

be instituted to enforce the laws relating to the collection of such delinquent taxes of every kind and nature; to this end the legal department of the state shall, upon the request of the tax commission, conduct such actions, proceedings, or prosecutions, or assist the local town, city, village or county officials therein.

SECTION 2. This act shall take effect upon passage and publication.

Approved July 13, 1927.

No. 543, S.]

[Published July 14, 1927.

CHAPTER 344.

AN ACT to amend section 195.18; to renumber section 195.54 to be subsection (1) of said section, and to amend the same as renumbered; and to create subsections (2), (3), (4) and (5) of section 195.54 of the statutes, relating to reparation for overcharges and unlawful rates charged by railroads.

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

SECTION 1. Section 195.18 of the statutes is amended to read: 195.18 *Within three years after the delivery of any shipment of property at destination, any person, firm or corporation may submit to the railroad commission, by mail or in person, any railroad or express company expense bill or receipt showing charges paid for transportation of * * * such property by freight or express for the purpose of having the same examined with respect to the correctness of weights, rates and charges indicated thereon. Upon receipt of any such expense bill or receipt the commission shall make such examination as is necessary, and if it shall be found that any such weights, rates or charges are incorrect, the commission shall order the express or railroad company in error to refund to the person, firm or corporation which submitted such expense bills or receipts, any over or excessive charges paid by such person, firm or corporation, provided, however, that the railroad commission shall not be required to audit or examine more than fifteen such expense bills or receipts from any one shipper or consignee in any one calendar month.*

SECTION 2. Section 195.54 of the statutes is renumbered subsection (1) of said section and as so renumbered is amended to read: (195.54) (1) * * * 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 195.17 of the statutes. 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 3. Four new subsections are added to section 195.54 of the statutes to read: (195.54) (2) All complaints provided for in subsection (1) of this section, except those for straight overcharges, shall be filed with the commission within two years after delivery of the shipment of property at destination with respect to which the charge complained of was made.

(3) For recovery of straight overcharges which shall be deemed to mean such charges described in subsection (1) as are in excess of those applicable under the tariffs lawfully on file with the commission, neither the complaint under this section nor

the order provided by section 195.18 shall be deemed exclusive remedies. Complaints for the same shall be filed or action at law shall be begun within three years from the delivery of the shipment of property at destination, and not after, except that if claim for the overcharge has been presented in writing to the railroad within the three-year period of limitation, said period shall be extended to include six months from the time notice in writing is given by the railroad to the claimant of disallowance of the claim or any part thereof, specified in the notice; provided, however, that nothing in this section shall be deemed to limit the time within which actions at law may be brought for straight overcharges on shipments delivered at destination prior to January 1, 1925.

(4) All actions at law by railroads for the recovery of charges for the transportation of property between points in Wisconsin, or for any service in connection therewith, or for the storage of such property, or for any car service or demurrage charge, or any part thereof, shall be begun within three years after the delivery of the shipment of property at destination with respect to which such charge is made and not after. Provided, however, that nothing in this section shall be deemed to limit the time within which actions may be brought at law for the recovery of charges on shipments delivered at destination prior to January 1, 1925.

(5) If on or before the expiration of the two-year period of limitation provided in subsection (2), or of the three-year period of limitation in subsection (3), a railroad shall begin action for the recovery of charges in respect to the same transportation service, or without bringing action, shall collect charges in respect of that service, said periods of limitation shall be extended to include ninety days from the time such action is begun or such charges are collected by the railroad.

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

Approved July 13, 1927.