

No. 810, A.]

[Published July 13, 1907.]

CHAPTER 582.

AN ACT to amend sections 1, 2, 10, 14, 16 and 18, chapter 362 of the laws of 1905, and creating sections 1797—37m and 1797—37n, statutes of 1898, 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. Subdivision h of section 1, chapter 362, laws of 1905, is amended to read: [1797—1 h.*]

SECTION 2. Section 2, chapter 362, laws of 1905, is amended to read:

SECTION 3. Section 10 of chapter 362, laws of 1905, is amended to read:

SECTION 4. Section 14, chapter 362, laws of 1905, as amended by chapter 17 of the laws of the special session of 1905, is amended to read:

SECTION 5. Subdivision e of section 16, chapter 362, laws of 1905, is amended to read:

SECTION 6. Section 18 of chapter 362, laws of 1905, as amended by section 4, chapter 13 of the laws of the special session of 1905, is amended by adding thereto a new subsection to read: [e.]

SECTION 7. Subdivision a of section 19, chapter 362 of the laws of 1905, is amended to read:

SECTION 8. There is added to the statutes of 1898 two new sections to read: (Section 1797—37m. Section 17997—37n.)
Approved July 12, 1907.

(In effect from and after date of publication.)

*Section number supplied by ch. 676, 1907.

tion organized under the laws of this state which shall enter into any combination, conspiracy, trust, pool, agreement or contract intended to restrain or prevent competition in the supply or price of any article or commodity in general use in this state, or constituting a subject of trade or commerce therein, or which shall in any manner control the price of any such article or commodity, fix the price thereof, limit or fix the amount or quantity thereof to be manufactured, mined, produced or sold in this state, or fix any standard or figure by which its price to the public shall be in any manner controlled or established, shall, upon proof thereof, in any court of competent jurisdiction, have its charter or authority to do business in this state cancelled and annulled. Every * * * corporation shall upon filing its annual * * * report with the secretary of state, make and attach thereto the affidavit of its president, secretary or general managing officer, fully stating the facts in regard to the matters specified in this section.

(Ch. 562, 1907.)

Railroad commission's employes; experts exempt from civil service laws. SECTION 1797—1. h. Said commission may appoint a secretary at a salary of not more than twenty-five hundred dollars per annum, and may appoint * * * and employ a sufficient number of clerks and stenographers to perform the clerical work of the office and may employ such experts and temporary employes as may be necessary to perform any service it may require of them and shall fix the compensation of such clerks, stenographers, experts and temporary employes. The experts employed under this section shall be exempt from the operation of chapter 363, laws of Wisconsin for the year 1905, and amendatory acts.

(Ch. 582, 1907. Section number supplied by Sec. 18, Ch. 676, 1907.)

"Railroad" as used in Ch. 362, 1905, to include street and interurban railways. SECTION 1797—2. The term "railroad" as used herein shall mean and embrace all corporations, companies, individuals, associations of individuals, their lessees, trustees or receivers (appointed by any court whatsoever) that now, or may hereafter, own, operate, manage or control any railroad or part of a railroad as a common carrier in this state, or cars, or other equipment used thereon, or bridges, terminals or sidetracks, used in connection therewith, whether owned by such railroad or otherwise, and also all street and interurban railway companies.

And telegraph companies. a. The term "railroad" whenever used herein shall also mean and embrace express companies *and telegraph companies*, and all duties required of and penalties imposed upon any railroad or any officer or agent thereof, shall, in so far as the same are applicable, be required of and imposed upon express companies *and telegraph companies* and their officers and agents, and the commission shall have the power of supervision and control of express companies *and telegraph companies* to the same extent as railroads.

Chapter 362, 1905, applied to telegraph messages and companies. b. The provisions of this act shall apply to the *receiving, transmitting and delivering of messages by telegraph, and to all charges connected therewith, and 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, and shall apply to all railroad corporations, express companies, telegraph companies, car companies, sleeping car companies, freight and freight line companies, and to all associations of persons, whether incorporated or otherwise, that shall do business as common carriers upon or over any line of railroad within this state, and to any common carrier engaged in the transportation of passengers or property wholly by rail or partly by rail and partly by water.*

But not to private railroads. c. This act shall not apply to * * * logging or other private railroads not doing business as common carriers.

(Ch. 582, 1907. Section number supplied by Sec. 18, Ch. 676, 1907.)

Car supply and freight delivery. SECTION 1797—10. Every railroad shall, when within its powers 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 car load lots *and shall use reasonable diligence in moving freight and making delivery thereof.*

No discriminations. a. 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 in proportion to their respective immediate requirements without discrimination between shippers or competitive or non-competi-

tive places; provided, preference may be given to shipments of live stock and perishable property.

Correct weighing. b. *Every railroad shall correctly weigh all freight shipped on actual weight, and shall also correctly weigh all empty cars when freight is shipped in carload lots.*

Car regulations; scale tests. c. The commission shall have power to *make and enforce* reasonable regulations for furnishing cars to shippers and for *moving and switching* the same, and for the loading and unloading thereof, and the weighing of cars and freight offered for shipment over any line of railroad, *and to test the weights made by any railroad and scales used in weighing freight or cars.*

(Ch. 582, 1907. Section number supplied by Sec. 18, Ch. 676, 1907.)

Spur tracks mandatory; maximum length; right of way; exception. SECTION 1797—11m. Every railroad shall provide a reasonably adequate and suitable spur track 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 two 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 request 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, the necessary 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. This section shall not apply to cities of the first class.

(Ch. 352, 1907.)

Appeal from railroad to commission. SECTION 1797—12n. In case of the failure or refusal of any railroad to comply with any of the provisions of this act, the person or persons, firm, corporation or association aggrieved thereby may file a complaint with the railroad commission setting forth the facts, and

the said commission shall investigate and determine the matter in controversy, in accordance with the provisions of chapter 362 of the laws of 1905, and of this act, and any order it shall make in said proceeding shall have the same force and effect as an order in any other proceeding properly begun under and by virtue of the provisions of said chapter 362 of the laws of 1905.

(Ch. 352, 1907.)

Railroad commission to fix rates and regulations. SECTION 1797—14. Whenever upon an investigation made under the provisions of this act, the commission shall find any existing rate or rates, fares, charges or classifications, or any joint rate or rates, or any regulation or practice whatsoever affecting the transportation of persons or property, or any service in connection therewith are unreasonable or unjustly discriminatory, or any service is inadequate it shall determine and by order fix a reasonable rate, fare, charge, classification or joint rate to be imposed, observed and followed in the future in lieu of that found to be unreasonable or unjustly discriminatory, and it shall determine and by order fix a reasonable regulation, practice or service to be imposed, observed and followed in the future, in lieu of that found to be unreasonable or unjustly discriminatory, or inadequate, as the case may be, and it shall cause a certified copy of each such order to be delivered to an officer or station agent of the railroad affected thereby, which order shall of its own force take effect and become operative twenty days after the service thereof.

Number of days' notice. a. *Where the order made relates to service, and the same can not, in the judgment of the commission, be complied with within twenty days the commission may prescribe such additional time as in its judgment is reasonably necessary to comply with the order and may on application and for good cause shown extend the time for compliance fixed in its order.*

Railroads to conform. b. All railroads to which the order applies shall make such changes in their schedule on file as may be necessary to make the same conform to said order, and no change shall thereafter be made by any railroad in any such rates, fares or charges, or in any joint rate or rates without the approval of the commission.

Copies of orders. c. Certified copies of all other orders of the commission shall be delivered to the railroads affected thereby in like manner, and the same shall take effect within such time thereafter as the commission shall prescribe.

Change of orders. * * * d. The commission may at any time upon a notice to the railroad, and after opportunity to be heard as provided in section 12, rescind, alter or amend any order fixing any rate or rates, fares, charges, or classification, or any other order made by the commission, and certified copies of the same shall be served and take effect as herein provided for original orders.

Joint rate apportionments. * * * e. Whenever the rate ordered substituted by the commission shall be a joint rate or charge, and the railroads party thereto shall fail to agree upon the apportionment thereof within twenty days after the service of such order, the commission may, after a like hearing, issue a supplemental order declaring the apportionment of such joint rate or charge and the same shall take effect of its own force as a part of the original order.

Commission to fix joint rates. * * * f. Whenever the railroads shall refuse or neglect to establish a joint rate or rates for the transportation of persons or property, the commission may, upon notice to the railroads and after opportunity to be heard as in section 12 of this act provided, fix and establish such joint rate or rates and if the railroads party thereto shall fail to agree upon the apportionment thereof within twenty days after service of such order, the commission may, upon a like hearing, issue a supplemental order declaring the apportionment of such joint rate or rates and the same shall take effect of its own force as part of the original order.

(Ch. 582, 1907. Section number supplied by Sec. 18, Ch. 676, 1907.)

Burden of proof; court for actions. SECTION 1797—16. e. In all trials under this section the burden of proof shall be upon the plaintiff to show by clear and satisfactory evidence that the order of the commission complained of is unlawful, or unreasonable, as the case may be, and all actions brought under the provisions of the foregoing section shall be commenced in the circuit court for Dane county.

(Ch. 582, 1907. Section number supplied by Sec. 18, Ch. 676, 1907.)

Corporations to furnish lists of stock and stockholders; penalty. SECTION 1797—18. *e. Every corporation, foreign or domestic, authorized to transact business in Wisconsin, shall, on request of the railroad commission, furnish a complete list of its stockholders and a statement of the amount of stock held in the corporation by each such stockholder, duly verified by the president or secretary of such corporation. Any corporation refusing or neglecting to furnish such list of stockholders for a period of twenty days after request therefor is made in writing shall be liable to the penalties provided for in section 27 of chapter 362, laws of 1905.*

(Ch. 582, 1907. Section number supplied by Sec. 18, Ch. 676, 1907.)

Lists of passes and recipients; trip passes to employes. SECTION 1797—19. *a. Every railroad shall, on the first Monday in February in each year, and oftener if required by the commission, file with the commission a verified list of all railroad tickets, passes, and mileage books issued free or for other than actual bona fide money consideration at full established rates during the preceding year, together with the names of the recipients thereof, the amounts received therefor and the reasons for issuing the same. This provision shall not apply to the sale of tickets at reduced rates open to the public nor to tickets, passes or mileage books issued to persons not residents of this state, * * * and the railroad commission, in its discretion, may exempt any carrier from furnishing a statement of trip passes issued to persons regularly and exclusively in its employ, but such carrier shall preserve a record of all such passes which shall be open to the inspection of the railroad commission for a period of two years after the issuance thereof.*

(Ch. 582, 1907. Section number supplied by Sec. 18, Ch. 676, 1907.)

Recovery of excessive freight charges. SECTION 1797—37m. *Within six months after the delivery of any shipment of freight at destination any person aggrieved may complain to the commission that the charge exacted * * * for the transportation of such freight between points in Wisconsin is 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 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.

(Ch. 582, 1907.)

Railroad commission: publication of opinions and decisions; annual report. SECTION 1797—37n. Said railroad commission is hereby authorized to print and publish for distribution in bound volumes of convenient size, its opinions and decisions, which shall be suitably indexed, for convenient reference to the subjects treated therein. Not to exceed twenty-five hundred copies of any volume shall be so published. Said commission is likewise authorized to print for distribution in pamphlet form a suitable number of its opinions and decisions as the same are from time to time announced. The commission shall, on or before the first Monday in December, in each year, make a report to the governor for the preceding year containing such information, suggestions or recommendations as they may deem proper.

(Ch. 582, 1907.)

Road construction certificate from commission requisite. SECTION 1797—39. No railroad corporation hereafter organized shall exercise the powers conferred upon it by the laws of Wisconsin, nor begin the construction of any proposed line of railroad in this state, until it shall have obtained from the railroad commission of Wisconsin, a certificate that public convenience and a necessity require the construction of said