

1           **SECTION 38.** 192.321 of the statutes is amended to read:

2           **192.321 Getting on and off cars.** Any person ~~under the age of 17 years~~ who  
3 shall get upon, attempt to get upon, cling to, jump or step from any railroad car or  
4 train while the same is in motion shall ~~be punished by fine of~~ forfeit not more than  
5 \$20 nor less than \$2, provided that this section shall not apply to the employees of  
6 any ~~railway or express~~ railroad company.

7           **SECTION 39.** 192.324 of the statutes is repealed.

8           **SECTION 40.** 192.33 (1) of the statutes is amended to read:

9           **192.33 (1)** ~~Every~~ Subject to s. 190.09, every corporation operating any railroad  
10 shall erect and maintain on both sides of its ~~road~~ railroad, depot grounds excepted,  
11 sufficient fences with openings or gates or bars therein, and suitable and convenient  
12 farm crossings for the use of the occupants of the lands adjoining and shall maintain  
13 cattle guards at all highway crossings, outside of municipalities, and connect their  
14 fences therewith. This section shall not apply to that part of the ~~road~~ railroad where  
15 sidetracks or switch tracks are used in cities of the ~~first~~ 1st class.

16           **SECTION 41.** 192.42 and 192.52 of the statutes are repealed.

17           **SECTION 42.** 192.53 (4) (b) of the statutes is amended to read:

18           **192.53 (4) (b)** The office shall make the findings described in par. (a) only upon  
19 written application to it to exempt the construction or reconstruction of a structure  
20 from the requirements of this section, setting forth fully the grounds therefor, and  
21 only after public hearing held upon notice to all interested parties except that, if no  
22 objection is filed with the office within 20 days of the notice, the office may authorize  
23 the exemption without hearing. The office's findings and order granting the  
24 exemption shall be in writing and shall contain complete provisions and  
25 requirements as to the horizontal clearance to be maintained in the construction or

1 reconstruction. The structure shall be constructed or reconstructed only in  
2 compliance with the office's order.

3 **SECTION 43.** 192.53 (6) of the statutes is amended to read:

4 192.53 (6) Any railroad or shipper to which this section applies, who violates  
5 any provision of this section or who fails, neglects or refuses to obey any lawful order  
6 made by the office under this section, shall ~~be fined~~ forfeit not more than \$100 ~~or~~  
7 ~~imprisoned for not more than 60 days or both.~~

8 **SECTION 44.** 192.55 (6) of the statutes is amended to read:

9 192.55 (6) Any person violating s. 192.32 shall ~~be punished by a fine of~~ forfeit  
10 ~~not less than \$1 nor more than \$50, or by imprisonment not exceeding 30 days, or by~~  
11 ~~both such fine and imprisonment.~~

12 **SECTION 45.** 192.55 (7) of the statutes is repealed.

13 **SECTION 46.** Chapter 195 (title) of the statutes is amended to read:

14 **CHAPTER 195**

15 **RAILROAD AND WATER CARRIER REGULATION**

16 **SECTION 47.** 195.02 (3) of the statutes is amended to read:

17 195.02 (3) This chapter applies to the transportation of passengers and  
18 property between points within this state, and to the receiving, switching,  
19 delivering, storing and handling of such property, and to all water carrier charges  
20 connected therewith, and applies to all common carriers engaged in the  
21 transportation of passengers or property wholly by rail or partly by rail and partly  
22 by water, and to all common carriers of property wholly by water which operate  
23 between fixed end points, but shall not apply to transportation of property by water  
24 under contract as a private carrier.

25 **SECTION 48.** 195.02 (4m) of the statutes is created to read:

1           195.02 (4m) Each provision of this chapter applies only to the extent that it is  
2 not contrary to or inconsistent with 49 USC 10101 to 11908 and 20101 to 28302, 49  
3 CFR 200 to 268, 700 to 850, and 1001 to 1332, or any other federal statute or  
4 regulation, or any order of the federal railroad administration, surface  
5 transportation board, or other federal agency or authority, or the constitution of the  
6 United States.

7           SECTION 49. 195.02 (5) of the statutes is amended to read:

8           195.02 (5) ~~“Railroad” also~~ “Water carrier” means ~~and embraces a common~~  
9 ~~carriers~~ carrier of property by water ~~which operate that operates~~ between fixed end  
10 points, ~~and all of the duties required of, and penalties imposed upon, any railroad or~~  
11 ~~any agent or officer thereof shall, insofar as the same are applicable, be required of,~~  
12 ~~and imposed upon, such common carriers of property by water~~ but does not include  
13 a water carrier under common control with a railroad when transporting for  
14 continuous carriage or shipment.

15           SECTION 50. 195.03 (7) of the statutes is amended to read:

16           195.03 (7) STUDY RAILROAD AND WATER CARRIER BUSINESS, DEMAND INFORMATION.  
17 The office may inquire into the management of the business of all railroads and water  
18 carriers, and shall keep itself informed as to the manner in which the same is  
19 conducted, and may obtain from any railroad or water carrier all necessary  
20 information to enable the office to perform the duties and carry out the objects for  
21 which it is responsible.

22           SECTION 51. 195.03 (8) of the statutes is amended to read:

23           195.03 (8) QUESTIONNAIRES, ANSWERS COMPULSORY. The office shall prepare  
24 forms for the purpose of obtaining the information which it may deem necessary or  
25 useful to the proper exercise of its functions, which shall conform as nearly as

1 practicable to the forms prescribed by the ~~interstate commerce commission~~ federal  
2 railroad administration, federal surface transportation board, or other applicable  
3 federal agency or authority, and shall furnish the forms to railroads and water  
4 carriers, and every railroad and water carrier receiving the forms shall cause the  
5 forms to be properly completed and verified under oath by its proper officer and  
6 returned to the office within the time fixed by the office.

7 **SECTION 52.** 195.03 (9) of the statutes is amended to read:

8 195.03 (9) EXAMINE BOOKS AND FILES OF RAILROADS AND WATER CARRIERS. The  
9 commissioner of railroads or any person employed by the office for that purpose shall,  
10 upon demand, have the right to inspect the books and papers of any railroad or water  
11 carrier and to examine under oath any officer, agent or employee of such railroad or  
12 water carrier in relation to its business and affairs; provided that any person other  
13 that the commissioner of railroads who makes such demand shall produce his or her  
14 authority under the hand and seal of the office.

15 **SECTION 53.** 195.03 (10) of the statutes is amended to read:

16 195.03 (10) PRODUCTION OF RECORDS AND FILES KEPT OUT OF STATE. The office may,  
17 by an order or subpoena to be served in the manner that a circuit court summons is  
18 served, require the production within this state, at such time and place as it may  
19 designate, of any books, papers or accounts kept by any railroad or water carrier  
20 without the state, or verified copies in lieu thereof, if the office shall so order.

21 **SECTION 54.** 195.03 (11) of the statutes is amended to read:

22 195.03 (11) UNIFORM SYSTEM OF ACCOUNTING. The office may prescribe a uniform  
23 system of keeping and rendering accounts of all railroad and water carrier business  
24 transacted in this state, and the time within which railroads and water carriers shall  
25 adopt such system; provided that all forms of accounts which may be prescribed by

1 the office shall conform to any applicable requirement under 49 USC 11141 to 11164  
2 or 49 CFR 1201 and, as nearly as practicable, to similar forms prescribed by federal  
3 authority.

4 **SECTION 55.** 195.03 (12) of the statutes is amended to read:

5 195.03 (12) TIME FOR FILING WATER CARRIER RATE TARIFFS. The office shall fix the  
6 time for filing ~~railroad~~ water carrier schedules relative to the transportation of  
7 passengers and property and of any service in connection therewith.

8 **SECTION 56.** 195.03 (13) of the statutes is amended to read:

9 195.03 (13) SCHEDULE FORMS. The office may prescribe the forms for ~~railroad~~  
10 water carrier schedules.

11 **SECTION 57.** 195.03 (19) of the statutes is amended to read:

12 195.03 (19) ~~RAILROAD~~ WATER CARRIER STRUCTURES. The office may order the  
13 repair or reconstruction of any inadequate or unsafe ~~railroad track or~~ water carrier  
14 structure.

15 **SECTION 58.** 195.04 (1) of the statutes is amended to read:

16 195.04 (1) Upon complaint of any person, including any state agency or ~~railroad~~  
17 water carrier, that any ~~railroad~~ water carrier rate, fare, charge, or classification or  
18 any regulation or practice whatever affecting the transportation of persons or  
19 property, or any service in connection therewith, is in any respect unreasonable or  
20 unjustly discriminatory or that any service is inadequate, the office may direct the  
21 department to investigate the complaint and shall set the complaint for hearing. The  
22 report of the department shall be presented to the office only at the hearing on the  
23 complaint, if hearing is requested and held. No order may be entered by the office  
24 without a public hearing.

25 **SECTION 59.** 195.04 (1m) of the statutes is created to read:

1           195.04 (1m) Upon complaint of any person, including any state agency or  
2 railroad, regarding any railroad practice or activity over which the office has  
3 regulatory jurisdiction under this chapter or ch. 192, the office may direct the  
4 department to investigate the complaint and shall set the complaint for hearing. The  
5 report of the department shall be presented to the office only at the hearing on the  
6 complaint, if hearing is requested and held. No order may be entered by the office  
7 without a public hearing, except as otherwise provided in this chapter or ch. 192.

8           **SECTION 60.** 195.04 (2) of the statutes is amended to read:

9           195.04 (2) The office shall, prior to ~~such~~ any hearing, notify the water carrier  
10 or railroad complained of that a complaint has been made, and 20 days after such  
11 notice has been given the office may proceed to set a time and place for a hearing.

12           **SECTION 61.** 195.04 (3) of the statutes is amended to read:

13           195.04 (3) The office shall give the water carrier or railroad and the  
14 complainant 20 days' notice of the hearing and the matters to be considered and  
15 determined. Both the water carrier or railroad and the complainant shall be entitled  
16 to be heard and shall have process to enforce the attendance of witnesses.

17           **SECTION 62.** 195.041 of the statutes is amended to read:

18           **195.041 Separate rate hearings; absence of direct damage.** The office  
19 may, when complaint is made of more than one water carrier rate or charge, order  
20 separate hearings thereon, and may consider and determine the several matters  
21 complained of separately and at such times as it may prescribe. No complaint shall  
22 at any time be dismissed because of the absence of direct damage to the complainant.

23           **SECTION 63.** 195.042 of the statutes is amended to read:

24           **195.042 Summary investigations.** Whenever the office believes that any  
25 water carrier rate or charge may be unreasonable or unjustly discriminatory or that

1 any service is inadequate or cannot be obtained or that an investigation of any matter  
2 relating to any water carrier or, if a matter under its jurisdiction, to any railroad  
3 should for any reason be made, it may investigate the matter or request the  
4 department to investigate the same with or without notice.

5 **SECTION 64.** 195.043 of the statutes is amended to read:

6 **195.043 Procedure after summary investigation. (1)** If, after summary  
7 investigation by the department or the office, the office becomes satisfied that  
8 sufficient grounds exist to warrant a formal hearing being ordered as to the matters  
9 investigated, it shall set a time and place for a hearing. The office shall publish notice  
10 of any such investigation in its weekly calendar and the report of the department and  
11 all matters considered by the office with respect thereto shall be available for public  
12 inspection upon request.

13 **(2)** Notice of the time and place for such hearing shall be given to the water  
14 carrier or railroad, and to such other interested persons as the office deems  
15 necessary, as provided in s. 195.04, and thereafter proceedings shall be had and  
16 conducted in reference to the matter investigated in like manner as though  
17 complaint had been filed with the office relative to the matter investigated, and the  
18 same order or orders may be made in reference thereto as if such investigation had  
19 been made on complaint.

20 **SECTION 65.** 195.05 (title) of the statutes is amended to read:

21 **195.05 (title) Office; water carrier rates, regulations, service,**  
22 **procedure.**

23 **SECTION 66.** 195.05 (1) of the statutes is amended to read:

24 **195.05 (1) ORDERS FOR RATES AND SERVICE.** Whenever the office shall find that  
25 any existing water carrier rate, fare, charge, or classification, or any joint rate, or any

1 regulation or practice affecting the transportation of persons or property, or any  
2 service in connection therewith is unreasonable or unjustly discriminatory or that  
3 any service is inadequate, it shall determine and by order fix a reasonable rate, fare,  
4 charge, classification, joint rate, regulation, practice or service to be imposed,  
5 observed and followed in the future, in lieu of that found to be unreasonable or  
6 unjustly discriminatory or inadequate.

7 **SECTION 67.** 195.05 (3) of the statutes is amended to read:

8 195.05 (3) RATES NOT CHANGED BY RAILROAD WATER CARRIER. All ~~railroads~~ water  
9 carriers to which the order applies shall make such changes in their schedule on file  
10 as may be necessary to make the same conform to said order, and no change shall  
11 thereafter be made by any ~~railroad~~ water carrier in any such rates, fares or charges,  
12 or in any joint rates except as provided in s. 195.08.

13 **SECTION 68.** 195.05 (4) of the statutes is amended to read:

14 195.05 (4) MODIFICATION OF ORDERS. The office may by order at any time, upon  
15 notice to the ~~railroad~~ water carrier and after opportunity to be heard, rescind, alter  
16 or amend any order fixing any rate or rates, fares, charges or classification, or any  
17 other order made by the office.

18 **SECTION 69.** 195.05 (5) and (6) of the statutes are repealed.

19 **SECTION 70.** 195.07 (1) of the statutes is amended to read:

20 195.07 (1) POWERS. The office shall inquire into the neglect or violation of the  
21 laws of this state by water carriers and railroads, or by the officers, agents or  
22 employees thereof, or by persons operating water carriers and railroads, and shall  
23 report violations to the attorney general.

24 **SECTION 71.** 195.07 (2) of the statutes is amended to read:

1           **195.07 (2)** ATTORNEY GENERAL AND DISTRICT ATTORNEY TO PROSECUTE. Upon  
2 request of the office, the attorney general or the district attorney of the proper county  
3 shall aid in any investigation, hearing or trial had under, and shall institute and  
4 prosecute all necessary actions or proceedings for the enforcement of, laws relating  
5 to water carriers and railroads.

6           **SECTION 72.** 195.08 (title) of the statutes is amended to read:

7           **195.08 (title)** **Railroad Water carrier rates, schedules, service.**

8           **SECTION 73.** 195.08 (1r) of the statutes is amended to read:

9           **195.08 (1r)** SERVICE RATES TO BE ADEQUATE AND JUST. Every ~~railroad~~ water  
10 carrier shall furnish reasonably adequate service and facilities, and the charges  
11 made for the transportation of passengers or property or for any service in connection  
12 therewith, or for the receiving, ~~switching~~, delivering, storing or handling of property  
13 shall be reasonable and just, and every unjust and unreasonable charge for such  
14 service is prohibited and declared to be unlawful.

15           **SECTION 74.** 195.08 (2) of the statutes is amended to read:

16           **195.08 (2)** SCHEDULES; PUBLICATION. Every ~~railroad~~ water carrier shall print in  
17 plain type and file with the office schedules which shall be open to public inspection  
18 showing all rates, fares and charges for the transportation of passengers and  
19 property and any service in connection therewith which it has established and which  
20 are in force at the time between all points in this state upon its line or any line  
21 controlled or operated by it. The schedules shall plainly state the places upon its line  
22 or any line controlled or operated by it in this state between which passengers and  
23 property will be carried, and there shall be filed therewith the classification of freight  
24 in force.

25           **SECTION 75.** 195.08 (3) of the statutes is amended to read:

1           **195.08 (3) SCHEDULES, RULES AND REGULATIONS.** Every railroad water carrier  
2 shall publish with and as a part of such schedules all rules and regulations that in  
3 any manner affect the rates charged or to be charged for the transportation of  
4 passengers or property, and its charges for delay in loading or unloading ears, for  
5 track and car service or rental and for demurrage, switching, terminal or transfer  
6 service, property or for rendering any other service in connection with the  
7 transportation of persons or property.

8           **SECTION 76.** 195.08 (4) of the statutes is amended to read:

9           **195.08 (4) SCHEDULES, COPIES IN ~~DEPOTS~~ TERMINALS.** Two copies of said schedules  
10 for the use of the public shall be kept in every ~~depot, station~~ terminal and office of  
11 such railroad water carrier in such form and place as to be easily accessible to the  
12 public.

13           **SECTION 77.** 195.08 (5) of the statutes is repealed.

14           **SECTION 78.** 195.08 (7) of the statutes is amended to read:

15           **195.08 (7) CHANGES IN SCHEDULE.** No change shall be made in any schedule, or  
16 in any classification, unless the change shall be plainly indicated upon existing  
17 schedules, or by filing new schedules in lieu thereof, 30 days prior to the time the  
18 same are to take effect. Copies of all new schedules shall be filed as ~~hereinbefore~~  
19 provided required in this section in every ~~depot, station~~ terminal and office of such  
20 railroad water carrier at places to or from which the rates in such schedules apply,  
21 30 days prior to the time the same are to take effect, unless the office ~~of the~~  
22 ~~commissioner of railroads~~ shall prescribe a less time.

23           **SECTION 79.** 195.08 (9) of the statutes is amended to read:

24           **195.08 (9) COMPLAINT AGAINST CHANGE IN SCHEDULES.** Whenever a complaint is  
25 filed with the office before any change in any water carrier schedule, or in any

1 classification, rule, regulation or practice becomes effective to the effect that the  
2 change is unreasonable or unjustly discriminatory, the office shall give notice to the  
3 railroad water carrier that a complaint has been made, may direct the department  
4 to investigate the complaint and shall set the complaint for hearing. Any report of  
5 the department shall be presented to the office only at the hearing on the complaint.  
6 The office may, in its discretion, by order, stay the change pending the determination  
7 of the matters investigated at any time before the change shall take effect. If the  
8 change complained of is found unreasonable or unjustly discriminatory, the change  
9 shall not take effect and, if the change has become effective, the office shall order the  
10 discontinuance thereof. The office may fix and order substituted for any such change  
11 such rates, joint rates, fares, charges, classification, rule, regulation, practice or  
12 service as it shall have determined to be just and reasonable and which shall be  
13 charged, imposed or followed in the future, and shall make such order respecting  
14 such rule, regulation, practice or service as it shall determine to be reasonable and  
15 which shall be observed and followed in the future. Procedure and notice shall be as  
16 provided in s. 195.04 (2) to (4).

17 **SECTION 80.** 195.08 (10) of the statutes is repealed.

18 **SECTION 81.** 195.08 (11) of the statutes is amended to read:

19 **195.08 (11) FREIGHT CLASSIFICATION.** There shall be but one classification of  
20 freight which shall be uniform on all railroads water carriers.

21 **SECTION 82.** 195.10 of the statutes is amended to read:

22 **195.10 Emergency rates.** The office shall have power, when deemed by it  
23 necessary to prevent injury to the business or interests of the people or railroads  
24 water carriers of this state in consequence of ~~interstate rate wars, or in case of any~~  
25 ~~other~~ emergency to be judged of by the office, to temporarily alter, amend, or, with

1 the consent of the ~~railroad~~ water carrier company concerned, suspend any existing  
2 passenger rates, freight rates, schedules and orders on any ~~railroad or part of~~  
3 ~~railroad~~ water carrier in this state. Such rates so made by the office shall apply on  
4 one or more of the ~~railroads~~ water carriers in this state or any portion thereof as may  
5 be directed by the office, and shall take effect at such time and remain in force for  
6 such length of time as may be prescribed by the office.

7 SECTION 83. 195.11 of the statutes is amended to read:

8 **195.11 Discriminations prohibited. (1)** If any ~~railroad~~ water carrier, or any  
9 agent or officer thereof, shall directly or indirectly, or by any device whatsoever,  
10 charge, demand, collect or receive a greater, less or different compensation for the  
11 transportation of persons or property or of any service in connection therewith than  
12 that prescribed in the tariffs then in force, or than it charges, demands, collects or  
13 receives from any other person, firm or corporation for a like and contemporaneous  
14 service, such ~~railroad~~ water carrier shall be deemed guilty of unjust discrimination,  
15 which is hereby prohibited.

16 (2) It shall be unlawful for any ~~railroad~~ water carrier to demand, charge, collect  
17 or receive from any shipper a less compensation for the transportation of property  
18 or for any service rendered or to be rendered by said ~~railroad~~ water carrier, in  
19 consideration of said shipper furnishing any part of the facilities incident thereto;  
20 but any ~~railroad~~ water carrier may rent any facilities incident to transportation and  
21 pay a reasonable rental therefor, but no payment shall be made by any carrier to an  
22 industry for performing any part of the service incident to the origination or  
23 determination of ~~earload line haul~~ shipments which the carriers have assumed to  
24 perform under the provisions of the bill of lading.

25 SECTION 84. 195.12 of the statutes is amended to read:

1           **195.12 Preference by water carriers prohibited.** If any railroad water  
2           carrier shall make or give any undue or unreasonable preference or advantage to any  
3           person, firm or corporation, or shall subject any person, firm or corporation to any  
4           undue or unreasonable prejudice or disadvantage in any respect whatsoever, such  
5           railroad water carrier shall be deemed guilty of unjust discrimination, which is  
6           hereby prohibited.

7           **SECTION 85.** 195.13 of the statutes is amended to read:

8           **195.13 Rebates and concessions, unlawful to accept.** It shall be unlawful  
9           for any person, firm or corporation knowingly to accept or receive any rebate,  
10          concession or discrimination in respect to water carrier transportation of property  
11          wholly within this state, or for any service in connection therewith, whereby any  
12          such property shall, by any device whatsoever, be transported at a less rate than that  
13          named in the tariffs in force, or whereby any service or advantage is received other  
14          than is therein specified. Any person, firm or corporation violating the provisions of  
15          this section shall be ~~fin~~ forfeit not less than \$50 nor more than \$1,000 for each  
16          offense.

17          **SECTION 86.** 195.14 of the statutes is amended to read:

18          **195.14 Free transportation; reduced rates, passes, limitations. (1)** This  
19          chapter does not prohibit the carriage, storage or handling by water carriers of  
20          freight free or at reduced rates for the United States, the state, or any municipality  
21          thereof, or for charitable purposes, or to and from fairs and expositions for exhibition  
22          thereat, or household goods the property of railway water carrier employees, or  
23          commodities shipped by employees for their exclusive use or consumption; or the  
24          issuance of mileage, commutation, party or excursion passengers' tickets; or the sale  
25          of such tickets as were usually and customarily sold at reduced rates prior to June

1 15, 1905; provided the same are issued and sold without discrimination to all persons  
2 applying therefor under like circumstances and conditions.

3 (2) (a) ~~Railroads~~ Water carriers may give transportation free or at reduced  
4 rates to any minister of the gospel, officers or agent of incorporated colleges, inmates  
5 of soldiers' homes, regular agents of charitable societies when traveling upon the  
6 business of the society only, destitute and homeless persons, ~~railroad~~ water carrier  
7 officers, attorneys, physicians, directors, employees or members of their families, or  
8 to former ~~railroad~~ water carrier employees or members of their families where the  
9 employees have become disabled in the ~~railway~~ water carrier service, or are unable  
10 from physical disqualification to continue in the service, or to members of families  
11 of deceased ~~railroad~~ water carrier employees.

12 (b) ~~Railroads~~ Water carriers may exchange passes with officers, attorneys,  
13 physicians or employees of other ~~railroads~~ water carriers and members of their  
14 families. No person holding any public office or position under the laws of this state  
15 shall be given transportation free or at reduced rates that are not open to the public,  
16 except that notaries public and regular employees of a ~~railroad~~ water carrier or other  
17 public utility who are candidates for or hold public office for which the annual  
18 compensation is not more than \$300 to whom no passes or privileges are extended  
19 beyond those that are extended to other regular employees of such corporations may  
20 be granted free transportation or reduced rates for the transmission of any message  
21 or communication.

22 (3) Upon any shipment of livestock or other property of such nature as to  
23 require the care of an attendant, the ~~railroad~~ water carrier may furnish to the  
24 shipper or persons designated by the shipper, free transportation for such attendant,

1 including return passage to the point at which the shipment originated; provided,  
2 there shall be no discrimination in reference thereto.

3 (4) Except as provided in this section, no free transportation for intrastate  
4 traffic shall be given by any ~~railroad~~ water carrier.

5 SECTION 87. 195.15 of the statutes is amended to read:

6 **195.15 Transportation contracts, filed.** Every ~~railroad~~ water carrier shall,  
7 when required and within the time fixed by the office, deliver to the office for its use  
8 copies of all contracts which relate to the transportation of persons or property, or any  
9 service in connection therewith, made or entered into by it with any other ~~railroad~~  
10 water carrier or any shipper or other person doing business with it.

11 SECTION 88. 195.16 of the statutes is amended to read:

12 **195.16 Pass lists.** Every ~~railroad~~ water carrier shall keep and for 2 years  
13 preserve a record of every ~~railroad~~ ticket, pass or mileage book issued to a resident  
14 of this state free or for a money consideration less than that charged the general  
15 public. Such record shall consist of the name of the recipient, the amount received,  
16 and the reason for issuance, and shall be open to inspection by the office upon  
17 reasonable notice during such period of 2 years.

18 SECTION 89. 195.17 of the statutes is repealed.

19 SECTION 90. 195.19 (title) of the statutes is amended to read:

20 **195.19 (title) ~~Depots; relocation~~ Relocation of facilities.**

21 SECTION 91. 195.19 (1) of the statutes is repealed.

22 SECTION 92. 195.19 (2) of the statutes is amended to read:

23 **195.19 (2) ~~FREIGHT WATER CARRIER FREIGHT.~~ FREIGHT WATER CARRIER FREIGHT.** All ~~railroads~~ water carriers shall  
24 keep and maintain adequate and suitable ~~freight depots, buildings, switches and~~

1 ~~sidetracks and facilities~~ for the receiving, handling and delivering of freight  
2 transported or to be transported by such ~~railroads~~ water carriers.

3 **SECTION 93.** 195.19 (3) of the statutes is repealed.

4 **SECTION 94.** 195.21 of the statutes is amended to read:

5 **195.21 Warehouses.** Any person proposing to erect or maintain a public  
6 elevator or public warehouse for the purchase, sale, storage, receiving or shipping of  
7 grain, or other personal property, to be received from or transported upon any  
8 ~~railroad~~ water carrier, shall be furnished by such ~~railroad~~ water carrier at a  
9 reasonable rental, a site upon its ~~right-of-way or depot grounds, within the yard~~  
10 ~~limits of any station property or terminal of such railroad~~; and any private elevator  
11 or warehouse situated upon such grounds may be converted into a public elevator or  
12 warehouse at the option of the owner, upon notice in writing to the ~~railroad~~ water  
13 carrier and thereby be permitted to remain thereon under the same conditions as  
14 provided herein for a public elevator or warehouse; and the office shall, upon  
15 application by such owner, if the public interest so requires, by order, direct the  
16 ~~railroad~~ water carrier to furnish such site and the office shall make reasonable  
17 regulations therefor and in case of disagreement, the office shall determine the  
18 rental therefor. Elevators and warehouses erected or maintained under the  
19 foregoing provisions of this section shall be subject to such rules and regulations as  
20 to charges and the manner of conducting business as the office shall prescribe.

21 **SECTION 95.** 195.22 and 195.24 of the statutes are repealed.

22 **SECTION 96.** 195.26 of the statutes is amended to read:

23 **195.26 Safety devices; block system.** Every railroad and water carrier shall  
24 adopt reasonably adequate safety measures and install, operate and maintain  
25 reasonably adequate safety devices for the protection of life and property to the

1 extent consistent with federal law. If after investigation the office shall determine  
2 that public safety requires it, the office may, if permitted under federal law, order ~~the~~  
3 a railroad to install, operate and maintain a block system or order a railroad or water  
4 carrier to install, operate, and maintain any other safety device or measure as may  
5 be necessary to render the operation of ~~such the~~ railroad or water carrier reasonably  
6 safe.

7 **SECTION 97.** 195.27 of the statutes is amended to read:

8 **195.27 Safe tracks and bridges.** Every railroad shall construct and  
9 maintain its tracks, bridges and line structures in a reasonably adequate and safe  
10 manner. ~~The office may direct the department to investigate complaints in the~~  
11 ~~manner provided by s. 195.04. If, upon hearing, the office determines that the track~~  
12 ~~or structures of any railroad are inadequate or unsafe for the operation of its railroad,~~  
13 ~~the office shall order the railroad to reconstruct or repair the inadequate or unsafe~~  
14 ~~track or structures~~ consistent with federal law. The office may participate in federal  
15 track inspection programs, including the certification of office staff for track  
16 inspection under federal law.

17 **SECTION 98.** 195.28 (5) of the statutes is created to read:

18 **195.28 (5) FEDERAL SIGNAL INSPECTION PROGRAMS.** The office may participate in  
19 federal signal inspection programs, including the certification of office staff for signal  
20 inspection under federal law.

21 **SECTION 99.** 195.286 (6) (title) of the statutes is amended to read:

22 **195.286 (6) (title) PENALTIES RELATING TO FENCES INTERFERENCE WITH SIGNS.**

23 **SECTION 100.** 195.286 (7) of the statutes is amended to read:

1           195.286 (7) PENALTIES GENERALLY. Any person or corporation upon conviction  
2 for the violation of any of the provisions of this section, except sub. (6), shall be fined  
3 forfeit not less than \$10 nor more than \$50 for each violation.

4           **SECTION 101.** 195.305, 195.31 and 195.33 of the statutes are repealed.

5           **SECTION 102.** 195.34 of the statutes is amended to read:

6           **195.34 Reports of accidents, investigation.** Every railroad water carrier  
7 shall report to the office all ~~collisions, derailments or other~~ accidents resulting in  
8 injury to persons, ~~equipment or roadway~~ arising from its operation. The office may  
9 issue rules concerning the reporting of accidents by water carriers and may also, if  
10 public interests require, cause an investigation of any accident. Every railroad shall  
11 submit to the office a copy of any monthly accident or injury report provided by the  
12 railroad to the applicable federal authority for all collisions, derailments or other  
13 accidents resulting in injury to persons, equipment, or roadway arising from its  
14 operation. The office may issue rules concerning the submission of copies of federal  
15 reports under this section and may also, to the extent permitted by federal law,  
16 participate in any accident investigation.

17           **SECTION 103.** 195.35 (1) of the statutes is amended to read:

18           **195.35 (1)** If any director, officer, employee or agent of a railroad or water  
19 carrier, in the course of the discharge of his or her duties, willfully, wantonly or  
20 recklessly causes to be done or permits to be done any matter, act or thing in this  
21 chapter prohibited or declared to be unlawful, or willfully, wantonly or recklessly  
22 fails to do any act, matter or thing required to be done by this chapter, the railroad  
23 or water carrier shall be liable to the person injured thereby in treble the amount of  
24 damages sustained in consequence of the violation. No recovery as in this section

1 provided shall affect a recovery by the state of the penalty prescribed for such  
2 violation.

3 **SECTION 104.** 195.36 of the statutes is amended to read:

4 **195.36 General penalty upon railroads and water carriers.** If any  
5 railroad or water carrier shall violate any provision of this chapter, or shall do any  
6 act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it, for  
7 which a penalty has not been provided, or shall fail, neglect or refuse to obey any  
8 lawful requirement or order made by the office, or any judgment or decree made by  
9 any court upon its application, for every such violation, failure or refusal in respect  
10 to any matter prescribed by this chapter such railroad or water carrier shall forfeit  
11 not less than \$100 nor more than \$10,000. The act, omission or failure of any officer,  
12 agent or other person employed by any railroad or water carrier, acting within the  
13 scope of his or her employment, shall be deemed to be the act, omission or failure of  
14 such railroad or water carrier.

15 **SECTION 105.** 195.37 (title) of the statutes is amended to read:

16 **195.37 (title) Freight Water carrier freight charges; collection, refund.**

17 **SECTION 106.** 195.37 (1) of the statutes is amended to read:

18 **195.37 (1) COMPLAINTS, INVESTIGATIONS, HEARINGS, FINDINGS, REFUND.** The office  
19 may investigate or direct the department to investigate the complaint of any person  
20 aggrieved that the charge exacted by a water carrier for the transportation of  
21 property between points in this state, or for any service in connection with  
22 transportation of property, or that the charge exacted by a water carrier for the  
23 storage of such property, or that any ~~ear service or demurrage~~ charge exacted by a  
24 water carrier is erroneous, illegal, unusual or exorbitant and shall set the complaint  
25 for hearing as provided in s. 195.04 (2) to (4). If the office finds that the rate or charge

1       exacted by a water carrier is erroneous, illegal, unusual or exorbitant, it shall find  
2       what would have been a reasonable rate or charge for such service. If the rate or  
3       charge so found is less than the charge exacted, the carrier shall refund the excess.

4               **SECTION 107.** 195.38 of the statutes is amended to read:

5               **195.38 Freight Water carrier freight bills; examination; refunds.**

6       Within 3 years after the delivery of any shipment of property at destination by a  
7       water carrier, any person, firm or corporation may submit to the office, by mail or in  
8       person, any ~~railroad~~ water carrier expense bill or receipt showing charges paid for  
9       transportation of such property by freight for the purpose of having the expense bill  
10      or receipt examined with respect to the correctness of weights, rates and charges  
11      indicated thereon. Upon receipt of any such expense bill or receipt, the office may  
12      request the department to make such examination as is necessary, and if it is found  
13      that any such weights, rates or charges are incorrect, the office shall order the  
14      ~~railroad company~~ water carrier in error to refund to the person, firm or corporation  
15      which submitted such expense bills or receipts, any over or excessive charges paid  
16      by such person, firm or corporation.

17              **SECTION 108.** 195.39 of the statutes is renumbered 196.012 and amended to  
18      read:

19              **196.012 Interstate commerce.** ~~Chapters 190 to 196 apply~~ This chapter  
20      applies to interstate commerce only so far as the constitution and laws of the United  
21      States permit.

22              **SECTION 109.** 195.50 of the statutes is amended to read:

23              **195.50 Information, papers and accounting.** (1) Any officer, agent or  
24      employee of any railroad or water carrier who fails to fill out and return any forms  
25      required by this chapter, or fails to answer any question therein, or knowingly gives

1 a false answer to any such question, or evades the answer to any such question where  
2 the fact inquired of is within his or her knowledge, or who, upon proper demand, fails  
3 to exhibit to the office or department or any person authorized to examine the same,  
4 any book, paper, account, record or memoranda of such railroad or water carrier  
5 which is in the possession or under control of the officer, agent or employee, or who  
6 fails to properly use and keep the system of accounting prescribed by the office, or  
7 who refuses to do any act or thing in connection with such system of accounting when  
8 so directed by the office or its authorized representatives, shall forfeit not less than  
9 \$100 nor more than \$1,000 for each offense.

10 (2) A forfeiture of not less than \$500 nor more than \$1,000 shall be recovered  
11 from the railroad or water carrier for each such offense when such officer, agent or  
12 employee acted in obedience to the direction, instruction or request of such railroad  
13 or water carrier or any general officer thereof.

14 **SECTION 110.** 195.60 (title) of the statutes is amended to read:

15 **195.60 (title) Payment of office expenses by railroads and water**  
16 **carriers.**

17 **SECTION 111.** 195.60 (1) of the statutes is amended to read:

18 195.60 (1) Whenever the office in a proceeding upon its own motion, on  
19 complaint, or upon an application to it deems it necessary in order to carry out the  
20 duties imposed upon it by law to investigate the books, accounts, practices and  
21 activities of, or make appraisals of the property of any railroad or water carrier or  
22 to render any engineering or accounting services to any railroad or water carrier, the  
23 railroad or water carrier shall pay the expenses attributable to such investigation,  
24 appraisal or service. The office shall ascertain such expenses, including all expenses  
25 incurred by the department at the request or direction of the office and shall render

1 a bill therefor, by mail, to the railroad or water carrier, either at the conclusion of the  
2 investigation, appraisal or services, or during its progress. The bill shall constitute  
3 notice of assessment and demand of payment thereof. The railroad or water carrier  
4 shall, within 30 days after the mailing thereof, pay to the office the amount of the  
5 special expense for which it is billed. Ninety percent of the payment shall be credited  
6 to the appropriation account under s. 20.155 (2) (g). The total amount, in any one  
7 calendar year, for which any railroad or water carrier becomes liable, by reason of  
8 costs incurred by the office within such calendar year, shall not exceed four-fifths of  
9 one percent of its gross operating revenues derived from intrastate operations in the  
10 last preceding calendar year. Where, under this subsection, costs are incurred  
11 within any calendar year, which are in excess of four-fifths of one percent of such  
12 gross operating revenues, the excess costs shall not be chargeable as part of the  
13 remainder under sub. (2) but shall be paid out of the general appropriation to the  
14 office. Nothing in this subsection shall prevent the office from rendering bills in one  
15 calendar year for costs incurred within a previous year. For the purpose of  
16 calculating the costs of investigations, appraisals and other services under this  
17 subsection, ~~90%~~ 90 percent of the costs determined shall be costs of the office and ~~10%~~  
18 10 percent of the costs determined shall be costs of state government operations.

19 SECTION 112. 195.60 (2) of the statutes is amended to read:

20 195.60 (2) The office shall annually, within 90 days after the close of each fiscal  
21 year, ascertain the total of its expenditures during such year which are reasonably  
22 attributable to the performance of its duties relating to railroads and water carriers.  
23 For purposes of such calculation, ~~90%~~ 90 percent of the expenditures so determined  
24 shall be expenditures of the office and ~~10%~~ 10 percent of the expenditures so  
25 determined shall be expenditures for state government operations. The office shall

1 deduct therefrom all amounts chargeable to railroads and water carriers under sub.  
2 (1) and s. 201.10 (3). A sum equal to the remainder plus ~~10%~~ 10 percent of the  
3 remainder shall be assessed by the office to the several railroads and water carriers  
4 in proportion to their respective gross operating revenues during the last calendar  
5 year, derived from intrastate operations. Such assessment shall be paid within 30  
6 days after the bill has been mailed to the several railroads and water carriers, which  
7 bill shall constitute notice of assessment and demand of payment thereof. The total  
8 amount which may be assessed to the railroads and water carriers under authority  
9 of this subsection shall not exceed ~~1.85%~~ 1.85 percent of the total gross operating  
10 revenues of such railroads and water carriers, during such calendar year, derived  
11 from intrastate operations. Ninety percent of the payment shall be credited to the  
12 appropriation account under s. 20.155 (2) (g). The railroads and water carriers shall  
13 furnish such financial information as the office requires for purposes of this section.

14 **SECTION 113.** 195.60 (3) of the statutes is amended to read:

15 195.60 (3) If any railroad or water carrier against which a bill has been  
16 rendered under sub. (1) or (2) within 30 days after the rendering of such bill neglects  
17 or refuses to pay the same or fails to file objections to the bill with the office, the office  
18 shall transmit to the secretary of administration a certified copy of the bill, together  
19 with notice of neglect or refusal to pay the bill, and on the same day the office shall  
20 mail to the railroad or water carrier against which the bill has been rendered a copy  
21 of the notice which it has transmitted to the secretary of administration. Within 10  
22 days after the receipt of such notice and certified copy of such bill, the secretary of  
23 administration shall levy the amount stated on such bill to be due, with interest, by  
24 distress and sale of any goods and chattels, including stocks, securities, bank  
25 accounts, evidences of debt, and accounts receivable belonging to such delinquent

1     railroad or water carrier. Such levy by distress and sale shall be governed by the  
2     provisions of s. 74.10, 1985 stats., except that it shall be made by the secretary of  
3     administration and that said goods and chattels anywhere within the state may be  
4     levied upon.

5             **SECTION 114.** 195.60 (4) (a) of the statutes is amended to read:

6             195.60 (4) (a) Within 30 days after the date of the mailing of any bill as provided  
7     by subs. (1) and (2), the railroad or water carrier against which such bill has been  
8     rendered may file with the office objections setting out in detail the grounds upon  
9     which the objector regards the bill to be excessive, erroneous, unlawful or invalid.  
10    The office, after notice to the objector, shall hold a hearing upon such objections, not  
11    less than 5 nor more than 10 days after such notice. If after such hearing the office  
12    finds any part of the bill to be excessive, erroneous, unlawful or invalid it shall record  
13    its findings upon its minutes and transmit to the objector an amended bill, in  
14    accordance with such findings. The amended bill shall have in all ways the same  
15    force and effect under this section as an original bill rendered under subs. (1) and (2).

16            **SECTION 115.** 195.60 (5) of the statutes is amended to read:

17            195.60 (5) No suit or proceeding shall be maintained in any court for the  
18    purpose of restraining or in any way delaying the collection or payment of any bill  
19    rendered under subs. (1) and (2). Every railroad or water carrier against which a bill  
20    is rendered shall pay the amount thereof, and after such payment may in the manner  
21    herein provided, at any time within 2 years from the date the payment was made,  
22    sue the state in an action at law to recover the amount paid with legal interest  
23    thereon from the date of payment, upon the ground that the assessment was  
24    excessive, erroneous, unlawful, or invalid in whole or in part. If it is finally  
25    determined in such action that any part of the bill for which payment was made was

1 excessive, erroneous, unlawful, or invalid, the secretary of administration shall  
2 make a refund to the claimant as directed by the court, which shall be charged to the  
3 appropriations to the office.

4 **SECTION 116.** 197.10 (4) of the statutes is amended to read:

5 197.10 (4) Insofar as the use, operation, service, management, control, sale,  
6 lease, purchase, extension, improvement, rates, value or earnings of the properties  
7 of the public utility or provisions looking toward the ultimate acquisition of the same  
8 are made subject to the terms of any contract provided for in sub. (1), and so long as  
9 said contract remains in force, the following sections of the statutes shall be  
10 inapplicable to the same: ss. ~~195.05, 195.10~~, 196.02 (1) and (2), 196.05, 196.09,  
11 196.10, 196.11, 196.15, 196.16, 196.19 (6), 196.20, 196.21, 196.22, 196.26, 196.28,  
12 196.30, 196.37, 196.39, 196.40, 196.58, 196.70, 197.01 (2) to (4), 197.02, 197.03,  
13 197.04, 197.05, 197.06, 197.08 and 197.09; provided that nothing in any contract  
14 made hereunder shall operate to prevent an appeal to the public service commission  
15 by any person, other than a party to said contract, upon any complaint alleging that  
16 any rate, fare, charge or classification, or any joint rate, or any regulation, act or  
17 practice relating to the production, transmission, delivery or furnishing of gas, heat,  
18 light or power, or any service in connection therewith, is unjustly discriminatory, or  
19 that any such service is inadequate or cannot be obtained. Upon said appeal the  
20 commission shall, as provided by law, determine and by order fix a rate, fare, charge,  
21 classification, joint rate or regulation, act or practice or service to be imposed,  
22 observed or followed in the future in lieu of that found to be unjustly discriminatory  
23 or inadequate.

24 **SECTION 117.** 201.01 (1) of the statutes is amended to read:

1           201.01 (1) “Commission” means the office of the commissioner of railroads in  
2 the case of ~~railroads~~ water carriers and the public service commission in the case of  
3 other public service corporations.

4           **SECTION 118.** 201.01 (2) of the statutes is amended to read:

5           201.01 (2) “Public service corporation” means and embraces every corporation,  
6 except municipalities and other political subdivisions, which is a public utility as  
7 defined in s. 196.01, and every corporation which is a ~~railroad~~ water carrier as  
8 defined in s. 195.02, but shall not include a public utility corporation receiving an  
9 annual gross revenue of less than \$1,000 for the calendar year next preceding the  
10 issuance of any securities by it. “Public service corporation” includes a holding  
11 company, as defined under s. 196.795 (1) (h), which is a public utility, as defined  
12 under s. 196.01 (5). “Public service corporation” does not include a  
13 telecommunications utility, as defined in s. 196.01 (10). “Public service corporation”  
14 does not include any other holding company unless the holding company was formed  
15 after November 28, 1985, and unless the commission has determined, under s.  
16 196.795 (7) (a), that each nonutility affiliate, as defined under s. 196.795 (1) (j), does  
17 not and cannot reasonably be expected to do at least one of the items specified in s.  
18 196.795 (7) (a). “Public service corporation” does not include a company, as defined  
19 in s. 196.795 (1) (f), which owns, operates, manages or controls a telecommunications  
20 utility, as defined in s. 196.01 (10), unless such company also owns, operates,  
21 manages or controls a public utility which is not a telecommunications utility.  
22 “Public service corporation” does not include a transmission company, as defined in  
23 s. 196.485 (1) (ge).

24           **SECTION 119.** 201.13 of the statutes is amended to read:



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3278/1dn

ARG:.....

mk

(date)

ATTN: John Flynn ✓

In addition to the underlying draft of LRB-2511, you also provided me with a copy of the drafter's note to LRB-2511, which I assume you have reviewed. ✓ As I stated in that drafter's note, the subject matter of this draft is very complicated and would probably have been appropriate for a Joint Legislative Council study committee similar to the Town Roads study committee last session. ✓ I have not received any feedback from the industry with regard to LRB-2511, but I do know that OCR and DOT have a laundry list of issues with the draft. ✓ If you would like to discuss those issues further, the appropriate contacts are Attorney Doug Wood at OCR and Attorney Jim Thiel at DOT. ✓

The attached draft (like LRB-2511) repeals many provisions that could potentially be found to be preempted by federal law. ✓ As discussed in the drafter's note to LRB-2511 and the analysis of the bill, the question of preemption is not undertaken by courts in a sweeping manner but rather in a narrow, case-by-case examination. ✓ Very few of the provisions repealed by the attached draft have *actually* been found by a court with jurisdiction that includes Wisconsin to be preempted. ✓ Your redrafting instructions direct the removal from the draft of one of the few provisions of Wisconsin law that have actually been found to be generally preempted. ✓ Please see the discussion of *Burlington Northern and Santa Fe Railway Co. v. Doyle*, 186 F.3d 790 (7th Cir. 1999) in the drafter's note to LRB-2511. ✓ See also 2005 AB-287. ✓

Aaron R. Gary  
Legislative Attorney  
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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3278/1dn  
ARG:lmk:rs

July 7, 2005

ATTN: John Flynn

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## Northrop, Lori

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**From:** Flynn, John  
**Sent:** Monday, July 25, 2005 11:18 AM  
**To:** LRB.Legal  
**Subject:** Message for Aaron Gary

Please jacket Irb-3278/1, regarding railroad regulation, for introduction in the Assembly. Thank you.

John Flynn, Legislative Assistant  
Office of Rep. John Townsend  
Room 22 West, State Capitol  
Madison, WI  
Phone: 266-3156