

No. 62, S.]

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CHAPTER 136.

AN ACT to amend section 8 of chapter 582 of the laws of 1907, creating section 1797—37m of the statutes, relating to the powers and duties of the railroad commission.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Section 8 of chapter 582 of the laws of 1907 is amended and made a section of the statutes to read: Section 1797—37m. Within six months after the delivery of any shipment of * * * *property* at destination, any person aggrieved may complain to the commission that the charge exacted for the transportation of such * * * *property* between points in Wisconsin, or for any service in connection therewith, or that the charge exacted for the storage of such *property*, or that any car service or demurrage charge exacted, is erroneous, illegal, unusual, 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 12, chapter 362, laws of 1905. If upon such hearing the commission shall decide that the rate or charge exacted is erroneous, illegal, unusual, 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, the carrier shall have the right to refund to the person paying such charge, the amount so found to be excessive. 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 of the defense in 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.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved May 13, 1909.