

No. 59, A.]

[Published June 20, 1907.

CHAPTER 254.

AN ACT to amend section 1816 of the statutes, relating to liability of railroad companies for injuries sustained by employes.

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

SECTION 1. Section 1816 of the statutes is amended to read:

* * * * *

Approved June 19, 1907.

(In effect July 1, 1907.)

No. 1011, A.]

[Published June 20, 1907.

CHAPTER 255.

AN ACT to provide that chapter 183, laws of 1907, shall go into immediate effect.

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

Bonds given in county courts. SECTION 1. Chapter 183, laws of 1907, shall take effect and be in force from and after the passage and publication of this act.

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

Approved June 19, 1907.

Railroads to provide fences, farm crossings and cattle guards; penalty. SECTION 1813. 1. Whenever any railroad corporation shall operate a railroad over or through inclosed lands and shall fail to construct the fences, farm crossings or cattle guards required by section 1810, proper for the use of such lands, the owner or occupant thereof may give notice in writing signed by him to such corporation, to be served as a summons in a court of record is required to be served on such corporation, to fence its road so running through his inclosed lands, describing the same, and construct the necessary farm crossings and cattle guards thereon.

2. If such company, after being so notified, neglect for three months so to construct such fences, farm crossings and cattle guards, it shall be liable to pay to such owner or occupant ten dollars for each * * * *day after the expiration of said three months* until so constructed.

3. But no time between any first day of November and the first day of April next succeeding shall be included in the three months aforesaid.

(Ch. 623, 1907.)

Crippling or death damages. SECTION 1816. Every railroad company * * * shall be liable for * * * damages * * * *for all injuries whether resulting in death or not, sustained by any of its employes, subject to the provisions hereinafter contained regarding contributory negligence on the part of the injured employe:*

Roadbed and machinery defects. 1. When * * * such injury is caused by a defect * * * in any locomotive, engine, car, rail track, *roadbed*, machinery or appliance * * * used by its employes in and about the business of their employment. * * *

Fellow employes' negligence. 2. When such injury * * * *shall have been sustained* by any officer, agent, servant or employe of such company, while engaged in the line of his duty as such and which *such injury* shall have been caused *in whole or in greater part* by the * * * negligence of any other officer, agent, servant or employe *of such company*, * * * in the discharge of, or * * * *by reason of failure to discharge his duties as such.* * * *

Court's questions to jury. 3. *In every action to recover for such injury the court shall submit to the jury the following*

questions: *First, whether the company, or any officer, agent, servant or employe other than the person injured was guilty of negligence directly contributing to the injury; second, if that question is answered in the affirmative, whether the person injured was guilty of any negligence which directly contributed to the injury; third, if that question is answered in the affirmative, whether the negligence of the party so injured was slighter or greater as a contributing cause to the injury than that of the company, or any officer, agent, servant or employe other than the person so injured; and such other questions as may be necessary.*

Comparative negligence. 4. *In all cases where the jury shall find that the negligence of the company, or any officer, agent or employe of such company, was greater than the negligence of the employe so injured, and contributing in a greater degree to such injury, then the plaintiff shall be entitled to recover, and the negligence, if any, of the employe so injured shall be no bar to such recovery.*

Question for jury. 5. *In all cases under this act the question of negligence and contributory negligence shall be for the jury.*

Contracts and rules subordinate. 6. *No contract or receipt between any employe and a railroad company, no rule or regulation promulgated or adopted by such company, and no contract, rule or regulation in regard to any notice to be given by such employe shall exempt such corporation from the full liability imposed by this act.*

"Railroad Company" defined. 7. *The phrase "railroad company," as used in this act, shall be taken to embrace any company, association, corporation or person managing, maintaining, operating, or in possession of a railroad in whole or in part within this state whether as owner, contractor, lessee, mortgagee, trustee, assignee or receiver.*

Conflict of laws. 8. *In any action brought in the courts of this state by a resident thereof, or the representative of a deceased resident, to recover damages in accordance with this act, where the employe of any railroad company owning or operating a railroad extending into or through this state and into or through any other state or states shall have received his injuries in any other state where such railroad is owned*

or operated, and the contract of employment shall have been made in this state, it shall not be competent for such railroad company to plead or prove the decisions or statutes of the state where such person shall have been injured as a defense to the action brought in this state.

Shop or office employes. 9. *The provisions of this act shall not apply to employes working in shops or offices.*

(Ch. 254, 1907.)

Railroad operators, hours on and off duty. SECTION 1816m. It shall be unlawful for any corporation or a receiver operating a line of railroad, in whole or in part, in the state of Wisconsin, or any officer, agent or representative of such corporation or receiver, to require or permit any operator to remain on duty for more than one period of eight consecutive hours, and when said operator shall have been on duty for said eight hours he shall be relieved and not required or permitted again to go on duty until he has had at least sixteen consecutive hours off duty in any twenty-four hours; provided this provision shall not apply in case of casualty upon such railroad; in which case said operator may be required or permitted to be on duty not more than one period of twelve consecutive hours in any twenty-four hours, or not to exceed three days of said twelve successive hours each at one time.

“Operator;” “block system.” 2. The term “operator” shall include train dispatchers, and shall be defined and construed to mean an employe who, by the use of the telegraph or telephone dispatches, or reports, transmits, receives or delivers orders pertaining to or affecting the movement of cars, engines, or trains, or who handles such cars, engines, or trains by or under what is known and termed the block system; the term “block system” shall be defined and construed to mean reporting cars, engines, or trains to another office or offices and to the train dispatcher registering the same and operating one or more order or signal devices, and manipulating signal devices affecting the movement of cars, engines, or trains from stations or towers in railroad yards or on main tracks.

Enforcement. 3. Whenever the railroad commission shall learn of any violation of this section by any company or by an officer or agent of any such company, it shall be the duty