the same as if the complaints presented, investigations made and hearings held by the commission operating under Act 312 of 1907, had been presented to, made by and held by the commission created under section 1 of this act. All tariffs and schedules now on file with the Michigan railroad commission created by said Act 312 shall be of the same effect as if filed with the commission created by this act.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8157 ;-- CL 1929, 11065 ;-- CL 1948, 462.49
Compiler's Notes: For provisions of sections 6232 and 6255, referred to in this section, see MCL 464.7 and 464.30, respectively. Act 312 of 1907, referred to in this section, was repealed by Act 300 of 1909.The powers and duties of the railroad commission, referred to in this section, were transferred to the public utilities commission by MCL 460.53. The public utilities commission was subsequently abolished and its powers and duties transferred to the public service commission by MCL 460.4.
Admin Rule: R 460.1451 et seq. of the Michigan Administrative Code.

462.50 Legislation; hearing on changes; recommendations.

Sec. 50.

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The commission shall conduct a hearing and take testimony as to the advisability of any proposed change of law relative to any matter within its jurisdiction if requested to do so by the legislature, by the senate or house committee on railroads, or by the governor, and shall report its conclusions to the officer or body at whose request the hearing was held. The commission may also recommend the enactment of such legislation, with respect to any matter within its jurisdiction, as it deems wise or necessary in the public interest, and may draft or cause to be drafted such bills or acts as it may deem necessary or proper to enact into law the legislation recommended by it.

History: 1909, Act 300, Eff. Sept. 1, 1909 ;-- CL 1915, 8158 ;-- CL 1929, 11066 ;-- CL 1948, 462.50

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