

CHAPTER 221

MOTOR VEHICLE TRANSPORTATION FOR HIRE; COMMON CARRIERS;
CONTRACT CARRIERS

221.01 MEANING OF TERMS USED.

HISTORY. 1925 c. 185 s. 1; M.S. 1927 s. 5015-1.

Appellant carried mail between Hibbing and Grand Rapids under a contract with the post-office department to make one trip daily each way. He carried passengers on these trips and also made additional daily trips to carry passengers only. He made an application to the commission for certificate authorizing him to transport passengers by motor vehicle between Hibbing and Grand Rapids. The commission made an order authorizing him to carry passengers on the trips when he carried mail but on no other trips. On appeal to the district court and again on appeal to the supreme court, the order of the commission was affirmed. *State v Lefebvre*, 172 M 601, 215 NW 188.

This statute is constitutional and valid. *State v Lefebvre*, 174 M 248, 219 NW 167.

Carrier by motor cannot claim exemption from the statute because he was carrying mail on a federal highway prior to the passage of the act. *State v Lefebvre*, 174 M 248, 219 NW 167.

Inasmuch as the order of the commission appealed from in this case does not affect bus service in the county of Hennepin, the attempted appeal to the district court of Hennepin County was without effect and conferred no jurisdiction. *State ex rel v District Court*, 179 M 90, 228 NW 444.

At common law there is a public right to operate a motor bus on the public streets for the transportation of passengers for hire. The City of St. Paul may impose regulations upon a common carrier and may compel its acceptance of a franchise as a condition to use its streets. The city charter providing for the payment of "a license fee in a sum equal to at least five per cent of the gross earnings" is construed as vesting in the city council the power to fix the license fee, the charter not being self executing. *City of St. Paul v Twin City Motor Bus Co.* 187 M 212, 245 NW 33; 189 M 612, 250 NW 572.

The commission on its own motion instituted the proceedings, and hence the appeal from its order may properly be taken to the district court of Washington County, it being one of the counties wherein appellant was ordered to cease transportation operations. If the proceeding had been based upon a verified complaint, the appeal from the order of the commission must go to the district court of the county of the person's residence. *Murphy v Weiss*, 191 M 49, 253 NW 1.

A cooperative association formed to engage in the transportation of goods of its members is subject to regulation and control of the commission. *North Shore Fish Co. v North Shore Business Men's Assn.* 195 M 336, 263 NW 98.

The evidence sustains the findings of the trial court that defendant's transportation of freight by truck between the Twin Cities and Superior, Wisconsin, was transportation in interstate commerce, and the selection of the route was not a subterfuge to evade regulation by the commission. *Murphy v Weiss*, 197 M 473, 267 NW 495.

The application of a railroad to the commission for a certificate of public convenience and necessity stands upon the same basis as that of any other applicant; whether a proposed certificate for carrier service is required by public convenience and necessity is a fact question for the commission; and while the commission was guided in its findings by the applicable rules of law and its findings are supported by the evidence, its order is not unlawful nor unreasonable. *State ex rel v M. & St. L. R. Co.* 209 M 564, 297 NW 189.

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The power of the City of Minneapolis extends to the care and control of its streets, and it may regulate or exclude the carrying on of a transportation business thereon for private gain, or grant the privilege to some and exclude others, in harmony with its judgment of public convenience and necessity. *State v Palmer*, 212 M 388, 3 NW(2d) 666.

A bill to enjoin the state railroad commission from requiring transportation company to secure a certificate of public convenience under the state statute is not within the jurisdiction of the federal court. *Madden Bros. v Railroad and Warehouse Commission*, 43 F(2d) 236.

Minnesota railroad commission need not order a person to cease and desist violating the statute before beginning prosecution for operating a transportation company without a certificate. *Madden Bros. v Railroad & Warehouse Commission*, 43 F(2d) 236.

221.02 DEFINITIONS.

HISTORY. 1925 c. 185 s. 2; M.S. 1927 s. 5015-2; 1933 c. 170 s. 1; 1937 c. 411 s. 1; 1937 c. 431 s. 3; 1939 c. 433; M. Supp. ss. 5015-20, 5015-47; 1943 c. 100 s. 1, 1943 c. 225.

The Boyd Transfer & Storage Company hauls household goods from Minneapolis to other points within a radius of 600 miles. It does not operate according to schedule. The routes and termini of its hauls are not predetermined by plan or custom. They are wholly subservient to occasion and its constantly varying requirements. It is not subject to Laws 1925, Chapter 185. *State v Boyd Transfer*, 168 M 190, 209 NW 872.

The state has control of its public highways and may constitutionally prohibit intrastate common carriers by motor vehicle from carrying on business thereon unless they obtain from the commission a certificate of convenience and necessity as provided by this section. *State v Lefebvre*, 174 M 248, 219 NW 167.

The statute will not be construed so as to render it unconstitutional when it is open to a construction which is fair, reasonable, and wholly consistent with the constitution. *North Shore Fish v North Shore Trucking Assn.* 195 M 336, 263 NW 98.

Prior to July 1, 1933, when Laws 1933, Chapter 170, went into effect the commission had no power or authority to issue the so-called "cease and desist" order here involved. *Murphy v Weiss*, 197 M 473, 267 NW 495.

The supreme court will not interfere with the practice or procedure of the commission unless contrary to statutory direction. In this case the insufficiency of the findings of the commission and of the trial court is not available, for appellant did not request either one to make the findings more specific or to find upon any certain issue. The evidence it held sustains the findings that the orders of the commission appealed from were lawful and reasonable. *Chicago & Northwestern v Verschlingel*, 197 M 580, 268 NW 2, 709.

A motor carrier engaged in transportation by motor vehicle over the public highways between designated depots, stations, and sidings of freight tendered to it by a railroad, whose operation is authorized only under a certificate of public convenience and necessity under Laws 1925, Chapter 185, is not authorized either as a contract or common carrier under Laws 1933, Chapter 170. *State v Rock Island*, 209 M 105, 295 NW 519.

Under a rule that "a statute is unconstitutional for indubtedness if it requires or forbids in terms so vague that men of common intelligence must guess at its meaning and differ as to its application", that portion of Minnesota Statutes 1941, Section 221.02, Subdivision 13, providing "The terms 'common carrier' and 'contract carrier' shall not apply to any person engaged in the business of operating motor vehicles in the transportation of property exclusively within the zone circumscribed by a line running parallel to the corporate limits of any city or village or contiguous cities and/or villages and 35 miles distant therefrom when such person resides within the zone" is unconstitutional and void for vagueness. *Anderson v Burnquist*, 216 M 49, 11 NW(2d) 776.

Congress in enacting the agricultural marketing act, intended to recognize that a cooperative association and a federation of cooperative associations could

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be in the transportation business for hire as a contract carrier and be exempt from the control of the interstate commerce commission except in certain particulars. If a cooperative is predominantly engaged in one or more of the activities specified in the agricultural marketing act and if its business with non-members is in an amount not greater in value than the total amount of business it transacts with its own members, such association does not lose its fundamental character as a cooperative. *Interstate Commerce v Jamestown Union*, 57 F. Supp. 749.

When and if a trucker goes outside of his classification and into another classification, he must be licensed for the other classification. 1934 OAG 721, Nov. 6, 1933 (633c-3).

The commission in its judgment may accept certificates in lieu of certain insurance policies. 1934 OAG 724, Oct. 3, 1933 (371b).

Sale of trucks by a baking company to its employees under contract limiting purchase and sale of goods to those of the baking company does not relieve the trucks from the jurisdiction of the commission. OAG Oct. 19, 1933.

A traveling salesman using his own truck and making deliveries on a commission basis, being paid both for selling and delivery, is a contract carrier and must have a permit. 1936 OAG 24, May 21, 1935 (632a).

Effect of the commerce clause of the United States Constitution on state regulation of motor vehicles operating as a common carrier. 11 MLR 157.

221.03 OPERATION BY AUTO TRANSPORTATION COMPANIES ONLY AS PROVIDED.

HISTORY. 1925 c. 185 c. 3; M.S. 1927 s. 5015-3.

This act does not apply to wholesalers who deliver their merchandise to their retail customers with their own trucks making a small charge for transportation but less than those fixed by the commission. 1934 OAG 726, July 27, 1933 (371b-1).

221.04 CERTAIN POWERS OF COMMISSION.

HISTORY. 1925 c. 185 s. 4; MS. 1927 s. 5015-4; 1943 c. 100 s. 2.

The trial court properly directed a verdict for the defendant bus company because there was no evidence of negligence either in the handling of the passengers or in the construction of the waiting platform. *Shepley v Minneapolis Motor Bus Terminal Co.* 180 M 84, 230 NW 264.

This section, giving the commission authority to require the maintenance of suitable depots, does not oust a city or village of jurisdiction to enjoin the maintenance of a depot if same constitutes a nuisance. *Wadena v Folkestad*, 194 M 146, 260 NW 221.

Where the commission granted a certificate of necessity and convenience to operators of trucks, which order was confirmed by the trial court, the appellant railway companies, having failed to request specific findings or to find upon certain issues, may not raise the question of insufficiency of findings on appeal. *Chic. & N. W. v Verschingel*, 197 M 580, 268 NW 2.

An order directing a carrier to cease operation until securing certificate of public convenience exceeds the power of the railroad commission. *Madden Bros. v Railroad & Warehouse Commission*, 43 F(2d) 236.

Consignors and consignees may obtain protection in addition to that provided by sections 221.04 and 221.10 only by paying the cost thereof themselves. 1934 OAG 720, March 21, 1933 (371b-1).

The commission may impose a lesser remedy than suspension or revocation of certificate. OAG June 17, 1935 (371b-1).

One obtaining a permit may lease equipment only with the consent of the commission. OAG Nov. 6, 1935 (371b-6).

Truck terminals are under the jurisdiction of the commission. OAG March 3, 1936 (371b-4).

Where a contract carrier makes a proper application and fully complies with all statutory provisions and general orders of the commission, the commission must issue a permit allowing him to lease equipment. OAG April 23, 1936 (632a-24).

221.05 CERTIFICATES FOR OPERATION.

HISTORY. 1925 c. 185 s. 5; M.S. 1927 s. 5015-5.

This statute does not apply to interstate commerce nor does it assume to make a carrier for hire a common carrier against its will. The carrier must be a common carrier in fact. *State v Lefebvre*, 274 M 248, 219 NW 167.

A motor carrier engaged in transportation by motor vehicle between designated depots, stations, and sidings of freight tendered to it by a railway company is a common carrier between fixed termini or over a regular route whose operation is authorized only under a certificate of public convenience and necessity. *State v Rock Island*, 209 M 105, 295 NW 519.

Effect of the commerce clause of the United States Constitution on state regulation of motor vehicles operating as common carriers. 11 MLR 158.

221.06 HEARINGS ON PETITIONS FOR CERTIFICATES.

HISTORY. 1925 c. 185 s. 6; M.S. 1927 s. 5015-6.

The supreme court will not interfere with the practice or procedure of the commission unless the act of the commission is contrary to statutory authority. *Chic. & N. W. v Verschingel*, 197 M 580, 268 NW 2.

Preliminary expenses incurred by village in the way of research and survey in order to lay the foundation before the commission to obtain better bus service are deemed to have been incurred for a public purpose. OAG April 5, 1944 (476b-1).

221.07 CERTIFICATES FROM COMMISSIONER OF HIGHWAYS TO ACCOMPANY PETITIONS.

HISTORY. 1925 c. 185 s. 7; M.S. 1927 s. 5015-7.

221.08 CERTIFICATES; WHEN GRANTED.

HISTORY. 1925 c. 185 s. 8; M.S. 1927 s. 5015-8.

Madden Bros. v Railroad & Warehouse Commission, 43 F(2d) 236.

Railroads, as competitors of a motor carrier which had been granted a certificate, and who had been protestants before the commission may maintain an action to set aside the order of the commission. The court however cannot concern itself with the question of the correctness of the commission's finding, but only with the power of the commission to make the finding. *Chicago, St. Paul v United States*, 50 F. Supp. 249.

Effect of the commerce clause of the United States Constitution on state regulation of motor vehicles operating as common carriers. 11 MLR 158.

221.09 TRANSFER OF CERTIFICATES.

HISTORY. 1925 c. 185 s. 9; M.S. 1927 s. 5015-9.

Where an individual operating a transportation company forms a corporation, he cannot transfer his certificate of public convenience to the corporation except upon permission of the commission and payment of the statutory fee. OAG May 6, 1931.

221.10 BONDS OF TRANSPORTATION COMPANIES; INDEMNITY INSURANCE.

HISTORY. 1925 c. 185 s. 11; M.S. 1927 s. 5015-11.

Although the state is named as obligee on the bond, it must be understood to be so named for itself and those entitled by statute to maintain an action on the required bond. A statute gives a right of action to a person injured by the defective work of a master electrician licensed under the bond written by defendant. *Graybar v St. Paul Mercury*, 208 M 478, 294 NW 654.

The "grandfather clause" of the interstate commerce act contemplates that the motor carrier should retain place in the national transportation system which he

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occupied on June 1, 1935, and that rights granted to continue operations without proof of public convenience and necessity should equal if not exceed actual service being rendered by him on such date. *Chicago, St. Paul v United States*, 50 F. Supp. 249.

In addition to the protection afforded by sections 221.04 and 221.10 the consignors and consignees may obtain additional protection only by paying the cost thereof themselves. 1934 OAG 720, March 21, 1933 (371b-1).

The commission may accept a certificate certifying that the bond has been purchased in lieu of the bond or a copy thereof. 1934 OAG 724, Oct. 3, 1933 (371b-1).

The commission may accept a bond covering injuries and damages to persons or property in lieu of regular insurance policies. OAG Oct. 7, 1936 (371b-1).

221.11 LAWS APPLICABLE.

HISTORY. 1925 c. 185 s. 12; M.S. 1927 s. 5015-12.

In regard to appeals this section is construed to apply only to original actions or proceedings in the district court and not to appeals from orders of the commission. *State ex rel v District Court*, 179 M 90, 228 NW 444.

To become a complainant under this section so as to have an appeal from the commission's order go to the district court of the county of the person's residence, a verified complaint with parties designated as required by sections 216.13 and 216.19 must be filed with the commission. *Murphy v Weiss*, 191 M 49, 253 NW 1.

221.12 INTERSTATE COMMERCE EXCEPTED.

HISTORY. 1925 c. 185 s. 14; M.S. 1927 s. 5015-14.

This statute is valid and constitutional. *State v Lefebvre*, 174 M 248; 219 NW 167.

Carriers; constitutional law. 11 MLR 161.

221.13 FILING FEES.

HISTORY. 1925 c. 185 s. 15; M.S. 1927 s. 5015-15.

221.14 SUBSEQUENT APPLICATIONS FOR CERTIFICATES.

HISTORY. 1925 c. 185 s. 17; M.S. 1927 s. 5015-17.

221.15 NOT TO AFFECT CHARTER LIMITATIONS.

HISTORY. 1925 c. 185 s. 18; M.S. 1927 s. 5015-18; 1929 c. 154 s. 1; M. Supp. s. 5015-18; 1943 c. 434 s. 1.

Plaintiff city may impose regulations upon a common carrier operating motor buses upon its streets for the transportation of passengers for hire; and may compel its acceptance of a franchise as a condition to use its streets. *City of St. Paul v Twin City Motor Bus*, 187 M 212, 245 NW 33.

The City of St. Paul under its charter has authority to require persons or corporations operating motor buses upon streets for carrying passengers for hire as common carriers to first obtain a license or franchise from the city council. *City of St. Paul v Twin City Motor Bus Co.* 189 M 612, 250 NW 572.

The power of the city of Minneapolis extends to the care and control of its streets and it may regulate and even exclude the carrying on of a transportation business thereon for private gain, or grant the privilege to some and exclude others, in harmony with its judgment of public convenience and necessity; and this includes companies transporting passengers from points without the city to points within the city and vice versa. *State v Palmer*, 212 M 388, 3 NW(2d) 666.

221.16 NO VESTED RIGHTS.

HISTORY. 1925 c. 185 s. 19; M.S. 1927 s. 5015-19.

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221.17 PENALTIES.

HISTORY. 1925 c. 185 s. 13; M.S. 1927 s. 5015-13.

221.175 TEMPORARY CERTIFICATES OF PUBLIC CONVENIENCE.

HISTORY. 1943 c. 210 s. 1.

221.18 PERMITS; COMMISSION TO REGULATE AND SUPERVISE TRUCKS.

HISTORY. 1933 c. 170 s. 2; M. Supp. s. 5015-21; 1943 c. 210 s. 2.

Laws 1933, Chapter 170, section 221.18 et seq., has for its object and purpose the regulation of public and contract carriers. *North Shore Fish v North Shore Trucking*, 195 M 336, 263 NW 98.

The legislature may impose on motor vehicles engaged in interstate commerce a reasonable charge as a fair contribution to the cost of constructing and maintaining the public highways they use. *Murphy v Weiss*, 197 M 473, 267 NW 495.

Public policy permits the recovery by a contract carrier by motor vehicle who is subject to the provisions of section 221.18 et seq. of the rates prescribed by the railroad and warehouse commission notwithstanding an agreement between the carrier and the shipper agreeing to transport at a lower rate. The agreement does not estop the carrier. The prescribed minimum should be read into the contract. *Johnston v Hartz*, 202 M 132, 277 NW 414.

221.19 PERMITS REQUIRED.

HISTORY. 1933 c. 170 s. 3; M. Supp. s. 5015-22.

221.20 PETITIONS TO BE FILED WITH COMMISSION.

HISTORY. 1933 c. 170 s. 4; M. Supp. s. 5015-23; 1943 c. 210 s. 3.

On motion to dismiss certain appeals it is held that parties of record in a proceeding before the commission, in which they fully participated by consent and without objection, who upon appeal from the commission to the district court were notified to appear and did appear, will be heard in the supreme court along with other parties whose appeals are not included in the motion to dismiss. *State v Rock Island*, 209 M 105, 295 NW 519.

221.21 FEES OF APPLICANTS.

HISTORY. 1933 c. 170 s. 5; 1937 c. 411 s. 2; M. Supp. s. 5015-24; 1943 c. 210 s. 4.

Tractor and semi-trailer are two separate units and a fee of \$7.50 should be assessed against each. OAG Dec. 4, 1936 (371h-1).

221.22 BONDS OF APPLICANTS.

HISTORY. 1933 c. 170 s. 6; M. Supp. s. 5015-25.

Discontinuance of trucking service after application and before the permit could be issued does not entitle the applicant to a refund of the filing fees. 1934 OAG 722, Dec. 4, 1933 (371b-1).

221.23 PERMITS NOT TRANSFERABLE.

HISTORY. 1933 c. 170 s. 7; M. Supp. s. 5015-26.

221.24 COMPENSATION OF CARRIERS TO BE FIXED BY COMMISSION.

HISTORY. 1933 c. 170 s. 8; M. Supp. s. 5015-27.

A contract carrier who agrees to carry at a lower rate than that prescribed by the commission is not estopped by his agreement from collecting the prescribed minimum. *Johnston v Hartz*, 202 M 132, 277 NW 414.

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221.25 NOT TO TRANSPORT OWN PROPERTY; EXCEPTIONS.

HISTORY. 1933 c. 170 s. 9; M. Supp. s. 5015-28.

A permit operator with headquarters at Mankato cannot go into northern Minnesota and bring down a truck load of merchandise of which he is the owner and deliver directly to customers in or near Mankato. 1934 OAG 725, April 20, 1934 (633e).

Where wholesalers deliver directly to their retail customers charging a small transportation charge, they are probably not subject to Laws 1925, Chapter 185, or Laws 1933, Chapter 170, and it is doubtful if they can be classified as "contract carriers". 1934 OAG 726, July 27, 1933 (371b-1).

221.26 POWERS OF COMMISSION; COMMON CARRIERS.

HISTORY. 1933 c. 170 s. 10; M. Supp. s. 5015-29.

221.27 PERMITS FOR COMMON CARRIERS.

HISTORY. 1933 c. 170 s. 11; M. Supp. s. 5015-30; 1943 c. 210 s. 5.

221.28 PERMITS; INTERSTATE CARRIERS; COMMISSION TO ISSUE.

HISTORY. 1933 c. 170 s. 12; M. Supp. s. 5015-31.

221.29 PERMITS MUST BE SECURED.

HISTORY. 1933 c. 170 s. 13; 1937 c. 411 s. 3; M. Supp. s. 5015-32; 1943 c. 210 s. 6.

221.30 POWERS OF COMMISSION TO REFUSE PERMITS.

HISTORY. 1933 c. 170 s. 14; M. Supp. s. 5015-33.

221.31 TRUCKS MUST BE CLEANED BEFORE CARRYING FOOD STUFFS.

HISTORY. 1933 c. 170 s. 15; M. Supp. s. 5015-34.

221.32 COMMISSION TO FIX HOURS OF SERVICE.

HISTORY. 1933 c. 170 s. 16; M. Supp. s. 5015-35.

221.33 OATH AND BOND OF INSPECTORS.

HISTORY. 1933 c. 170 s. 18; 1937 c. 411 s. 4; M. Supp. s. 5015-37.

Inspectors have no authority to arrest for violation of this act. OAG June 22, 1933.

221.34 APPEALS.

HISTORY. 1933 c. 170 s. 19; M. Supp. s. 5015-38.

Right of appeal. *State v Rock Island Motor*, 209 M 105, 205 NW 519.

221.35 PERMIT CARRIERS; MAY NOT TRANSPORT PERSONS.

HISTORY. 1933 c. 170 s. 20; M. Supp. s. 5015-39.

221.36 VIOLATIONS; COMPLAINTS; HEARINGS.

HISTORY. 1933 c. 170 s. 17; M. Supp. s. 5015-36; 1943 c. 210 s. 7.

Prior to July 1, 1933, the commission had no authority to issue "cease and desist" orders. *Murphy v Weiss*, 197 M 473, 267 NW 495.

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221.37 VIOLATION A MISDEMEANOR.

HISTORY. 1933 c. 170 s. 21; M. Supp. s. 5015-40.

In the absence of agreement by charter or otherwise fines prescribed in this act are to be paid into the county treasury. OAG Dec. 18, 1933.

Fines are to be paid to the county treasurer and not credited to the railroad and warehouse commission fund. OAG Dec. 15, 1936 (360h-6).

221.38 MONEYS TO BE PAID INTO STATE TREASURY.

HISTORY. 1933 c. 170 s. 23; 1933 c. 397 s. 1; M. Supp. s. 5015-42.

221.39 CONTRACT OR COMMON CARRIER; BUSINESS DECLARED TO BE OF PUBLIC INTEREST.

HISTORY. 1933 c. 170 s. 24; M. Supp. s. 5015-43.

221.40 DUTIES OF COMMISSION IN OPERATION OF COMMERCIAL MOTOR VEHICLES.

HISTORY. 1937 c. 431 s. 1; M. Supp. s. 5015-45; 1943 c. 225.

Sections 221.40, 221.41, and 221.43 to 221.46 are suspended until 60 days after the cessation of the present emergency now declared to exist by reason of the hostilities engaged in by the United States with foreign powers as may be declared by competent federal authority. Laws 1943, Chapter 225.

221.41 STATUTES TO APPLY TO INTERSTATE VEHICLES.

HISTORY. 1937 c. 431 s. 2; M. Supp. s. 5015-46; 1943 c. 225.

221.42 CERTAIN VEHICLES NOT TO OPERATE NEAR CITIES.

HISTORY. 1937 c. 431 s. 4; M. Supp. s. 5015-48; 1943 c. 225.

221.43 SAFETY MEASURE.

HISTORY. 1937 c. 431 s. 5; M. Supp. s. 5015-49; 1943 c. 225.

221.44 APPLICATION FOR PERMISSION TO OPERATE IN CERTAIN MONTHS.

HISTORY. 1937 c. 431 s. 6; M. Supp. s. 5015-50; 1943 c. 225.

221.45 MUST SUBMIT TO INSPECTION.

HISTORY. 1937 c. 431 s. 7; M. Supp. s. 5015-51; 1943 c. 225.

Police officers should not break the seal of a sealed cargo but may require a demonstration that the contents are under exempted clauses and may hold the vehicle from further movement until the demonstration is made. OAG Aug. 19, 1938 (632a-24).

221.46 VIOLATIONS; PENALTIES.

HISTORY. 1937 c. 431 s. 8; M. Supp. s. 5015-52; 1943 c. 225.

221.465 CERTAIN RESTRICTIONS SUSPENDED.

HISTORY. 1943 c. 225 s. 1.