

CHAPTER 226.

[H. B. 239.]

AMENDING ACT PROVIDING FOR THE REGULATION OF
RAILROADS AND EXPRESS COMPANIES.

AN ACT relating to railroads and express companies and providing for the regulation thereof, and amending sections 2, 3, 4, 6, 12, 13, 15, 20, and 22 of an act entitled "An act to establish a Railroad Commission for the State of Washington, whereby discrimination and extortion in railroad and express charges may be prevented and reasonable and just freight and passenger service and tariff may be corrected and established; to authorize the commission to make all necessary rules and regulations for its government and the carrying into effect the provisions of this act; to give to said commission the power to regulate the sale of railroad tickets, and to correct and provide charges for hauling loaded or empty cars, proper trackage, proper train service, sufficient freight and passenger rooms, and just and reasonable joint rates and demurral charges; to prescribe penalties for the violation of this act, and to provide means and rules for its proper enforcement, and making an appropriation therefor," approved March 7, 1905, being chapter 81 of the Laws of the Legislature of the State of Washington passed in the year 1905; and to authorize the commission to provide for proper railroad connections and sidings, to provide proper and reasonable charges or penalties to be paid by shippers for failure to promptly load and unload cars; to provide proper and reasonable charges or penalties to be paid by railroads to shippers for failure to promptly furnish cars and equipment after demand therefor, or to promptly and expeditiously deliver cars and freight to the consignee, and to make all necessary rules and regulations to carry such provisions into effect; to authorize and empower said commission to ascertain the value of all railroad property used in this state for the public convenience; to authorize the commission to make findings thereon and establishing rules of evidence governing the same; to authorize said commission to designate certain books and accounts to be kept by the railroad and express companies doing business in this state; providing for safety appliances and track inspection; authorizing said commission to investigate accidents; and to provide penalties for the violation of this act, and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That section 2 of chapter 81 Session Laws of 1905 be and the same is hereby amended to read as follows: Sec. 2. The Commission appointed shall meet at

the State Capitol and organize. A majority of said Commissioners shall constitute a quorum to transact business. Said Commission may appoint a secretary at a salary of not more than two thousand dollars per annum, an expert rate clerk and statistician at a salary not to exceed two thousand dollars per annum, a civil engineer at a salary of not to exceed two thousand dollars per annum, and a stenographer competent to report hearings at a salary of not to exceed fifteen hundred dollars per annum, and may appoint such clerks as may be necessary, not to exceed three in number, at a salary of not to exceed twelve hundred dollars per annum each, and such other persons as experts as may be necessary to perform the duties that may be required of them by this act. The secretary shall keep full and correct minutes of all transactions and proceedings of said Commission, and perform such duties as may be required by the Commission. The Commission shall have power to make all needful rules for their government and proceedings. They shall be known collectively as "The Railroad Commission of Washington," and shall adopt and use an official seal. They shall be furnished with an office at the State Capitol, and with necessary furniture, stationery and supplies, to be paid for on the order of the Governor. The Commissioners shall reside at the State Capital. The Commissioners, secretary and clerks, if any, shall be entitled to receive from the State their actual necessary traveling expenses while traveling on the business of the Commission, to be paid upon the presentation to the State Auditor of an itemized statement thereof, with vouchers attached sworn to by the party who incurred the expense and approved by the Commission. (a) Said Commission may hold sessions at any place in this State when deemed necessary to facilitate the discharge of their duties.

Quorum.

Secretary and other clerical assistance.

Minutes.

Official name and seal.

Traveling expenses.

Sessions.

SEC. 2. Section 3 of said act shall be amended to read as follows: Sec. 3. That the freight and passenger tariffs, charges for transportation of loaded or empty cars, whether said freight or cars be transported over one line of railroad or over two or more lines of railroad, charges

Rates and charges shall be reasonable.

for demurrage and reciprocal demurrage, as hereinafter defined, trackage, railroad connections, sidings, equipment, facilities, train service, waiting rooms for passengers and rooms for freight and baggage at all stations of railroads, and charges for each kind and class of property, money, papers, packages and all other things to be charged for and received by each express company, on all such property, money, papers, packages and things which by the contract to carry are to be transported by said express company, to be demanded, collected, enforced or performed by railroad or express companies shall be just, fair, reasonable and sufficient; and the said Railroad Commission of Washington is hereby vested with power and authority, upon complaint made as hereinafter provided or by enquiry upon their own motion, after a full hearing, to make any finding declaring any existing rate or absence of rate, joint or otherwise, for the transportation of persons or property, or any regulation whatsoever affecting said rate or charge for transportation of loaded or empty cars, whether the said rate charged be over one line of railroad or over two or more lines of railroad, or demurrage or reciprocal demurrage or the sufficiency of the trackage, railroad connections, siding, equipment, facilities, train service, and waiting rooms for passengers and rooms for freight and baggage to be unreasonable, or unjustly discriminatory, or insufficient, and to declare and order what shall be a just and reasonable rate, joint or otherwise, practice, rule, regulation or thing to be charged, imposed enforced or performed or followed in the future in the place of that found to be unreasonable, or unjustly discriminatory or insufficient, and to order that additional trackage or sidings be constructed, and to order that additional equipment and facilities for the movement of passengers and freight be furnished, and that railroad connections be made or to make any finding declaring any existing rate for the transportation of persons or property, or any classification which has been the subject of inquiry, after notice duly given, to be sufficiently remunerative to the railroad company, or to be reasonable, proper

Power of
commis-
sion.

and sufficient, and to order that the same be not changed, altered, abrogated or discontinued, either by changing the rate or classification, without first obtaining the consent of the Commission authorizing such change to be made, and the order of the Commission shall of its own force take effect and become operative twenty days after notice thereof has been given to the railroad or express company affected thereby; which said order shall be served on railroad and express companies by delivery of a certified copy thereof under the seal of the Commission, either to the attorney for the railroad or express company, or the said company itself. Service of said order upon any officer upon whom summons in civil actions might be served shall be a sufficient service thereof. And any railroad or express company affected by the order of the Commission and deeming it to be contrary to the law, may institute proceedings in the superior court of the State of Washington in the county in which the hearing before the Commission upon the complaint had been held, and have such order reviewed and its reasonableness and lawfulness inquired into and determined. Pending such review, if the court having jurisdiction shall be of the opinion that the order or requirement of the Commission is unreasonable, or unlawful, it may suspend the same until the further order of the court pending such litigation, in which event the court shall require a bond of good and sufficient security conditioned that the carrier or carriers petitioning for such review shall answer for all damages caused by the delay in the enforcement of the order of the Commission, and all compensation for whatever sums for transportation service any person or corporation shall be compelled to pay pending the review proceedings, in excess of the sums such person or corporation would have been compelled to pay if the order of said Commission had not been suspended. Said action of review shall be taken by the said railroad or express company within twenty days after notice of said order, and if said action of review is not taken within said time, then in all litigation thereafter arising between the State of Washington and said railroad or express company,

Service of
order.

proceedings.

Bond.

Action to be
brought,
when.

or private parties and said railroad or express company, the said order shall be deemed final and conclusive. If, however, said action in review is instituted within said time, the said railroad or express company shall have the right of appeal or to prosecute by other appropriate proceedings, from the judgment of the superior court to the Supreme Court of the State of Washington, as in civil actions. In all such proceedings, however, bonds shall be required conditioned as hereinbefore provided in addition to the usual appeal bond. The action in review of such order, whether by writ of review or appeal, or otherwise, shall be heard by the court without intervention of a jury and shall be heard and determined upon the evidence and exhibits introduced before the Commission and certified to by it. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

Appeal.

Amendment
of order
fixing rate.

(a) The Commission may at any time, upon notice to the railroad and after opportunity to be heard as provided in section 6 of the act creating the Railroad Commission, rescind, alter or amend any order fixing any rate or rates, fares, charges or classifications, or any other order made by the Commission; and certified copies of the same shall be served and take effect as in said act provided for original orders.

Rehearing
on order.

(b) In case any order of the Commission made as herein provided shall not be appealed from, or reviewed within the time herein provided, any railroad or other person or corporation affected or aggrieved by any order of the Commission, and being dissatisfied with any order of the Commission fixing any rate or rates, joint or otherwise, or fixing a division of any joint rate, or being dissatisfied with any fares, charges, classification, or any order fixing any regulation, practice or service, may, after the expiration of six months after the taking effect of such order, petition the Commission for a rehearing upon the matters involved in such order setting forth in such petition the grounds and reasons for such rehearing, which grounds and reasons may comprise and consist of changed conditions since the promulgation of such order, or by

showing a result from the effect of such order injuriously affecting the petitioner which was not considered or anticipated at the time of the former hearing, or for any good and sufficient cause which for any reason was not considered and determined in such former hearing. Upon the filing of such petition proceedings shall be had thereon as are provided in this act for other hearings, and appeals may be prosecuted the same as provided for other orders of the Commission: *Provided, however,* That no injunction or restraining order shall issue staying any order of the Commission based on or by reason of such petition for rehearing, and no order of the Commission made on such rehearing shall affect any right of action or penalty accruing under such original order, unless so ordered by the Commission.

SEC. 3. Section 4 of said act shall be amended to read as follows: Sec. 4. That when the rate, fare or charge substituted or established by the Commission, as hereinbefore provided, shall be a joint rate, and the railroad or express companies parties thereto, fail to agree upon the apportionment or division thereof among themselves within 10 days after notice of such order, the Commission may issue a supplemental order, declaring the portion of such joint rate to be received by each railroad or express company party thereto, which shall take effect of its own force as part of the original order, and such supplemental orders shall be subject to review by the said superior court within the time and in the manner hereinbefore provided for the review of original orders of the Commission. Joint rates.

SEC. 4. Section 6 of said act shall be amended to read as follows: Sec. 6. When complaint is made to the Commission in writing by any person, firm, corporation, chamber of commerce, board of trade, or any commercial, mercantile, agricultural, or manufacturing society, or any body politic or municipal corporation in this State that any freight or passenger tariff rate or charge, or absence of tariff rate or charge, joint or otherwise, for the transportation of passengers or loaded or empty cars, whether the same be over the line of one railroad company or over Complaints as to charges or rates.

the lines of two or more railroad companies, or trackage, railroad connections, sidings, or charge for the storing and handling of freight, rates of charge for all kinds or classes of property, money, packages, papers, or other things to be charged for and received by each railroad or express company, which by the contract of carriage are to be transported by said railroad or express company between points within this State, is unreasonable or unjustly discriminatory, or that any train service of railroads, whether freight or passenger, or the amount of trackage, or waiting rooms for passengers, or rooms for freight or baggage at any station, or that cars of same are insufficient or improper, the Commission shall thereupon give to the railroad or express company to be affected thereby, thirty days written notice of the time and place when and where such complaint will be heard, and said railroad or express company shall be entitled to be heard at such time and place, to the end that justice may be done, and the Commission shall issue process to enforce the attendance of all necessary witnesses. All process herein provided for shall be served as in civil cases; issues shall be made up without delay as nearly as practicable as in civil cases; such complaint shall be instituted in the name of the Commission, and all railroads, express companies, and carriers interested, shall be made parties to the hearing, and on such hearing all complaints made concerning any rates or absence of rates, joint or otherwise, charges, tolls, sufficiency of train service, trackage, railway connections, sidings, equipment, or facilities, rules and regulations, or other matters upon which complaints may be founded, may be joined in the one hearing, and no motion shall be entertained against such complaint for misjoinder of complaints or grievances, or misjoinder of parties; it being the intention of this act to authorize said Commission to enquire into all grievances whereof complaint may have been made, or by inquiry upon its own motion at one hearing, and by one order and judgment, decide and adjust the same, and in any review in the courts of the orders of the Commission, the same rule shall apply and pertain with regard to

Process—
how served,
etc.

Hearings.

the joinder of complaints, and parties, as herein provided: *Provided*, All grievances to be inquired into whether by complaint made to the Commission or by inquiry upon its own motion, shall be set out in the complaint, which shall be served upon the railroad, or express company, together with notice of the time and place of hearing.

(a) The Commission is hereby authorized and empowered to adopt, promulgate, and issue rules and regulations governing the bulletining of trains, showing the time of arrival and departure of all trains, and the probable time of arrival of delayed trains; the conditions and limitations to be contained in and become a part of contracts for transportation of freight and passengers and express packages; the hours which station and waiting rooms shall be kept open, rules governing demurrage and reciprocal demurrage charges, and generally such rules as pertain to the comfort and convenience of the public. Such rules and regulations shall be promulgated and issued by the Commission on its own motion, and shall be served on the railroad companies affected thereby as other orders of the Commission are served. Any railroad company affected thereby and deeming such rules and regulations improper, unjust, or contrary to law, may within twenty days from the date of such service of such order upon it file objections thereto with the Commission, specifying the particular grounds of such objection. The Commission shall, upon receipt of such objections, fix a time and place for hearing the same, and after a full hearing may make such changes or modifications thereto as the evidence may justify. The Commission shall have power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings: *Provided*, No person desiring to be present at any such hearing shall be denied admission.

(b) The chairman, and each of the Commissioners, for the purposes mentioned in this act, shall have power to administer oaths, certify to all official acts, and to issue subpoena for the attendance of witnesses, and the production of papers, waybills, books, accounts, documents and

Powers
of Com-
mission.

Witnesses.

Compelling
attendance.

testimony. The superior court of the county in which any proceeding under this act may be instituted, shall have power to compel the attendance of witnesses, and the production of papers, way bills, books, accounts, documents and testimony as required by said subpoena. The said Commission before which the testimony is to be given or produced, in case of the refusal of any witness to attend, or testify, or produce any papers required by the subpoena, shall report to the superior court in and for the county in which the proceeding is pending by petition, that due notice has been given of the time and place of attendance of said witnesses, or the production of said papers, and that the witness has been summoned in the manner provided in this act, and that the fees and mileage of the witness has been paid or tendered to the witness for his attendance and testimony, and that the witness has failed or refused to attend or produce the papers required by the subpoena, before said Commission, in the cause or proceeding named in the notice and subpoena, and ask an order of the said court, compelling the witness to attend and testify before the said Commission. The court upon the petition of the Commission shall enter an order directing the witness to appear before the said court at a time and place to be fixed by the court in such order, and then and there show cause why he has not responded to said subpoena. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by said Commission, the court shall thereupon enter an order that said witness appear before said Commission at said time and place as fixed in said order, and testify or produce the required papers, and upon failure to obey said order, said witness shall be dealt with as for contempt of court. In all proceedings before the Commission the Commissioners shall have the right in their discretion, to limit the number of witnesses testifying upon any subject or proceeding to be inquired of before the Commission.

Appeals.

(c) In case the decision or order of the Commission concerning any freight or passenger traiff, rate or charge

for the transportation of loaded or empty cars, whether the same be over the line of one railroad company or over the lines of two or more railroad companies, or for demurrage or reciprocal demurrage or charge for the storing or handling of freight, rates of charge for any kind or class of property, money, packages, papers or other things to be charged for or received by any railroad or express company inquired into by the Commission on the written complaint of any person or number of persons shall be unsatisfactory to any of the persons so making written complaint, upon any matter embraced in such written complaint, such dissatisfied party shall have the right to appeal from the order of the Commission to the superior court of the State of Washington in the county in which the hearing before the Commissioners had been held. Said appeal shall be taken by serving on the Commission or filing with it a notice of appeal specifying the order or portion of the order appealed from within twenty days from the rendition of such decision and the execution and filing within said time of a bond in the sum of one hundred dollars conditioned to pay the costs of such appeal, which bond shall go to the State of Washington. Upon receipt of such notice and bond the Commission shall notify all persons interested in the subject-matter of said appeal being taken. On said appeal the order or portion of order appealed from shall be tried by the superior court without the intervention of the jury and shall be heard and determined upon the evidence and exhibits introduced before the Commission and certified to by it, and the said court shall render such decision concerning the matter complained of as the justice of the case may require.

SEC. 5. Section 12 of said act shall be amended to read as follows: Sec. 12. The Commission shall ascertain as

Ascertainment of cost of construction, operation, etc.

early as practicable the original cost of construction and equipment, the amount expended in permanent improvements and the proportionate amount of such permanent improvements charged to construction, and to operating expenses respectively, the present as compared with the origi-

nal cost of construction, and the cost of reproducing in its present condition each mile of railway in the State. It shall also ascertain the amount and present market value of the capital stock and funded indebtedness of every railroad line operating in this State. It shall also ascertain the relative value of the use to which each railroad operating in this State is actually put in the carrying of intrastate and interstate business respectively. It shall also ascertain the total market value of the line, equipment and property of each railroad operating in this State used for the public convenience within the State. It shall also ascertain the time intervening between the expenditure of money in the cost of construction and the time when returns in the shape of dividends were first received by each of said railroads. It shall also ascertain the probable earning capacity of each railroad upon intrastate business under the rates now charged by such railroad and the sum required to meet fixed charges and operating expenses on intrastate business on each of said railroads. It shall also ascertain the relative proportion of intrastate and interstate business, the relative proportion of the operating expenses connected therewith, and the relative proportion of the revenue which should be derived therefrom. It shall also ascertain the density of intrastate traffic and the conditions which will tend to show whether such traffic is likely to continue, increase or diminish. It shall also ascertain the density of population along the line of each railroad within the State; it shall also ascertain the existence of grades, curvatures and other physical conditions affecting the movement of traffic; it shall also ascertain whether the expenditures already made in the construction and equipment of each railroad were such as were justified by the then existing conditions and such as might reasonably be expected in the immediate future; it shall also ascertain whether the money expended by each railroad is reasonable for the present needs of the company and for such as may reasonably be expected in the immediate future; it is however provided that it shall be discretionary with the Commission to ascertain the whole or any part or parts of the

matters and things above designated in this section at such time or times and in such order as to them may seem best. The Commission is hereby authorized to cause a hearing or hearings to be held at such time or times and place or places as the Commission may designate for the purpose of ascertaining the matters and things provided for in this section. The Commission shall, before any hearing is had as to any railroad, notify the railroad concerned of the time and place of such hearing by giving at least 30 days written notice thereof, specifying that at the time and place designated a hearing will be held for the purpose of ascertaining the value of such railroad within this State, which shall be a sufficient complaint to authorize the Commission to inquire into the matters designated in this section as to such railroad. All railroads and express companies concerned shall be entitled to be heard and introduce evidence at such hearing. The evidence introduced at such hearing shall be reduced to writing and certified to by the Commission under its seal of office. The Commission shall make and render findings of fact in writing covering all matters in this section mentioned concerning which it is directed to inquire into, and shall make findings upon all matters concerning which evidence may have been introduced before it which shall tend to show the value of the property used by the railroads or express companies for the public convenience. Any railroad or express company affected by the findings, or any of them, and considering itself aggrieved by the findings of the Commission, or believing such findings, or any of them, to be contrary to the law or the evidence introduced, or that such findings are unfair, unwarranted or unjust, may institute proceedings in the superior court of the State of Washington in the county in which said hearing has been held, or, if held in more than one county, then in the county in which said hearing was commenced, and have such findings, or any of them, reviewed, and their correctness, reasonableness, and lawfulness inquired into and determined. Such review shall be heard by the court without the intervention of a jury and shall be heard upon the evidence

Hearings.

Notice.

Findings
of Com-
mission.

Review.

and exhibits taken before the Commission and certified to by it; and the court before which such hearing is had, in case it finds any such findings so sought to be reviewed unjust, incorrect, unreasonable, unlawful or not supported by the evidence, shall make new and correct findings to take the place of such as may not be sustained, unless such findings are set aside and reversed for error on the part of the Commission in rejecting evidence properly proffered, in which case it shall remand said hearing to the Commission with instructions to receive the evidence so proffered and rejected and make findings of fact on the evidence so proffered and that already received. Said railroad or express company or the Commission shall have the right to appeal or to prosecute by other appropriate proceedings from the superior court to the Supreme Court of the State of Washington as in civil cases. In case the Supreme Court finds any findings so sought to be reviewed unjust, incorrect, unlawful or unreasonable, or not supported by the evidence, it shall either make and render proper findings or remand the same to the superior court with instructions to make proper findings on the evidence already submitted, unless the same is reversed for error in rejecting evidence properly proffered, in which case the hearing shall be remanded to the Commission with instructions to receive the evidence so proffered and make findings on the evidence so proffered and rejected and that already received. The findings of the Commission so filed, or as the same may be corrected by the courts, when properly certified under the seal of the Commission, shall be admissible in evidence in any proceeding or hearing in which the public and the railroad or express company affected thereby is interested, and such findings, when so introduced, shall be conclusive evidence of the facts stated in such finding or findings as of the date of filing under conditions then existing, and such facts can only be controverted or contradicted by showing a subsequent change in conditions bearing upon the facts therein determined. The Commission shall also ascertain the amount paid for salaries to the officers of the railroad and express companies, and the

Appeal to
Supreme
Court.

Findings,
effect of.

wages paid employes. For the purpose in this section named the Commission may employ sworn experts to inspect the books, papers, documents, contracts, reports of officers and agents, and any other documents or copies thereof, in the possession of the railroad or express companies which will tend to show the expenditure of moneys in the cost of construction and equipment or the present value of such property; said information shall be printed from time to time in the annual reports of the Commission; and all railroads now or hereafter constructed shall on demand furnish the Commission profiles of its lines in this State in such form and according to such specifications as the Commission shall direct. Any railroad hereafter constructing any line, extension or siding in this State shall file with the Commission an itemized statement showing the money expended in such construction, extension or siding in such form as the Commission may prescribe. All railroads doing business in this State shall also furnish the Commission with an itemized statement in such form as the Commission shall prescribe, showing any and all money expended by them in the purchase of equipment, and showing the cost of improvements and betterments in this State.

Commission may employ experts.

Companies shall furnish information.

SEC. 6. Section 13 shall be amended to read as follows: Sec. 13. The said Commission shall cause to be prepared suitable blanks with questions calculated to elicit all information concerning railroads and express companies, and as often as it may be necessary furnish said blanks to each railroad and express company. Any railroad or express company receiving from the Commission any such blanks shall cause said blanks to be properly filled out so as to answer fully and correctly each question therein propounded, and in case they are unable to answer any question, they shall give a satisfactory reason for their failure; and the said answers, duly sworn to by the proper officers of said company, shall be returned to said Commission at its office within thirty days from the receipt thereof. The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by the carriers subject to the provisions of this act whose

Blanks.

line or lines extend beyond the limits of this State which are operated partly within and partly without this State so that the same shall show any information required by the Commission concerning the movement of traffic, as well as the receipts and expenditures appertaining to those parts of such lines which are subject to the provisions of this act. The Commission shall at all times have access to all accounts, records, and memoranda kept by the carriers subject to this act. In case of refusal on the part of any such railroad or express company, receiver, or trustee to keep such accounts, records, and memoranda on the books and in the manner prescribed aforesaid by the Commission, or to submit such accounts, records and memoranda as are kept to the inspection of the Commission or any of its authorized agents or examiners, such railroad, express company, receiver or trustee shall forfeit to the State of Washington the sum of \$500.00 for each such offense, and for each and every day of the continuance of such offense, such penalty or forfeiture to be recoverable in the same manner as other forfeitures provided for in this act.

Failure to keep records prescribed.

Penalty.

Failure to fill out blanks.

(a) If any officer or employe of a railroad or express company shall willfully fail or refuse to fill out and return any blank as above required, or willfully refuse or fail to answer any question therein propounded, or fails to keep his books and accounts as herein provided or give a false answer to any such questions, where the fact inquired for is within his knowledge, or shall evade the answer to any such questions, such person shall be guilty of a misdemeanor and shall on conviction thereof be fined for each day he shall fail to perform such duty, after the expiration of the time a sum not to exceed five hundred dollars, and the Commission shall cause a prosecution therefor in the proper court; and a penalty of a like amount shall be recovered from the company when it appears that such person acted in obedience to its directions, permission, or request in his failure, evasion or refusal.

Penalty.

Annual report of Commission.

(b) The said Commission shall make and submit to the Governor annual reports containing a full and complete account of the transactions of their office, together with

the information gathered by such Commission as herein required, and such other facts, suggestions, and recommendations as may be by them deemed necessary, which report shall be published as the reports of the heads of departments.

(c) The said Commission shall have power, and it is hereby made its duty, to investigate all through freight rates on railroads and express companies in Washington; and when the same are, in the opinion of the Commission, excessive or levied or laid in violation of the interstate commerce law, or the rules and regulations of the interstate commission, the officials of the railroads or express companies are to be notified of the facts, and requested to reduce them or make the proper corrections as the case may be. When the rates are not changed, or the proper corrections are not made according to the request of the Commission, the latter is instructed to notify the interstate commerce commission and to apply to it for relief.

Investigation of interstate rates by Commission.

(f) The Commission may require from any railroad doing business in this State the production within this State, at such time and place as it may designate, any books, papers or accounts kept by said railroad in any office or place without the State of Washington, or certified copies in lieu thereof may be made by the Commission, or under its direction. Such demand shall be served upon the railroad in the manner that orders and complaints are served on railroads under the provisions of the act establishing the Railroad Commission. Any railroad failing or refusing to comply with any such order shall, for each day it shall without good cause so fail or refuse, forfeit and pay the State of Washington a sum of not less than one hundred dollars nor more than five hundred dollars to be recovered as other penalties are recovered under said act.

Production of books.

SEC. 7. Section 15 of said act shall be amended to read as follows: Sec. 15. If any railroad or express company subject hereto, directly or indirectly, or by any special rate, rebate, drawback or other device, shall charge, demand, collect, or receive from any person, firm or corporation, a greater or less compensation for services rendered,

Unjust discrimination.

or to be rendered by it, than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service, such railroad or express company shall be deemed guilty of unjust discrimination, which is hereby prohibited.

Unreasonable preference.

(a) It shall also be unjust discrimination for any such railroad or express company to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation or locality, or to subject any particular description of traffic to any undue or unreasonable prejudice, delay or disadvantage in any respect whatever.

Failure to transport passengers or freight.

(b) Every railroad or express company which shall wilfully fail or refuse under such regulations as may be prescribed by the Commission to receive and transport without delay or discrimination, the passengers, tonnage and cars, loaded or empty, of any connecting line of railroad and every railroad, which shall, under such regulations as may be prescribed by the Commission wilfully fail and refuse to transport and deliver without delay or discrimination any passengers, tonnage or cars, loaded or empty, destined to any point on or over the line of any connecting line of railroad shall be deemed guilty of unjust discrimination: *Provided*, Perishable freight of all kinds and livestock shall have precedence of shipment.

Long and short haul.

(c) It shall be unjust discrimination for any railroad or express company subject hereto to charge or receive any greater compensation in the aggregate for the transportation of like kind of property or passengers for a shorter than for a longer distance over the same line: *Provided*, That upon application to the Commission any railroad or express company may in special cases, to prevent manifest injury, be authorized by the Commission to charge less for longer than for shorter distances for transporting persons and property, and the Commission shall from time to time prescribe the extent to which such designated railroad or express company may be relieved from the operations of this provision: *Provided*, That no manifest injustice shall be imposed upon any citizen at intermediate points.

(d) Any railroad or express company violating any provisions of this section shall be deemed guilty of unjust discrimination and shall for each offense pay to the State of Washington a penalty of not less than one hundred dollars nor more than two thousand dollars.

Penalty for violation of section.

(e) Nothing herein shall prevent the carriage, storage or handling of freight free or at reduced rates for the State, or for any city, county or town government, or for charitable purposes, or to and from fairs and expositions for exhibition thereof, or the free carriage of destitute and indigent persons, or the issuance of mileage or excursion passenger tickets, nor to prevent railroads from giving free or reduced transportation to ministers of religion, or the inmates of hospitals, eleemosynary and charitable institutions, State National Guard or Militia when on official duty, and students going to and returning from institutions of learning within the State; and nothing herein shall be construed to prevent railroads from giving free transportation to any railroad officer, agents, employes, attorneys, stockholders or directors, and to employes' families, and to ex-employes in search of employment and to injured employes and their families, and the families of employes killed in railroad service: *Provided*, Such carriage may extend to employes' household goods and personal effects.

Reduced rates—State and municipalities, Charitable purposes, etc.

Employes.

(f) Upon any shipment of livestock or other property of such nature as to require the care of an attendant the railroad company may furnish to the shipper or to some person or persons designated by him free transportation for such attendant or attendants, including return passage to the point at which the shipment originated: *Provided*, There shall be no discrimination with reference thereto between such shippers, and the Commission shall have power to prescribe regulations in relation thereto.

May carry persons attending livestock.

SEC. 8. Section 20 of said act shall be amended to read as follows: Sec. 20. Upon application of any person the Commission shall furnish certified copies of any classification, rates, rules, regulations or orders established by such Commission and such printed copies, published by the authority of the Commission, with seal affixed, shall be ad-

Commission to furnish copies of rates, etc.

missible in evidence in any suit, and shall be sufficient to establish the fact that any charge, rate, rule, order or classification therein contained, and which may be in issue in the trial, is the official act of the Commission. A substantial compliance with the requirements of this act shall be sufficient to give effect to all classifications, rates, charges, rules, regulations, requirements and orders established by the Commission, and none of them shall be declared inoperative for any omission of a technical matter in the performance of such act: *Provided, however,* That when copies of any classification, rates, rules, regulations or orders not contained in the printed reports, or copies of papers, accounts or records of railroads filed with the Commission shall be demanded from the Commission for private use, the Commission is hereby authorized and directed to charge a reasonable compensation therefor from the persons to whom the same is furnished. All moneys received for such copies shall be, by the Secretary of the Commission, paid over to the State Treasurer, taking his receipt therefor.

Definitions. SEC. 9. Section 22 of said act shall be amended to read as follows: Sec. 22. The term "road," "railroad," "railroad companies," "railroad corporations," as used herein, shall be taken to mean and embrace all corporations, companies, individuals and associations of individuals, their lessees or receivers, owning or operating any railroad or part of railroad in this State: *Provided, however,* That the provisions of this act shall not apply to street railroads. "Express companies" shall mean all such corporations, companies and association of individuals, their lessees or receivers as shall do the business of express companies on any railroad in this State. "Demurrage" as used in this act shall be defined as a charge or penalty to be paid to a railroad by a shipper for delay after a reasonable time in loading a car or cars delivered to him for loading by the railroad; or to be paid by a consignee for delay on his part to unload a car or cars within a reasonable time after delivery to him. "Reciprocal demurrage," as used herein, shall be defined as a charge or penalty to

be paid the shipper by the railroad company for delay in furnishing, after a reasonable time after demand, any car or cars or facilities for shipment of freight, or for delay by the railroad company in promptly transporting and delivering to the consignee any freight received by it for delivery.

SEC. 10. There shall be added to said act to be designated as section 28 the following: Sec. 28. The Commission is hereby authorized and directed to investigate all accidents that may occur upon any railroad operating in this State resulting in loss of life to any passenger or employe. Said Commission is hereby authorized to administer oaths and examine such witnesses as it may deem necessary and proper to thoroughly ascertain the cause and for the purpose of fixing the responsibility therefor. Such examination and investigation may be made by the Commission or any one of the Commissioners, or the same may be made by its inspector of tracks and equipment, and such inspector shall have the right to administer oaths and examine witnesses in case the investigation is made by him. The Commission shall report to the Governor from time to time the result of all such investigations.

Commis-
sion to in-
vestigate
accidents.

SEC. 11. There shall be added to said act to be designated as section 29 the following: Sec. 29. Every railroad now or hereafter doing business in this State shall keep subject to the inspection of any *bona fide* shipper a book or books known as "car distributing book," which shall be kept by such officer or officers, employe or employes of such railroad, and in such manner and form as the Commission may direct, showing among other things all orders for cars received by such railroad company, the name of the person so ordering, and the time and place where such cars are required, and the time and place such cars were supplied, and such other matters and information as the Commission may prescribe. Any officer or employe designated by the Commission to keep such book or any officer or employe having control thereof who shall wilfully refuse to any *bona fide* shipper inspection of such book, when proper and reasonable demand for such inspection has been

Car distrib-
uting books.

seasonably made, shall be guilty of a misdemeanor, upon conviction thereof, and shall be fined in a sum not exceeding one hundred dollars, or imprisoned not to exceed thirty days, or shall be both fined and imprisoned, in the discretion of the court.

Appoint-
ment of
Commis-
sioners.

SEC. 12. There shall be added to said act to be designated as section 30 the following: Sec. 30. The Commissioners under this act appointed by the Governor shall be confirmed or approved by the Senate.

Unlawful
to use de-
fective roll-
ing stock,
etc.

SEC. 13. There shall be added to said act to be designated as section 31 the following: Sec. 31. It shall be unlawful for any railroad or railway corporation or company owning and operating, or operating, or that may hereafter own or operate, a railroad in whole or in part in this State to knowingly or negligently use or operate any car, tender or locomotive, that is defective, or any car or locomotive upon which the machinery or attachments thereto belonging are in any manner defective, or to knowingly operate its train over any defective or dangerous track, bridge or structure.

Automatic
couplers.

SEC. 14. There shall be added to said act to be designated as section 32 the following: Sec. 32. That every railroad corporation owning or operating a railroad or part of a railroad in this State shall on or before the first day of January, 1908, equip and furnish all cars owned or leased and used by it in its service in this State with automatic couplers, coupling automatically, which can be coupled and uncoupled without the necessity of men going between the ends of the cars, and shall equip, furnish and operate all cars in its passenger service, and not less than 80 per cent. of such cars in its freight service with perfectly acting air brakes, and also with good and sufficient hand brakes, and in such a manner as to enable the engineer under ordinary conditions to control the speed of the train without the use of hand brakes, and no freight train shall after such date be run by any such railroad corporation over any part of its road lying within this State, unless the cars composing such freight train are so furnished and equipped. All freight cars shall be equipped

Air-brakes.

and provided with proper grab-irons, ladders and stirrups, securely bolted on so as to enable the employes to climb upon and off such cars with safety: *Provided, however,* That this section shall not apply to boarding and outfit cars when moved as work trains, or to trains consisting wholly of logging trucks and a passenger car or caboose, or to freight trains consisting of not to exceed fifty per cent. of logging trucks.

Grab irons,
ladders and
stirrups.

SEC. 15. There shall be added to said act to be designated as section 33 the following: Sec. 33. An inspector of safety appliances and tracks, bridges and structures shall be appointed by the Railroad Commission of Washington, at a salary of not to exceed two thousand dollars per annum. Such inspector shall not be an officer of any railroad operating in this State, nor shall he be interested, directly or indirectly, in the stock or bonds of any railroad company, and he shall have had at least seven years actual experience in the operating department of some railroad. Before entering on his duties, the said inspector shall give a bond to the State of Washington in the sum of five thousand dollars secured by a bond and security company acceptable to the Railroad Commission conditioned for the faithful performance of his duties, and shall make and file an affidavit that he is not an officer or director of any railroad company, and is not directly or indirectly interested in the stock or bonds of any railroad company, and such other facts as are required of employes of the State.

Inspector
of safety
appliances,
etc.

Salary.

Bond.

SEC. 16. There shall be added to said act to be designated as section 34 the following: Sec. 34. It shall be the duty of the inspector to inspect the couplers, air brakes and automatic power brakes found on the cars and engines, and the grab-irons, ladders, stirrups and hand brakes on all freight cars of any railroad in Washington, and make such report of his inspection to the Railroad Commission as it may order and require, reporting all cars, tenders and engines, giving the number of the same, the road on which they are found and the road owning same if known which is found to have a defective coupler, brake

Duty of In-
spector.

or other defect rendering the operation thereof in any way dangerous, particularly describing such defects. He shall on discovering a defective coupler, brake or other defect rendering the use of such car, tender or engine dangerous immediately report the same to the superintendent of the road on which it is found and to the agent thereof at the nearest station, describing the defect. Such inspector may, on the discovery of the defective coupler, brake or other defect rendering the use of such car, tender or engine dangerous condemn such car, tender or engine, and order the same out of service until repaired and put in good working order. He shall in addition thereto inspect the tracks, bridges, and structures of all lines of railroad operating in this State, and in case he finds such track, bridge or structure defective or unsafe in any particular, he shall report such condition to the Railroad Commission and in addition thereto shall report the same to the divisional superintendent of such railroad. In case any track is found so defective as to be dangerous to the employes or traveling public for a train or trains to be operated over the same, the inspector is hereby authorized to condemn such track, bridge, or structure, and notify the Railroad Commission and the railroad divisional superintendent of such road of his action concerning the same, reporting in detail the defects complained of, and the work and improvements necessary to be done to repair such defects. He shall also report to the Railroad Commission of Washington the violation of any law governing, controlling or affecting the conduct of railroads within this State. Such inspector shall have the right and privilege of riding upon any engine either on passenger or freight trains, or on caboose of freight train for the purpose of inspecting the track of any road in this State: *Provided*, That the engineer or conductor in charge of any such engine or caboose may require such inspector to produce his authority under the seal of the Railroad Commission of Washington showing that he is such inspector. The inspector shall be an employe of the Railroad Commission of Washington, and he shall perform in addition to the duties above described

such other and further duties as the Commission may require of him.

SEC. 17. There shall be added to said act to be designated as section 35 the following: Sec. 35. Whenever the Railroad Commission of Washington has reasonable grounds to believe either on complaint made to it or otherwise that any of the tracks, bridges or other structures of any railroads in this State, or the couplers, air brakes, or automatic power brakes of any cars, tenders and engines, or the grab-irons, ladders, and stirrups of any freight car used in this State are in a condition which renders them or any of them dangerous or unfit for the transportation of passengers or the carrying of freight, it shall forthwith cause the same to be inspected and examined, and if on such examination of said Commission or its inspector or agents it is of the opinion that any such tracks, bridges, structures, cars, tenders or engines are unfit for the transportation of passengers and freight with safety, it shall immediately give to the superintendent or other executive officer of the company operating such road notice of the condition thereof and of the repairs or reconstruction necessary to place the same in a safe condition, and it may also prescribe the rate of speed for trains passing over such dangerous or defective track, bridge or other structure until the repairs or reconstruction required are made, and may also prescribe the time within which such repairs or reconstructions must be made, or if in its opinion it is needful or proper, it may forbid the running of passenger trains over such defective track, bridge or structure until such repairs are made. If any superintendent or other executive officer receiving such notice and order neglects for two days after receiving the same to direct the proper subordinate officer to run the trains over such defective track, bridge or other structure at a speed not greater than that so prescribed, or if the running of such trains is forbidden, then to stop running trains over the same, or if any engineer, conductor or other employe knowingly disobeys such order, every superintendent, officer, engineer, conductor or employe so offending shall be

Commission shall cause inspection to be made, when.

Notice to company of defects.

Penalty for failure to comply with notice.

fined in any sum not exceeding five hundred dollars, or be imprisoned for any period not exceeding one year, or both, at the discretion of the court; and the company operating such road, if it neglects or without good cause fails to make the repairs or reconstruction prescribed by the Commission in the time limited shall for each day that such repair or reconstruction is delayed beyond the time prescribed, forfeit and pay to the State the sum of one hundred dollars, to be recovered in the same manner that other penalties are recovered by the State against railroad companies by the act providing for the appointment of the Railroad Commission, and defining its duties and powers, being chapter 81 of the Session Laws of Washington for the year 1905.

Defective
appliances
shall be
repaired.

SEC. 18. There shall be added to said act to be designated as section 36 the following: Sec. 36. Any railroad whose superintendent, officer or agent shall receive such notice of a defective coupler, brake or other defect rendering the use of such car, tender or engine dangerous shall cause the same to be immediately repaired. On receiving from the inspector an order condemning any car, tender or engine, the employes of the road in charge of said car, tender or engine shall put the same out of service at the first freight divisional terminal, or, in case the inspector so orders, at the first station reached. Any railroad whose superintendent, officer or agent shall receive notice of a defect in the track, or any bridge or other structure, shall cause the same to be immediately repaired and on receiving from the Commission an order condemning the track, bridge or structure, no train excepting for the purpose of repairing shall be run over the same until the defects pointed out are remedied and repaired.

Monthly
report of
collisions,
etc.

SEC. 19. There shall be added to said act to be designated as section 37 the following: Sec. 37. It shall be the duty of the general manager, superintendent or other proper officer of every railroad operating in this State to make to the Railroad Commission of Washington at its office a monthly report under oath of all the collisions of trains, or where any train or part of a train accidentally

leaves the track, and of all accidents which may occur to its passengers or employes while in the service of such road and actually on duty, which report shall state the nature and cause thereof and the circumstances connected therewith: *Provided, however,* That neither said report nor any part thereof shall be admitted as evidence or used for any purpose against such railroad so making such report in any suit or action for damages growing out of any matter mentioned in said report; that the Railroad Commission of Washington is hereby authorized to prescribe for such railroad a method and form for making the reports in this section provided.

SEC. 20. There shall be added to said act to be designated as section 38 the following: Sec. 38. Any rail- Penalty.
road, divisional superintendent, agent, officer or employe of any railroad operating in this State who shall wilfully and knowingly violate any of the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined in any sum not exceeding five hundred dollars.

SEC. 21. There shall be added to said act to be designated as section 39 the following: Sec. 39. An emergency Emergency.
exists and this act shall take effect immediately.

Passed the House March 8th, 1907.

Passed the Senate March 8th, 1907.

Approved by the Governor March 16th, 1907.