

SECTION 5. This act shall take effect upon passage and publication.

Approved July 8, 1919.

No. 88, S.]

[Published July 12, 1919.

## CHAPTER 515.

AN ACT to amend subsections 3 and 4 of section 1211—40, the first paragraph and subsections 6 and 14 of section 1211—41, section 1211—42, and paragraphs (a) and (b) of section 1211—43; to repeal subsection 3 of section 1211—44; and to create subsections 3 and 4 of section 1211—44 and section 1211—465 of the statutes, relating to the assessment and taxation of sleeping car, express, freight line, and equipment companies.

*The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Subsections 3 and 4 of section 1211—40, the first paragraph and subsections 6 and 14 of section 1211—41, section 1211—42 and paragraphs (a) and (b) of section 1211—43 are amended to read: (Section 1211—40) 3. When his, their or its \* \* \* business is furnishing or leasing any kind of railroad cars as a common carrier, except dining, buffet, chair, parlor, palace or sleeping cars to be used on, or in the operation of the line of any railroad company wholly or partly within this state, not being the owner or lessee of such railroad, and when owning and operating or operating any railroad freight, refrigerator or tank cars on railway lines in this state for the transportation of his or its goods, wares, merchandise or products, shall be deemed and held to be freight-line company; and,

4. When his, their or its \* \* \* business is furnishing or leasing any kind of railroad cars to common carriers or shippers, except sleeping cars, to be used on, or in the operation of the line of any railroad company wholly or partly within this state, not being the owner or lessee of such railroad, shall be deemed an equipment company.

(Section 1211—41) (First paragraph) Every company defined by section 1211—40 shall annually \* \* \* *at such time, in such form and covering such period as the tax commission shall prescribe* make and file with \* \* \* *it* a statement \* \* \* verified by the oath of the person, agent or officer making the same, setting forth the facts \* \* \* *called for* so far as any of them are applicable to the company making such report. \* \* \* *Such report shall contain:*

6. Its capital stock: (a) authorized; (b) issued; and \* \* \* the total amount of its \* \* \* stock invested in its \* \* \* business as defined in section 1211—40.

14. *The total car mileage and the car mileage within this state and such other facts or information as such company or the tax commission may deem material upon the question of the taxable value of its property within this state; \* \* \** Said commission shall furnish forms to said companies upon which to make such reports.

Section 1211—42. The tax commission shall make an assessment of the property of all companies defined in section 1211—40 within the state for the purpose of levying and collecting taxes thereon as hereinafter provided. \* \* \* Said commission \* \* \* shall give notice to the officer of each such company attesting its report \* \* \* of the time and place such company may appear and be heard in respect to the assessment to be made upon its property. Sleeping-car property, as defined by section 1211—40, which is owned and operated by any railroad company taxed under the provisions of this chapter, is exempt from assessment under this section. \* \* \*

(Section 1211—43) (a) It shall find, ascertain and determine the actual value in money of the entire amount of the capital stock of each such company invested in its business; and *when the value of the capital stock cannot be reliably ascertained it shall find, ascertain and determine the value of the entire property used in its business.* From the amount so obtained and determined it shall deduct the actual value of all its real estate situate without this state, *not used in its business*, and the actual value of all its personal property not used in its business. The remainder shall be taken and considered as the actual value of the capital stock *of the property* of such company invested or used in its business.

(b) The commission shall then divide the amount so obtained by the total \* \* \* *car mileage on railroads* over which the company did business, to obtain the value per car mile, and shall then multiply the value per car mile thus obtained by the total number of car miles \* \* \* within this state. \* \* \* *The commission shall also consider routes other than railroad routes, both within and without the state in order to obtain the true value of all property used by the company within this state.* The result shall be taken and considered as the actual value of the property of such company subject to assessment and taxation in this state.

SECTION 2. Subsection 3 of section 1211—44 of the statutes is repealed.

SECTION 3. Two new subsections are added to section 1211—44 and a new section is added to the statutes to read: (Section 1211—44) 3. Any company defined in section 1211—40 claiming to be aggrieved by the levy of a tax upon its property may within six months from the payment of the tax or the dismissal of any action brought by the state to recover the same, and not thereafter, bring and maintain an action against the state in the circuit court of Dane county to recover such part of the tax so paid as shall exceed the amount the company should have paid. The state may be served with the summons in such action by delivering a copy thereof to the attorney general or leaving it at his office in the capitol with one of his assistants.

4. No company defined in section 1211—40 shall be permitted to contest the validity of any tax heretofore or hereafter levied and assessed against it under sections 1211—40 to 1211—465, both inclusive, unless at or before the time of serving its complaint or answer, as the case may be, it shall deposit with the state treasurer the amount of such tax, together with interest thereon at the rate of fifteen per cent per annum as provided by section 1211—44, but no such company shall be required to deposit with the state treasurer the amount of any tax in any action now pending. In case the amount of the tax, justly and equitably due from such company, shall be finally determined to be less than the amount so paid, the excess shall be refunded to such company by direction of the court and, for that purpose, the secretary of state, upon the filing in his office of a certified copy of such final determination, shall draw a warrant upon the state treasurer for the amount to be so refunded.

Section 1211—465. 1. If any tax heretofore or hereafter levied under the provisions of sections 1211—40 to 1211—465, both inclusive, shall be set aside or adjudged invalid, illegal, or nonenforcible, it shall be the duty of the tax commission, whether any part of the taxes levied and assessed have been paid or not, to reascertain and redetermine the value of the property of the company or to redetermine and reascertain the average rate of taxation, state and local consolidated, of the state, as may be required, and to reassess such property and relevy the tax thereon according to such redetermination and reassessment. When such reassessment and relevy has been made, it shall have the same force and effect as the original assessment and levy would have had if made in accordance

with law. The proceedings for such reassessment and relevy shall be conducted in the method originally provided for as near as may be. When such reassessment and relevy has been certified to the state treasurer, he shall immediately notify, by registered mail, the company whose taxes have been reassessed and relevied, the amount of the reassessment, the rate of the relevy and the amount of the reassessed tax, and such company shall have thirty days after the mailing of such notice within which to pay said tax to the state treasurer.

2. The power to reassess the property of any company, defined in section 1211—40, and to reascertain and redetermine the value of the property of such company and to reascertain and redetermine the average rate of taxation, state and local consolidated, of the state, may be exercised as aforesaid as often as may be necessary until the amount of taxes legally due from any such company for any year under the provisions of sections 1211—40 to 1211—465, both inclusive, has been finally and definitely determined. Whenever any sum or part thereof levied upon the property of such company, has been paid and not refunded, the payment so made shall be applied upon the reassessment of the property of said company and the reassessment of its taxes to that extent shall be deemed to be satisfied.

3. No tax heretofore or hereafter levied upon any company, as defined in section 1211—40, shall be held invalid on account of any irregularity, informality or omission unless it shall appear that substantial injustice to the company has resulted therefrom, and in all actions and proceedings to contest the validity of any such tax, the proceedings of the commission shall be presumed to be regular and the determination of the commission shall not be impaired, vitiated or set aside upon any grounds not affecting the substantial justice of the tax.

SECTION 4. This act shall take effect upon passage and publication.

Approved July 8, 1919.

No. 588, A.]

[Published July 12, 1919.

## CHAPTER 516.

AN ACT to detach a portion of the town of Richmond and add such detached portion to the city of Shawano, all in Shawano county.

*The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. All that portion of section thirty-six, in the town of Richmond, Shawano county, which is not now included within