

CHAPTER 219

COMMON CARRIERS; RAILROADS; REGULATIONS, LIABILITIES

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NOTE: For penalties for the violation of the provisions of this chapter, see Section 235.13.

219.01 CONSTRUCTION OF RAILROADS. All steam railroads shall be of the standard gauge of four feet eight and one-half inches and substantially and safely constructed.

[R. L. s. 1992] (4728)

219.02 RAILROADS REQUIRED TO FURNISH WATER AND SANITARY DRINKING CUPS; HOLDER. Every person, company, corporation, or receiver thereof operating any railroad in the state is hereby required to provide and furnish upon every car used for the transportation of passengers within the state, without charge to the passengers, a suitable quantity of pure drinking water and a sufficient number of individual sanitary drinking cups or fountains and to provide one cup for each passenger so carried. This section shall not apply to electric suburban cars running in part on city streets.

Such cups shall be contained in a suitable holder or receptacle, which shall be placed in a convenient location in each car and kept in a sanitary condition.

[1919 c. 335 ss. 1, 2] (4724, 4725)

219.03 INTERLOCKING DEVICES. When, in the judgment of the commission it is necessary for the public safety it may require, at all railroad crossings, junctions, and drawbridges in the state, the establishment of interlocking devices or such other safety appliances as are necessary for the protection and safety of the traveling public. Where two or more railroad companies are interested, the division of the expense of installing, maintaining, and operating the interlocking plant or safety device shall be agreed upon by the respective companies required to install the same; in case they cannot agree such division shall be determined by the commission after a hearing.

[1907 c. 276 s. 1] (4729)

219.04 BLOCK SIGNAL SYSTEM; APPROVAL BY COMMISSION. The commission may require any railroad company on any part of its lines operated in this state to install and operate a "block signal system" or any other device or appliance that in its judgment will best promote the public safety. When any railroad company proposes to install in this state any interlocking plant, block signal system, or other safety appliance on any part of its system it shall first submit the plans to the commission for approval and after the same is installed, have the commission inspect same and issue a certificate before the plant is operated.

[1907 c. 276 s. 2; 1911 c. 322 s. 1] (4730)

219.05 CONSTRUCTION OF SWITCHES. In order to guard against accidental injuries to employees and others, every railroad company shall properly adjust, fill, block, and guard all its frogs, switches, and guard rails.

[R. L. s. 1993] (4732)

219.06 SIGNS AT CROSSINGS. Every railroad company shall maintain, wherever any of its lines crosses a public road, a proper and conspicuous sign indicating such crossings. Any such company failing to comply with any requirement of this section shall forfeit to the town or municipality having charge of such road \$10 for each day such failure continues.

[R. L. s. 1994] (4733)

219.07 CROSSINGS, GRADES, WIDTH IN MUNICIPALITIES. Every railroad company shall construct and maintain in good repair and free from snow or other obstruction, wherever any of its lines cross a public road, sufficient crossings, consisting of:

(1) Sufficient grades, extending the full width of the highway or that part thereof graded or used for travel, on each side of the right of way, and of such slope as may be deemed necessary by the officers having charge of the public roads;

(2) A plank covering of the same width, securely spiked, extending the full length of the ties, the planks not more than one inch apart, the flangeways between the planking and the rails not more than three inches in width, the surface of the planking on a level with the top of the rails; the flangeway edge of the plank in any such crossing hereafter built shall be suitably faced or otherwise protected with metal, and when any existing crossing is rebuilt or the flangeway planks thereof are renewed, the flangeway edge of such planks shall be similarly faced or protected by metal.

In municipalities such grades and planking shall extend the full width of the street, or of that part thereof graded or used for travel, and like planking shall be placed between all tracks which are not more than 15 feet apart, and a suitable sidewalk shall be constructed by the company to connect with and correspond to the walks constructed and installed by the municipality or by owners of abutting property, but cement or concrete construction shall not be required in track space actually occupied by the railroad ties if some substantial and suitable sidewalk material is used in lieu thereof. In case of roads newly established, such crossings shall be constructed within 30 days after the service on the nearest station agent or section foreman of such company of a notice, signed by the proper officer or officers having charge of such road, that such crossing is required.

[R. L. s. 1995; 1913 c. 78 s. 1; 1919 c. 468 s. 1; 1921 c. 152 s. 1; 1955 c. 345 s. 1] (4734)

219.08 CROSSINGS; CHANGE OF GRADE. Every railroad company in this state shall keep well planked and in a safe and passable condition every crossing over any public highway, and when any such railroad company shall have changed

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or raised the grade of its tracks at any such crossing it shall also grade the approaches on each side so as to make the approach and crossing of such tracks safe and easy for teams with loads and other vehicles.

[1911 c. 329 s. 1] (4735)

219.09 WHERE MORE THAN ONE TRACK CROSSES HIGHWAY; DUTY OF RAILROAD. When any such railroad companies have more than one track crossing such highways, it shall be unlawful to raise or maintain one such track at a higher grade than the other tracks; and it shall cause all such tracks to be raised or lowered to about the same level so as not to endanger the safe passage of teams and other vehicles over such tracks at such crossings.

[1911 c. 329 s. 2] (4736)

219.10 PENALTY FOR VIOLATION. Every railroad company who shall refuse or neglect to comply with the provisions of section 219.09 for the space of 30 days after having been notified in writing by any town or county board so to do shall be guilty of a violation of sections 219.08 to 219.12 and shall be subject to a fine of \$50 for each day thereafter that such crossing is left in such dangerous and unsafe condition and each such day shall constitute a separate offense.

[1911 c. 329 s. 3] (4737)

219.11 DUTY OF COUNTY ATTORNEY. The county attorney of any county shall have power to proceed in court for the collection of such fines, together with all costs and disbursements on the part of the town or county making such complaint, together with \$100 attorney's fees for each such prosecution.

[1911 c. 329 s. 4] (4738)

219.12 POWERS OF TOWN AND COUNTY BOARDS. If any railroad company shall refuse or neglect to provide for the grading and planking of any such crossing as provided in section 219.08, for the space of 30 days after written notice has been given such railroad company by any town or county board, such town board or county board may proceed to cause such grading and planking to be done and charge the cost of same to such railroad company and proceed to collect the same by an action at law, together with all costs and disbursements and \$100 attorney's fees.

[1911 c. 329 s. 5] (4739)

219.13 FARM CROSSING. Any railroad company constructing a railroad so as to leave parts of any farm on different sides of such road shall construct a proper farm crossing at some place convenient for such farm.

[R. L. s. 1996] (4740)

219.14 RAILROAD CROSSINGS PROTECTED. Subdivision 1. **Investigation.** The commission of its own motion may investigate and determine whether any railroad crossing over any street or public highway now or hereafter established and traveled or to be traveled in this state is or will be when opened to public travel dangerous to life and property; or either, and may order the same protected in any manner it may find reasonable and proper, including requiring the company to separate the grades.

Subd. 2. **Hearing.** The commission shall give the railroad company interested such notice as it deems reasonable of the investigation, and an opportunity to be heard before any order is made.

[1919 c 434 s 1, 2; 1921 c 500 s 1] (4741, 4742)

219.15 [Renumbered 219.14, subd 2]

219.16 GRADE CROSSING. When the term "grade crossing" is used in this chapter it means the intersection of a public highway and of the tracks of any railroad, however operated, on the same plane or level, except street railways within city or village limits.

[1925 c. 336 s. 1] (4743-1)

219.17 UNIFORM WARNING SIGNS; TYPES OF. The commission is hereby authorized and required to adopt and prescribe uniform warning signs for use at grade crossings in this state which will furnish adequate warning of the existence and nature of such grade crossings and to make regulations as to the place of installation. There shall be at least three distinct types of such warning signs: a home crossing sign, for use in the immediate vicinity of the crossing, an approach crossing sign, to indicate the approach to a grade crossing, and a stop sign, which shall have the word "stop" plainly appearing thereon, to indicate the necessity to

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persons on the highway approaching the crossing, whether in vehicles or otherwise, to come to a stop before proceeding over the grade crossing.

[1925 c. 336 s. 2] (4743-2)

219.18 RAILROAD TO ERECT SIGNS. At each grade crossing in this state hereafter established and at each grade crossing where and when the existing crossing signs are replaced the railway company operating the railroad thereat shall erect and maintain on the highway on each side of the railroad track or tracks and within a distance of 75 feet from the nearest rail, one or more of such uniform home crossing signs.

[1925 c. 336 s. 3] (4743-3)

219.19 ADDITIONAL WARNING SIGNS; RAILROADS TO PROVIDE. At each grade crossing where, because of the conditions surrounding the same, the reasonable protection to life and property makes it necessary for additional warning signs to be placed on the highway at a greater distance from the crossing than the home signs, such approach warning signs shall be installed. The commission is hereby authorized to designate any such grade crossings requiring such additional signs on either or both sides of said crossing. When any such crossing is designated by the commission as requiring such additional protection, it shall notify the railway company operating the railroad thereat and the public authorities having the care of the highway. Such railway company shall, within 30 days after such notification, furnish such uniform signs to such public authorities, and such public authorities shall erect these signs in conspicuous places on the highway on either or both sides of such grade crossings, as the case may be, not less than 200 feet from the crossing and thereafter maintain the same.

[1925 c. 336 s. 4] (4743-4)

219.20 STOP SIGNS. At each grade crossing where, because of the dangers attendant upon its use, the reasonable protection of life and property makes it necessary for all persons approaching the same to stop before crossing the railroad tracks thereat, such stop signs shall be installed. The commission is hereby authorized to designate any such crossing requiring such additional protection as a stop crossing, and shall notify the railway company operating the railroad thereat of such designation. Within 30 days after such notification it shall be the duty of such railway company to erect such uniform stop crossing signs in conspicuous places on each side of the crossing.

[1925 c. 336 s. 5] (4743-5)

NOTE: See also section 169.27.

219.21 VEHICLES REQUIRED TO COME TO FULL STOP. When any vehicle carrying school children, explosives or inflammable liquids, or passengers for hire, or any trucks or any vehicle having in tow any other vehicle or equipment, or any vehicle of the tractor or caterpillar type, approaches any grade crossing it shall be the duty of the driver thereof to bring the same to a complete stop before reaching the railroad track and before crossing the track to ascertain when such crossing can be made in safety.

[1925 c. 336 s. 6] (4743-6)

NOTE: See also sections 169.23 and 169.29.

219.22 STOP, LOOK, AND LISTEN. Before proceeding across the railroad track at any crossing marked with such stop sign, it shall be the duty of all persons controlling the movement of vehicles to bring such vehicles to a full stop and to ascertain whether or not trains are approaching such crossing.

[1925 c. 336 s. 7] (4743-7)

NOTE: See also section 169.27.

219.23 WATCHMEN; RAILROADS TO PROVIDE. When the commission, in any investigation instituted upon its own motion or upon complaint and after notice and hearing, finds that the presence of a watchman is necessary for the protection of life and property at any grade crossing, it shall order the railway company operating the railroad thereat to provide such watchman and shall specify in such order the hours during which the presence of the same is required. It shall thereupon be the duty of such railway company to provide such watchman during such time. Such watchman shall have full control over the traffic at this crossing.

[1925 c. 336 s. 9] (4743-9)

219.24 ADDITIONAL SAFEGUARDS. When, in any investigation instituted upon its own motion or upon complaint and after notice and hearing the commission

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finds that conditions exist at any grade crossing which in its opinion require any additional safeguards for the protection of life and property, such as crossing gates or other suitable devices, the commission is authorized to specify the nature of the devices required and to order the railway company operating the railroad at such crossing to install the same.

[1925 c. 336 s. 10] (4743-10)

219.25 CROSSING GATES. When, in any investigation instituted upon its own motion or upon complaint and after notice and hearing, the commission finds that the protection of life and property requires the constant operation of crossing gates, where the same are now or may be hereafter installed, the commission is authorized to order any railway company operating the railroad at such crossing to provide men to operate such crossing gates for the full 24 hours of each day.

[1925 c. 336 s. 11] (4743-11)

219.26 GRADE CROSSINGS; UNIFORMITY OF DEVICES FOR PROTECTION. It shall be the duty of the commission, so far as practicable, to secure uniformity in the devices used to protect grade crossings. No such devices shall be installed until the same have been approved by the commission. All such devices which are now in use or which may be hereafter installed, which, in the opinion of the commission, conflict with the devices approved by the commission, either in their design or method of operation, so as to create a hazardous condition to the travel at such crossing, shall be immediately modified by the railroad company controlling the same so as to conform to those approved by the commission.

[1925 c. 336 s. 12] (4743-12)

219.27 VACATING OR RELOCATING CROSSINGS; HEARINGS. When it is desired, either by the public officials having the necessary authority or by the railway company operating the railroad, to vacate or relocate any crossing of a public highway and a railroad, and an agreement cannot be reached between such public officials and the railway company, either as to the necessity for such vacation or relocation, or as to the place, manner of construction, or a reasonable division of expense in the case of a relocation, either party may file a petition with the commission, setting forth the facts and submitting the matter to it for determination; whereupon the commission, after such notice as it shall deem reasonable, shall conduct a hearing and issue its order determining the matters so submitted.

[1925 c. 336 s. 13] (4743-13)

219.28 OVERHEAD OR UNDERGROUND CROSSINGS; SEPARATE GRADES. The commission may require any railroad company to construct overhead and maintain underground crossings and separate grades when, in its opinion, the interests and safety of the public require, and no overhead or underground crossings, nor separation of grade, shall be made except upon petition therefor to the commission, and with the approval of the commission.

[1925 c. 336 s. 14] (4743-14)

219.29 OBSTRUCTING SIGNS. No person, firm, or corporation shall place or maintain any advertising sign or other similar obstruction upon, over or adjacent to any highway between any such approach sign and the grade crossing which it marks, nor shall any person, firm, or corporation place or maintain, upon, over or adjacent to any public highway in this state any sign or symbol in any manner resembling the signs provided for in sections 219.16 to 219.30.

[1925 c. 336 s. 15] (4743-15)

219.30 INJURING, DESTROYING SIGNS. It shall be unlawful for any person to maliciously injure, remove, displace, deface, or destroy any of the signs or signals provided for in sections 219.16 to 219.30.

[1925 c. 336 s. 16] (4743-16)

219.31 FENCES AND CATTLE GUARDS. Every railroad company shall build and maintain on each side of all lines of railroad owned and operated by it, good and substantial fences, and build and maintain good and sufficient cattle guards at all road and street crossings and other openings, except at station and depot grounds, and other places which the necessary business of the road or public convenience requires to be open. When the land of any person lying along the right of way of any railroad is enclosed on three sides by a woven wire fence, such railroad company shall erect and maintain a woven wire fence of like character and quality along the right of way enclosing the remaining side of the land. In the building and maintenance of these fences and cattle guards, every such company shall be

held to the exercise of ordinary diligence and care and to such ordinary diligence and care in keeping such cattle guards free from ice and snow.

[R. L. s. 1997; 1907 c. 333; 1911 c. 309 s. 1] (4744)

219.32 FAILURE TO FENCE; LIABILITY. Any railroad company failing to comply with the requirements of section 219.31 shall be liable for all damages resulting therefrom, and for all domestic animals killed or injured by its negligence; and, if it fail to pay the actual damages occasioned by such killing or injury within 30 days after such damage occurs, then, in case of recovery therefor by action brought after such 30 days, if in district court, the plaintiff shall recover double costs, and if in justice court, \$10 costs. Such company, before the commencement of action, may make tender for such injury, and if the amount recovered, exclusive of interest, shall not exceed the tender, the plaintiff shall recover no costs nor disbursements.

[R. L. s. 1998] (4745)

219.33 FENCES; CROSSINGS; CATTLE GUARDS. Any railroad company operating a line of railroad in this state, which has failed or neglected to fence the road and to erect crossings and cattle guards, shall be liable for all damages sustained by any person in consequence of such failure or neglect. The measure of damages for failure to construct or maintain such fence shall be as follows: the owner of any land abutting on the line of railway of such company may serve notice on any of its station agents between April 1 and October 1 of any year, requiring the construction of a fence on the line between his land and its right of way. If such company shall not construct the same within 40 days after service of such notice, the landowner may recover of the company an amount not exceeding twice the cost of such construction, with costs and reasonable attorney's fee, to be allowed by the court, or he may construct such fence after the expiration of such time and receive from the company double the cost of construction, with like costs and attorney's fee. Such fence shall be kept in repair by such company in like manner and under like penalties as if built by such company. Failure to serve such notice shall not relieve such company from liability for damages for injuries to persons or domestic animals or other property, resulting from failure to fence its road.

[R. L. s. 1999] (4746)

219.34 FENCES BETWEEN RAILROAD AND PUBLIC ROAD. If any railroad company shall fail to fence its line where the same adjoins a public road or street, or lies so near thereto as to render travel thereon dangerous, the governing body of the town or municipality having charge of such road or street, by notice as in case of abutting landowner, may require such fence to be built; and, in case of failure to build such fence within the time provided in section 219.33, such town or municipality shall have the rights and remedies given by section 219.33 to such abutting owner.

[R. L. s. 2000] (4747)

219.35 CROSSINGS AND DRAINS. Persons owning lands abutting upon a railroad may construct at their own expense crossings under, over, or across such railroad and drains under and across the same at such places and in such manner as not to obstruct or impair the use of such railroad, which crossings and drains shall be maintained and kept in repair by the railroad company. Before constructing the same, the owner of the land shall serve on the nearest station agent of the company a notice, stating in detail the work which he desires to perform, and the company may construct such work; but the same shall not be opened for the use of the landowner until he pays the reasonable cost of construction.

[R. L. s. 2001] (4748)

219.36 GATES AT FARM CROSSINGS. Any railroad company, which shall erect at a farm crossing a gate for the exclusive use of the owner and occupants of such farm, provide a lock for the same, and deliver the key thereof to such owner or occupant, shall not be liable to such owner or occupant for any animal killed or injured by reason of such gate being left open without fault of such company, unless such killing or injury results from the wanton or malicious act of such company or its employees.

[R. L. s. 2002] (4749)

219.37 DITCHES AND CULVERTS. It shall be the duty of every railroad company, or receiver or lessee thereof, operating a line of railroad in the state to keep clean at all times between the first day of April and the first day of November

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of each year all ditches and culverts constructed by them for the drainage of their roadbed or right of way. This section shall not apply to ditches and culverts not located upon the right of way of any railroad.

[1909 c. 377 s. 1] (4750)

219.38 [Repealed, 1957 c 724 s 21]

219.383. SAFE OPERATION OF TRAINS OVER STREETS AND HIGHWAYS.

Subdivision 1. Rate of speed for trains fixed by railroad and warehouse commission. The railroad and warehouse commission on petition of any city or village council or any railway corporation may fix and determine after a hearing a reasonable rate of speed for the operation of an engine or train on and over any railroad crossing of a public highway or street in such city or village.

Subd. 2. Procedure. The procedure before the railroad and warehouse commission and the right of appeal under this section shall be that provided in Minnesota Statutes 1941, Chapter 216, and acts amendatory thereof.

Subd. 3. Maximum rate of speed. Where the railroad and warehouse commission has fixed the rate of speed of an engine or train over a public highway or street crossing in a city or village as provided in this section, such rate of speed so fixed shall be the lawful maximum rate of speed at which an engine or train can be operated on and over such public highway or street crossing, until changed by subsequent order of the commission.

Subd. 4. Not to block public roads or streets. No railway corporation shall permit any public road or street crossing a railroad track to be closed for traffic by a standing car, train, or engine or other railroad equipment for a longer period than ten minutes, provided, this section shall not apply to cities of the first class which regulate obstruction of streets by ordinance.

Subd. 5. Violation. Any railway corporation violating any provision of this section shall be guilty of a misdemeanor and upon conviction therefor shall be liable for a fine of not less than \$25 nor more than \$100.

[1945 c. 220 ss. 1, 2, 3, 4, 5]

219.39 DANGEROUS CROSSINGS; COMPLAINTS; HEARINGS. Upon written complaint authorized by a majority vote of the members of the council of any city or village, or by the board of supervisors of any town, or board of county commissioners of any county in this state, or by the commissioner of highways, filed with the commission, by the chief executive officer of the city or village, the chairman of the board of supervisors or the county commissioners, or the commissioner of highways, as the case may be, that any railroad crossing with any street in the city or village, or town or county road, or state aid road or trunk highway, is dangerous to life and property, and giving the reasons therefor, the commission shall proceed to investigate the matters contained in the complaint, giving the complainant and the railroad company an opportunity to be heard, at a time and place to be fixed by the commission, after such notice as the commission may deem reasonable; provided, that at least one public hearing shall be held in the town, village, or city, in which the crossing is located.

[1911 c. 243 s. 1; 1923 c. 134 s. 1] (4662)

219.40 DETERMINATION; ORDER; FLAGMEN OR SAFETY DEVICE. The commission shall decide the matter set forth in the complaint and make a report in writing thereof, including findings of fact, and make such order as it shall deem proper in the premises and, if the commission shall find the crossing to be dangerous, it may require the railroad company complained of to provide flagmen at such crossing, or adopt such safety device as the commission may deem necessary for the proper protection of the crossing, or it may require the removal of any structure, embankment or other obstruction to the view, or it may require the crossing complained of or other crossing in the vicinity thereof closed, or it may require the railroad company to construct an overhead or maintain an underground crossing and divide the cost thereof between the railroad company, the town, county, municipal corporation, or state highway department interested, on such terms and conditions as to the commission may seem just and equitable. Where the railroad has been constructed or the grade thereof lowered after the laying out of the highway and the railroad tracks are seven feet or more below the natural surface of the ground, the commission may require the maintenance of an overhead bridge with suitable approaches and require the complaining city, village, town, or county to remove any embankment, structure or other obstruc-

tion to the view as may be reasonable and necessary to properly protect the crossing; provided, that no highway shall be laid out over any railroad so as to cross at the same grade until such crossing has been approved by the commission. If the railroad and warehouse commission after notice and hearing orders the installation of a safety device, or the construction, reconstruction, modernization or replacement of major parts, as defined by the commission, of said safety device, gates, or other type of special protection, or the removal of a structure, embankment or other obstruction to the view, or orders the construction, reconstruction or maintenance of an underground or overhead crossing on any public road, street, or highway, it may in the same order direct that the costs thereof be divided between the railroad company and the public authority involved on such basis as the parties may agree, or, if they fail to agree, then the costs thereof shall be as determined by the railroad and warehouse commission on the basis of benefit to the users of each; or the commission may defer determination of the division of costs to a subsequent order to be made on the basis of evidence previously taken. Where a state trunk highway is involved, the state's share of the costs shall be paid from any funds available to the department of highways. In all other cases the public's share of the costs shall be paid from available funds or from the Minnesota highway safety account, if ordered by the commission, or from any combination of the above or other available funds; provided that any highway, street or road fund shall only be expended for such costs on a highway, street or road within the political subdivision charged with the maintenance and care thereof and only upon the highways, streets or roads for which the fund was allocated, or for which the fund was created.

[1911 c 243 s 2; 1913 c 294 s 1; 1923 c 134 s 2; 1951 c 179 s 2; 1959 c 528 s 1; 1963 c 458 s 2; 1965 c 245 s 1; 1967 c 86 s 2] (4663)

NOTE: See also section 161.47, subdivision 5.

219.401 HIGHWAY SAFETY ACCOUNT. Subdivision 1. There is hereby created in the treasury of the state a Minnesota highway safety account which shall consist of the moneys hereinafter appropriated and which shall be supervised, regulated and controlled by the Minnesota railroad and warehouse commission as hereinafter provided.

Subd. 2. Notwithstanding the provisions of any law to the contrary, all moneys credited to the Minnesota highway safety account are hereby appropriated annually for the purposes of carrying out the terms and provisions of Minnesota Statutes 1965, Sections 219.40 and 219.401.

[1963 c 458 s 1; 1963 c 884 s 14; 1967 c 86 s 3]

219.403 NOT TO AFFECT EXISTING LAWS RELATING TO MUNICIPALITIES. Nothing in sections 161.20, 219.40, 219.403 shall be construed to change any existing law relating to the rights and liabilities of any city, village, town, or county in connection with the construction or maintenance of any railroad crossing, grade separation, or signal system, or to impair the terms or conditions of any existing arrangement or agreement, or renewals thereof, between any railroad company and any municipality with reference to the maintenance of any railroad crossing, grade separation, or signal system.

[1951 c 179 s 3; 1965 c 51 s 39]

219.41 APPEAL; ORDER, HOW ENFORCED. Any railroad company, or the city, village, town or county making the complaint, may appeal from an order of the commission to the district court of the county in which the crossing is located; and, in case of such appeal, the same proceedings shall be had as is now provided by law for an appeal from orders of the commission. All orders of the commission shall be enforced by the attorney general.

[1911 c. 243 s. 3] (4664)

219.42 FAILURE TO COMPLY; PENALTY. Any railroad company or any city, village, town, or county failing to comply with any order of the commission that is not appealed from; or, if appealed from, affirmed in whole or in part, shall be liable to a penalty of \$50 for each and every day of such non-compliance to be collected in civil action brought by the attorney general.

[1911 c. 243 s. 4] (4665)

219.43 TEMPORARY FLAGMAN. When it shall appear from any cause that an unusual number of trains are being operated in or through any city or village in this state the commission shall have power, upon complaint made by the city or village council, to compel the installation of a flagman, or flagmen, as the case may

be, without a hearing and such order shall be complied with within five days; provided, that such railroad company may remove such flagmen when the movements of trains through such city or village assumes normal conditions.

[1911 c. 243 s. 5] (4666)

219.44 CHARTER POWERS NOT ABRIDGED. Nothing contained in sections 219.39 to 219.44 shall be construed as repealing, abridging, modifying, or in any manner affecting the power contained in the charter of any city or village in this state to require railroads to maintain gates, flagmen, or safety devices at public highway crossings therein, or any ordinance now existing or hereafter enacted pursuant to such power.

[1911 c. 243 s. 6] (4667)

219.45 CLEARANCE BETWEEN STRUCTURE AND CARS. The provisions of sections 219.45 to 219.53 shall apply to any person, corporation, or anyone owning, operating, or maintaining any structure or obstruction adjacent to any railway tracks and to any corporation or receiver thereof, or to any persons while engaged as common carriers in the transportation by railroad of passengers or property within this state to which the regulative powers of this state extend, except railways operated by the electric trolley system.

[1913 c. 307 s. 1; 1937 c. 238 s. 1] (4753)

219.46 UNLAWFUL STRUCTURES; CLEARANCES. Subdivision 1. **Structures.** On and after the passage of Laws 1913, Chapter 307, it shall be unlawful for any common carrier, or any other person, to erect or reconstruct and thereafter maintain on any standard gauge road on its line or on any standard gauge sidetrack used in connection therewith, for use in any traffic mentioned in section 219.45, any warehouse, coal chute, stock pen, pole, mail crane, standpipe, hog drencher, or any permanent or fixed structure or obstruction, or in excavating allow any embankment of earth or natural rock to remain upon its line of railroad, or on any sidetrack used in connection therewith at a distance less than eight feet measured from the center line of the track, which structure or obstruction adjoins on standard gauge roads; nor shall any overhead wires, bridges, viaduct or other obstruction passing over or above its tracks as aforesaid be erected or reconstructed at a less height than 21 feet, measured from the top of the track rail.

If after May 1, 1943, overhead structures or platforms or any structures designed only to be used in the loading or unloading of cars are rebuilt or remodeled, then such overhead structures shall be built with an overhead clearance of not less than 22 feet from the top of the rail and such structures or platforms shall be built with a side clearance of not less than eight feet six inches from the center line of the track unless by order the commission may provide otherwise.

Laws 1913, Chapter 307, shall not be construed to apply to yards and terminals of depot companies or railway companies used only for passenger service. In the event of personal injury sustained by any employee of any such company in this paragraph mentioned, by reason of noncompliance with the provisions of Laws 1913, Chapter 307, such employee, or in case of his death, his personal representative, shall have all the rights, privileges and immunities enumerated in Laws 1913, Chapter 307, Section 9.

On and after May 1, 1943, it shall be unlawful for any common carrier, or any other person, to erect or construct on any standard gauge road on its line or on any standard gauge sidetrack or spur used in connection therewith, for use in any traffic mentioned in section 219.45, any warehouse, coal chute, stock pen, pole, mail crane, standpipe, hog drencher, or any permanent or fixed structure or obstruction, or in hereafter excavating allow any embankment of earth or natural rock to remain upon its line of railroad, or on any sidetrack used in connection therewith at a distance less than eight feet six inches measured from the center line of the track, which said structure or obstruction adjoins on standard gauge roads, nor shall any overhead wires, bridges, viaduct or other obstruction passing over or above its tracks as aforesaid be erected or constructed at a less height than 22 feet, measured from the top of the track rail.

Subd. 2. Clearances on parallel tracks. On and after May 1, 1943, it shall be unlawful for any such common carrier to construct any track used for the purpose of moving any cars engaged in the movement of traffic where the center line of such track is at a distance of less than 14 feet from the center line of any other parallel track which it adjoins, provided that no ladder tracks shall be in closer

proximity to any adjacent ladder track than 19 feet measured from the center line of each track; nor in closer proximity to any other parallel track than 17 feet measured from the center line of each track. The distance between tracks may be diminished or closed up a necessary distance for track intersections, gauntlet tracks, turnouts or switch points.

Subd. 3. **May maintain existing structure.** It shall not be unlawful for any common carrier or any other person to maintain any overhead structure or structure alongside of a track referred to in sections 219.45 and 219.46 provided that said structure was not erected in violation of law.

Subd. 4. **May maintain existing tracks.** It shall not be unlawful for any common carrier or any other person to maintain or reconstruct any tracks now in existence which were constructed after April 16, 1913, in accordance with the then existing clearance law or to maintain or reconstruct tracks which, if constructed prior to said date, were constructed with clearances as provided in Laws 1913, Chapter 307, or to maintain or reconstruct tracks built in accordance with the provisions of Laws 1913, Chapter 448. As to tracks that were constructed with a less clearance than 13 feet between center lines prior to April 16, 1913, it is hereby declared that the maintenance of a clearance of less than 13 feet between center lines in railroad switching yards may create a hazard and the commission is hereby authorized on petition by an affected party and after hearing, where a greater clearance can be reasonably provided, to require adequate and safe clearances as rapidly as possible in such yards.

Subd. 5. **May extend existing yard tracks.** It shall not be unlawful to extend existing yard tracks or other tracks at the clearance which now exists between said tracks provided that said tracks were constructed either before or after April 16, 1913, with clearances as provided in Laws 1913, Chapter 307.

Subd. 6. **May maintain additional tracks.** It shall not be unlawful to construct or maintain additional tracks at less than the required clearance on or under existing bridges which were constructed after April 16, 1913, with clearances as provided in Laws 1913, Chapter 307.

Subd. 7. **Commission may grant order for less clearance.** The commission after a hearing may authorize in the construction and reconstruction of bridges and tunnels by general order a less clearance than eight feet six inches from the center line of the track at a height of not to exceed six feet above the top of the rail and a clearance of less than eight feet six inches from the center line of the track at a point which shall not be less than 14 feet 6 inches above the top of the rail.

[1913 c 307 s 2; 1915 c 171 s 1; 1937 c 238 s 2; 1943 c 390 s 1-7] (4754)

219.47 EXCEPTIONS. The commission may upon application made, after a thorough investigation and hearing in any particular case, permit any common carrier or any person or corporation to which Laws 1913, Chapter 307, as amended, applies to erect any overhead or side obstruction at a less distance from the track than herein provided for, and to construct any track or tracks at a less clearance than herein provided for, and to reconstruct and maintain the same when in the judgment of said commission a compliance with the clearance prescribed herein would be unreasonable or unnecessary or the erection or construction of such overhead or side obstruction or tracks or the reconstruction and maintenance of the same at a less clearance than herein provided would not create a condition unduly hazardous to the employes of such common carrier or any person or corporation.

[1913 c. 307 s. 3; 1915 c. 171 s. 2; 1937 c. 238 s. 3; 1943 c. 390 s. 8] (4755)

219.50 OBSTRUCTING SPACE BETWEEN TRACKS; EXCEPTIONS. It shall be unlawful for any such common carrier or any person or corporation to which sections 219.44 to 219.52 apply to permit the space between or beside such of its tracks as are ordinarily used by yardmen and other employees in the discharge of their duties, and within eight feet of the center line of any such track, to become or remain obstructed by any foreign obstacle that will interfere with the work of the employees or subject the employees to unnecessary hazard. Such space between or beside the tracks, as aforesaid, and between the rails of the tracks must be kept in such condition as to permit the employees to pass over or between the tracks or to use the same day or night and under all weather conditions without unnecessary hazard. Wherever any railroad company has already begun work on depressing a portion of its tracks, within the corporate limits of any municipality, whether under contract with such municipality or otherwise, sections 219.44 to 219.52 shall not apply

to any depression of the tracks of such company lying wholly within the corporate limits of such municipality. None of the provisions of sections 219.44 to 219.52 shall apply to any part of any work or enterprise heretofore begun or under construction, whether under contract between any railroad company and any municipality or otherwise.

[1913 c. 307 s. 6; 1913 c. 448 s. 1] (4758)

219.51 VIOLATION, PENALTY; DUTIES OF ATTORNEY GENERAL AND COMMISSION. Any common carrier, corporation, or person subject to the provisions of sections 219.45 to 219.53 violating any of the provisions thereof, shall be liable to a penalty of not more than \$500 for each violation; and if any common carrier, person, or corporation shall thereafter fail to correct any violation of sections 219.45 to 219.53 when ordered to correct the same by the commission and has failed to do so within the time provided in the order of the commission, and no appeal has been taken from the order, then the failure of such common carrier, person, or corporation to correct the condition causing a violation of sections 219.45 to 219.53 as in the order of the commission provided shall constitute a new and separate offense distinct and separate from the original violation of sections 219.45 to 219.53, such penalty to be recovered in a suit to be brought in the name of the State of Minnesota by the attorney general or under his direction in any court having jurisdiction thereof in the locality where such violation shall have been committed, and it shall be the duty of the attorney general under the direction of the commission to bring such suit upon duly verified information being lodged with him by any person of such violation being committed, and it shall also be the duty of the commission to lodge with the attorney general information of any such violation as may come to its knowledge.

[1913 c. 307 s. 7; 1937 c. 238 s. 4] (4759)

219.52 INSPECTORS OF BUREAU OF LABOR; DUTIES. Where any structure is at a less distance from the track than as provided by sections 219.45 to 219.53 the commission shall provide for warning signs to be placed thereon of such design and type as the commission shall deem proper unless the commission shall determine such a sign is unnecessary. It shall be the duty of the railroad inspectors of the department of labor and industry to report to the commission and to the attorney general any violation of the provisions of sections 219.45 to 219.53 of which they may obtain knowledge.

[1913 c. 307 s. 8; 1937 c. 238 s. 5] (4760)

219.53 CONTRIBUTORY NEGLIGENCE. Any employee of a common carrier who, while in the performance of his duty and while engaged in any commerce mentioned in section 219.45, subject to the regulative provisions of sections 219.45 to 219.53, may be injured or killed by reason of a violation of section 219.50, or by reason of any structure or obstruction erected or maintained prior to the passage of sections 219.45 to 219.53, or in violation of these provisions, in closer proximity to the rails than provided in sections 219.45 to 219.53 shall not be deemed to have assumed the risk thereby occasioned or to have been guilty of contributory negligence although the employees continued in the employ of such common carrier after the use of such permanent overhead or side structure or obstruction of any kind or character mentioned in sections 219.45 to 219.53 shall have been brought to his knowledge; and an exercise of the permission provided for in section 219.47 shall be at the sole risk of the carrier.

[1913 c. 307 s. 9] (4761)

219.54 FREIGHT PLATFORMS. Every railroad company shall provide at all stations in villages containing 250 inhabitants or more within 30 days after written notice, served in the same manner as a summons in district court, from the village council of such village requiring such company so to do, and at other stations and sidings when required by the commission, immediately alongside of its tracks or sidetracks, platforms with approaches at each end, suitable and convenient for loading upon and unloading from its cars heavy machinery and other freight. Such platforms shall be at least 12 feet wide, strongly built, and floored with plank at least three inches thick. The platforms, exclusive of approaches, shall be at least 32 feet long and of the height of the floor of an ordinary box car, and the approaches of such grade that heavily loaded teams can be driven up and down the same. Any such company failing to comply with the provisions of this section shall forfeit to

the state not less than \$500 nor more than \$1,000 for every 30 days that such failure shall continue.

[R. L. s. 2003; 1923 c. 142 s. 1] (4762)

219.55 LOADING PLATFORMS. When required by the commission, every railroad company shall construct and maintain at each station and siding a suitable platform for the purpose of loading grain, live stock and other commodities into its cars for shipment. The commission may require the enlargement of any platform so constructed or the construction of additional platforms at any such station or siding, when it deems it necessary for that purpose. Every such company which shall fail to construct any such platform within 60 days after the service on it of the order of the commission requiring such construction, shall forfeit to the state \$25 for each day thereafter that such platform remains unconstructed.

[R. L. s. 2004] (4763)

219.56 CABOOSE CARS. It shall be unlawful for any person, corporation, or company operating any railroad in the state to require or permit the use of any caboose cars unless the caboose cars be at least 24 feet in length, exclusive of platforms, and be provided with a door at each end thereof, and with cupolas, or bay windows, platforms, guard rails, grab irons, and steps for the safety of persons in alighting or getting on the caboose cars and the caboose cars shall be equipped with at least two four-wheeled trucks. Shatter-proof glass shall be used in the door or doors of the caboose when the present glass in the door or doors is replaced. All caboose cars built or purchased after January 1, 1968, shall have the underframing and superstructure thereof, constructed of steel or a material of equivalent strength and, when said caboose cars are operated at the rear of a train, shall be equipped with a marker or markers which may consist of flags, lamps, flashing lights or reflectorized devices.

[1909 c 382 s 1; 1941 c 230; 1967 c 155 s 1] (4879)

219.561 TRACK MOTOR CARS; EQUIPMENT. Subdivision 1. From and after January 1, 1950, every person, firm or corporation operating or controlling any railroad running through or within the state shall equip each of its track motor cars used during the period from 30 minutes before sunset to 30 minutes after sunrise with:

(1) An electric headlight of such construction and of sufficient candlepower to render plainly visible at a distance of not less than 300 feet in advance of such track motor car any track obstruction, landmark, warning sign or grade crossing; and

(2) A rear electric red light of such construction and of sufficient candlepower as to be plainly visible at a distance of 300 feet.

Subd. 2. Upon request of the section foreman in any section operated by a railroad referred to in subdivision 1 hereof, any track motor car shall be equipped within 90 days thereafter with a windshield and top sufficient in width and height to reasonably protect the employees from weather conditions, provided, however, that no railroad company shall be required in any one year to equip more than an additional 25 such motor cars with the equipment referred to in this subdivision.

Subd. 3. Any person, firm or corporation operating or controlling any railroad running through or within this state using or permitting to be used on its line in this state a track motor car in violation of the provisions of this section is guilty of a misdemeanor.

[1949 c 680 s 1, 2; 1961 c 405 s 1]

219.565 ENGINEERS WHO CANNOT READ. Every person who, as an officer of a corporation or otherwise, shall knowingly employ, as an engineer or engine driver to run locomotives or trains on any railway, a person who cannot read the time-tables and ordinary handwriting, and every person who, being unable to read the time-tables of the road and ordinary handwriting, shall act as an engineer or run a locomotive or train on any railway, shall be guilty of a gross misdemeanor.

[R. L. s. 4999] (10261)

219.566 INTOXICATION OF EMPLOYEES ON TRAINS OR BOATS. Every person who, being employed upon any railway as engineer, conductor, baggage master, brakeman, switch tender, fireman, bridge tender, flagman, or signal man; or person having charge of stations, starting, regulating, or running trains upon

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a railway; or person employed as captain, engineer, or other officer of a vessel propelled by steam, shall be intoxicated while engaged in the discharge of any such duties, shall be guilty of a gross misdemeanor.

[R. L. s. 5000] (10262)

219.567 FAILURE TO RING BELL. Every engineer driving a locomotive on any railway, who shall fail to ring the bell or sound the whistle upon such locomotive, or cause the same to be rung or sounded, at least eighty rods from any place where such railway crosses a traveled road or street, on the same level, except in cities, or to continue the ringing of such bell or sounding of such whistle at intervals until such locomotive and the train thereto attached shall have completely crossed such road or street, shall be guilty of a misdemeanor.

[R. L. s. 5001] (10263)

219.568 OTHER VIOLATIONS OF DUTY. Every engineer, conductor, brakeman, switch tender, train dispatcher, or any other officer, agent, or servant of any railway company, who shall be guilty of any wilful violation or omission of his duty as such officer, agent, or servant, by which human life or safety shall be endangered, for which no punishment is specially prescribed, shall be guilty of a misdemeanor.

[R. L. s. 5002] (10264)

219.57 PREVENTION OF FIRE. Every company operating a railroad shall use upon each locomotive engine a good and efficient spark arrester, which the master mechanic shall cause to be examined each time before leaving roundhouse, and the master mechanic and the employee making such examination shall be held responsible for the good condition of the same, but without relieving the company from its responsibility hereunder.

Every such company shall keep its right of way clear of combustible materials, except ties and other materials necessary for the maintenance and operation of the road, from April 15 to December 1, annually.

No company shall permit any of its employees to leave a deposit of fire, live coals, or ashes in the immediate vicinity of wood land or lands liable to be overrun by fire, and every engineer, conductor, or trainman discovering fire adjacent to the track shall report the same promptly at the first telegraph or telephone station reached by him.

In dry seasons every such company shall give its employees particular instructions for the prevention and extinguishment of fires, and cause warning placards furnished by the director of the division of lands and forestry of the department of conservation to be conspicuously posted at every station in the vicinity of forest and grass lands, and, when a fire occurs near the line of its road, concentrate such help and adopt such measures as shall be available for its extinguishment.

In dry seasons every such company shall employ at least one patrolman for each mile of its road through lands liable to be overrun by fire to discover and extinguish fires occurring near the line of the road, by which is meant a distance within which fire could usually be set by sparks from a passing locomotive.

Any company violating any provisions of this section shall be deemed guilty of a misdemeanor; and on conviction thereof fined not less than \$50 and not exceeding \$100 and costs of prosecution for each offense, and any railroad employee violating the same shall be guilty of a misdemeanor and punished by a fine of not less than \$50 nor more than \$100 and costs of prosecution or by imprisonment in the county jail not exceeding 90 days.

[R. L. s. 2037; 1909 c. 182 s. 1; 1911 c. 9 s. 1; 1967 c. 905 s. 5] (4911)

219.58 COUPLERS ON FREIGHT CARS. It shall be unlawful for any railway company or common carrier in moving freight between points in the state to haul or permit to be hauled or used on its line any car not equipped with couplers coupling automatically by impact and which can be uncoupled without the necessity of men going between the ends of the cars.

[1907 c. 202; 1909 c. 488 s. 1] (4914)

219.59 GRAB IRONS. It shall be unlawful for any railway company or common carrier in moving freight between points in the state to use any car that is not provided with secure grab irons or hand holds in the ends and sides of each car for greater security to men in coupling and uncoupling cars.

[1907 c. 202; 1909 c. 488 s. 2] (4915)

219.60 TRAIN BRAKE SYSTEM. It shall be unlawful for any railroad doing business in the state to use on its line any locomotive in the moving of its trains not equipped with power, driving wheel, brakes and appliances of operating the train brake system or to run any train over its road that has not 75 per cent of the cars in such train equipped with power or train brakes and having the brakes used and operated by the engineer of the locomotive drawing such train, and all power brake cars in such train shall be associated, and have their brakes used and operated together. This section shall not apply to the handling of trains or cars in yard service, or to a local train while engaged in performing switching service.

[1907 c. 202; 1909 c. 488 s. 3] (4916)

219.61 DRAW BARS. It shall be unlawful for any railroad doing business in the state to use any locomotive, tender, car, or similar vehicle used in the movement of state traffic that is not provided with draw bars of standard height, standard gauge cars 34½ inches, narrow gauge cars 26 inches measured perpendicularly from the level of the top of the rails to the center of the draw bars; the maximum variation from such standard heights between draw bars of empty and loaded cars shall be three inches.

[1907 c. 202; 1909 c. 488 s. 4] (4917)

219.62 PASSENGER TRAFFIC. The provisions of sections 219.58, 219.60, and 219.61 shall also apply to locomotives, cars and trains used in passenger traffic in the state, in so far as the same are applicable to the vehicles used in passenger train traffic.

[1907 c. 202; 1909 c. 488 s. 5] (4918)

219.63 CARS FROM CONNECTING LINES. Any common carrier may refuse to receive from connecting lines or from any shipper any car not equipped in accordance with sections 219.58 to 219.62.

[1907 c. 202; 1909 c. 488 s. 6] (4919)

219.64 ASSUMPTION OF RISK; CONTRIBUTORY NEGLIGENCE. Any employee of any common carrier who may be killed or injured by any locomotive, tender, car, similar vehicle, or train in use contrary to the provisions of sections 219.58 to 219.66 shall not be deemed thereby to have assumed the risk thereby occasioned, although continuing in the employment of such carrier after the unlawful use of such locomotive, tender, car, similar vehicle, or train has been brought to his knowledge, nor shall such employee be held to have contributed to his injury in any case where the carrier shall have violated any provision of sections 219.58 to 219.66, when such violation contributed to the death or injury of such employee.

[1907 c. 202; 1909 c. 488 s. 7] (4920)

219.65 CARS IN TRAIN; POWERS OF COMMISSION. The commission may from time to time after full hearing and for good cause shown increase the minimum percentage of cars in a train required to be operated by power or train brakes, and a failure to comply with any requirement of the commission shall be subject to a like penalty as a failure to comply with any requirement of sections 219.58 to 219.66.

[1907 c. 202; 1909 c. 488 s. 8] (4921)

219.66 PENALTY FOR VIOLATION. Every railroad, or the receiver thereof, using or permitting to be used or to be hauled on its line, any locomotive, tender, car, or similar vehicle or train in violation of any of the provisions of sections 219.58 to 219.66 shall be liable to the state of Minnesota for a penalty of \$100 for each offense and such penalties shall be recovered in a suit brought in the name of the state of Minnesota, in any court having jurisdiction thereof, in any county in or through which such line of railroad may run, by the attorney general of the state or under his direction, or by the county attorney in any county in or through which such line of railroad may be operated. All fines and penalties recovered by this state under sections 219.58 to 219.66 shall be paid into the state treasury. Nothing in sections 219.58 to 219.66 contained shall apply to locomotives, tenders, cars, or similar vehicles or trains when the height of the draw bars on such locomotives, tenders, cars, similar vehicles, or trains does not exceed 25 inches in height or any thereof which are in actual use in interstate commerce.

[1907 c. 202; 1909 c. 488 s. 9] (4922)

219.67 RAILROAD COMPANIES TO EQUIP ENGINES WITH CLASSIFICATION LAMPS. Every person, company, corporation or receiver thereof, operating

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any railroad in the state, is hereby required to equip, maintain, and use upon every locomotive operated in road service in this state, an electric or other headlight of at least 1,500 candlepower, measured without the aid of a reflector; provided, that this candlepower shall not apply to locomotive engines regularly used on branch lines less than 25 miles long and logging roads not over 60 miles long or in switching cars or trains. Every person, company, corporation, or receiver thereof, subject to the provisions of section 219.67, is hereby required to equip, maintain, and use upon every locomotive engine regularly used in switching cars and trains, a headlight of at least 50 candlepower measured without the aid of a reflector, and to place a similar light on the tender of all locomotives regularly used in the transportation of freight and passengers in such a position that the same shall reflect to the rear of such locomotive. All locomotive engines used in other than switching service shall be equipped with electric classification signal lights. Section 219.67 shall not apply to locomotive engines used exclusively between sun up and sun down, nor when being taken to or returned from repair shops when ordered in for repairs.

[1913 c. 93 s. 1; 1923 c. 392 s. 1] (4924)

219.68 [Repealed, 1945 c 21 s 8]

219.681 REMOVAL OF RAILROAD TRACKS MUST BE APPROVED BY COMMISSION. No company operating a line of railroad in this state shall abandon, close for traffic, or remove any spur, industrial, team, switching or side track which has been used directly by the shipping public or any member thereof for the loading or unloading of freight without first having obtained the approval of the commission.

[1945 c. 21 s. 1]

219.69 RAILROAD SHOPS OR TERMINALS MAY NOT BE ABANDONED. No company operating any line of railway in the state shall abandon any shop or terminal located within this state or move any shop or change the location of any terminal except as provided in sections 219.70 and 219.71. Any company violating any provision of sections 219.69 to 219.71 shall forfeit to the state not less than \$200 nor more than \$1,000 for each day such violation continues.

[1931 c. 64 s. 1] (4926-1)

219.691 VIOLATION; FORFEITURE. Any company violating any of the provisions of sections 219.681, 219.692, 219.741, 219.742, 219.743, 219.751, and 219.755 shall forfeit as a penalty to the state the sum of \$1,000 which may be recovered in a civil action.

[1945 c. 21 s. 5]

219.692 TREBLE DAMAGES. Any person who has been injured in any manner by a violation of sections 219.681, 219.691, 219.741, 219.742, 219.743, 219.751, and 219.755 by any company shall have a cause of action against such company for treble the amount of all damages to him or his property resulting from such violation.

[1945 c. 21 s. 6]

219.695 TERMINAL, SHOP. The word "terminal," as used in sections 219.69 to 219.71, is defined to be any city or village in which 12 or more men employed in railroad train and engine service have established a legal residence.

The word "shop," as used in sections 219.69 to 219.71, is defined as a place in which 12 or more men are employed by a railroad as mechanics in the repairing of railroad equipment and is located in a city or village in which such men have established a legal residence.

[1931 c. 64 s. 2] (4926-2)

219.70 APPLICATION TO ABANDON; POWER OF COMMISSION. Any such company desiring to abandon any shop or terminal or move any shop or change the location of any terminal in this state shall first make application to the commission in writing. Before passing upon such application the commission shall order a public hearing and fix a time and place thereof and require such notice thereof to be given as it deems reasonable.

[1931 c. 64 s. 3] (4926-3)

219.71 HEARING; ORDER. In the hearing on the abandonment or removal of a shop or terminal if it shall be made to appear to the commission that the abandonment of any shop or terminal or the change of any shop or terminal will result in efficiency in railroad operation and will not substantially injure the public

or be detrimental to the public welfare, such petition may be granted, otherwise the same shall be denied.

[1931 c. 64 s. 4] (4926-4)

219.72-219.74 [Repealed, 1945 c 21 s 8]

219.741 APPLICATION FOR REMOVAL. Any railroad company desiring to abandon, close for traffic, or remove any of its tracks described in section 219.681 shall first make application to the commission in writing. Before passing upon such application the commission shall fix a time and place for hearing and a notice of such hearing shall be served upon all interested persons so far as known to the commission.

[1945 c. 21 s. 2]

219.742 PROCEDURE; APPEAL. The procedure before the commission and the right of appeal shall be pursuant to and in accordance with Minnesota Statutes 1941, Chapter 216, and acts amendatory thereof.

[1945 c. 21 s. 3]

219.743 EXCEPTIONS. The foregoing provisions shall not apply to logging or ore roads constructed and used exclusively for logging or mining purposes, nor to tracks described herein which are used exclusively for logging or mining purposes, nor shall it apply to any railroad which is not a common carrier.

[1945 c. 21 s. 4]

219.75 [Repealed, 1945 c 21 s 8]

219.751 RESTORATION OF TRACKS FOR SERVICE. Subdivision 1. When the commission is informed of the abandonment, closing for traffic, or removal of any track in violation of section 219.681, it shall forthwith order the company which has committed such violation to restore such track for service and to resume service thereon, and if such track has been removed, to relay such track.

Subd. 2. When any such company shall fail to obey an order of the commission made pursuant to subdivision 1, the commission, upon verified petition alleging such failure, may apply to the district court of the county in which such company has a principal office, or into which a line of railroad of such company extends, for the enforcement of such order or other appropriate relief. The court, upon such notice as it may direct, shall hear such matter as in case of an appeal from an order. On such hearing the findings of fact upon which such order is based shall be prima facie evidence of the matters therein stated, and the court may grant any provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, and may impose a fine of not more than \$500 for each day's failure to obey any writ, process, or order of the court in addition to all other penalties herein provided. A temporary mandatory or restraining order may be made in such proceeding, notwithstanding any undetermined issue of fact, upon such terms as the court may direct.

[1945 c. 21 s. 7]

219.755 SECTION 645.35 NOT TO APPLY. Minnesota Statutes 1941, section 645.35, shall not be construed to apply to sections 219.681, 219.691, 219.692, 219.741, 219.742, 219.743, and 219.751.

[1945 c. 21 s. 8]

219.76 FIRE CAUSED BY ENGINE; INSURABLE INTEREST. Each railroad corporation owning or operating a railroad in this state shall be responsible in damages to every person and corporation whose property may be injured or destroyed by fire communicated directly or indirectly by the locomotive engines in use upon the railroad owned or operated by such railroad corporation, and each such railroad corporation shall have an insurable interest in the property upon the route of the railroad owned or operated by it and may procure insurance thereon in its own behalf for its protection against such damages.

[R. L. s. 2041; 1909 c. 378 s. 1] (4932)

219.77 LIABILITY OF CORPORATIONS FOR EMPLOYEE'S INJURY OR DEATH. Every company, person, or corporation, owning or operating, as a common carrier, or otherwise, a steam railroad or railway in the state shall be liable in damages to any employee suffering injury while engaged in such employment; or, in case of death of such employee, to his or her personal representative for the benefit of the surviving widow or husband and children of such employee; and if none, then to such employee's parents; and if none, then to the next of kin dependent upon such employee, for such injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of such em-

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ployer, or by reason of any defect or insufficiency in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment due to the employer's negligence.

[1915 c 187 s 1; 1923 c 333 s 1; 1951 c 51 s 1] (4933)

219.78 [Repealed, 1951 c 51 s 2]

219.79 CONTRIBUTORY NEGLIGENCE NOT TO BAR. In all actions brought against any such employer under or by virtue of any of the provisions of sections 219.77 to 219.83, to recover damages for personal injury to the employee, or where such injuries have resulted in his death, the fact that the employee may have been guilty of contributory negligence shall not bar a recovery but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employee; provided, that no such employee who may be injured or killed shall be held to have been guilty of contributory negligence in any case where the violation by such employer of any statute enacted for the safety of employees contributed to the injury or death of such employee.

[1915 c. 187 s. 3] (4935)

219.80 ASSUMPTION OF RISK NO DEFENSE. In any action brought against any employer under or by virtue of any of the provisions of sections 219.77 to 219.83 to recover for injuries to or the death of any of its employees, such employee shall not be held to have assumed the risk of his employment.

[1915 c. 187 s. 4; 1935 c. 69 s. 1] (4936)

219.81 CONTRARY CONTRACTS DECLARED VOID. Any contract, rule, regulation or device whatsoever the purpose or intent of which shall be to enable any employer to exempt such employer from any liability created by sections 219.77 to 219.83, shall to that extent be void; provided, that in any action brought against any such employer under or by virtue of any of the provisions of sections 219.77 to 219.83, such employer may set off therein any sum he has contributed or paid to any insurance, relief, benefit, or indemnity that may have been paid to the injured employee, or the persons entitled thereto on account of the injury or death for which the action was brought.

[1915 c. 187 s. 5] (4937)

219.815 EMPLOYER. The term "employer," as used in sections 219.77 to 219.83, includes any receiver or other person charged with the duty of management and operation of any business employing labor.

[1915 c. 187 s. 6] (4938)

219.82 SURVIVAL OF RIGHT OF ACTION. Any right of action given by sections 219.77 to 219.83 to a person suffering injury shall survive to his or her personal representative for the benefit of the surviving widow or husband and children of any such employee; and if none, then of such employee's parents; and if none, then of the next of kin dependent upon such employee, but in such cases there shall be only one recovery for the same injury.

[1915 c. 187 s. 7; 1923 c. 333 s. 3] (4939)

219.83 LIMITATION. No action shall be maintained under sections 219.77 to 219.83 unless commenced within two years from the day the cause of action accrues.

[1915 c. 187 s. 8] (4940)

219.84 DEPOTS AND WAITING ROOMS. Every such railroad company shall provide and maintain at all villages and cities upon its lines, depots with a suitable waiting room for passengers and a room for storage of freight. In places of 400 inhabitants or more, such depots shall have an adequate waiting room for passengers, of sufficient size to accommodate all passengers stopping thereat, and not less than 15 by 18 feet in size and ten feet in height, properly and comfortably furnished, heated, lighted and ventilated, and in such condition open for the reception of passengers for at least one-half hour before and after the arrival of each passenger train.

[R. L. s. 2028; 1907 c. 54 s. 1; 1943 c. 520 s. 1] (4886)

219.85 RAILROAD STATIONS, AGENCY SERVICE. Agency service at common carrier railroad stations shall be that required by the public convenience and necessity. No such station shall be abandoned nor agency service thereat reduced or discontinued without the consent of the Railroad and Warehouse Commission after public notice and hearing. The commission may on its own motion or upon the petition of any interested party order station agency service at any station established, reestablished or expanded after notice and hearing as herein provided.

All hearings provided herein shall be conducted in the same manner as other hearings before said commission with not less than 30 days' notice to such persons and in such a manner as may be prescribed by rule of the commission.

[*R. L. s. 2029; 1961 c. 138 s. 1*] (4887)

219.86 COMMISSION TO ORDER STATIONS LIGHTED. The commission is hereby authorized and empowered, on complaint duly made and after hearing, to order that any railroad company operating within the state shall provide or cause to be provided suitable electric lights and lighting in and about every railroad station on its lines in this state, including waiting rooms, offices of employees, and station platforms thereof, and they are hereby required to keep and maintain the lighting system in good and proper repair. In case there is no electric light current or connections within 500 feet from such stations, then and in such case, the railroad companies shall provide and maintain in good and proper repair and condition, other suitable lighting in and about the railroad stations and platforms.

[*1921 c. 244 s. 1*] (4889)

219.87 TOILET ROOMS AT STATIONS. The commission is hereby authorized and empowered, on complaint duly made, to order that all railroad companies operating within the state shall provide or cause to be provided suitable toilet rooms in or immediately adjacent to every railroad station waiting room located on its lines in this state, and they are hereby required to maintain and keep these toilet rooms in a good sanitary condition. In case there is no water and sewerage system in towns where railroad station waiting rooms are located, which extends to a point not more than 300 feet distant from such station waiting rooms, then and in such case the railroad companies shall provide and maintain in good sanitary condition, within a reasonable and convenient distance of the station waiting rooms, a suitable closet or privy.

[*1905 c. 208 s. 1; 1913 c. 495 s. 1*] (4892)

219.88 STATIONS; NAME OF CITY OR VILLAGE; EXCEPTIONS. Subdivision 1. **Publications to use.** Every railway company, telegraph company, express company, or other company or corporation doing business as a common carrier which has or maintains any station in any city or village within the state shall publish in its printed matter published for the public, and use as the name of such station only, the name of the city or village in which such station is located or by which such city or village is or may be incorporated.

Subd. 2. **Use of name different from city or village.** Every railway company, telegraph company, express company, or other common carrier is hereby prohibited from using or continuing to use within the state a different name for its station from that of the city or village within which such station is located or which is in use by the local government post-office, unless there is some village or post-office on the same division of any railroad in this state the name of which is so similar as to be confusing in the dispatch of train orders.

[*1905 c. 252 ss. 1, 2*] (4895, 4896)

219.89 TRAINS TO STOP AT STATIONS. All trains carrying passengers, except through and limited trains not advertised for local business, shall stop at the depot in each city and village, and at other stations at which such train is advertised to stop, a sufficient time, not less than one minute, to safely discharge and receive passengers.

[*R. L. s. 2031*] (4898)

219.90 TIME OF ARRIVAL OF PASSENGER TRAINS; BULLETIN. Every corporation, company, or person operating a railroad within this state shall cause to be placed in a conspicuous place in each passenger depot of such company, located at any station in this state at which there is a telegraph office, a blackboard of suitable size, upon which such company or person shall cause to be written, at least 20 minutes before the schedule time for the arrival of each passenger train stopping upon such route at such station, the number of the train, the time each train is due and the fact whether such train is on schedule time or not, and if late, how much. Nothing in this section shall be so construed as to compel a railroad company to post the train number, schedule time and lateness of such trains as arrive or depart from such stations aforesaid when there is not a telegraph operator regularly on duty at the schedule time of the arrival of such train. Any passenger train not more than ten minutes late shall be deemed to be on time as to the operation of this section.

[*1905 c. 287 s. 1*] (4899)

219.91 TELEGRAPH OR TELEPHONE OPERATOR AT DEPOT. Every railroad company operating within this state shall keep at its depot in any city or village of over 500 inhabitants, a competent telegraph or telephone operator, who shall be on duty for at least one-half hour before the scheduled time of arrival of any train receiving or discharging passengers at such depot. Such telegraph or telephone operator shall obtain and communicate, upon request of any person, information as to the time of arrival of any delayed train.

[1909 c. 173 s. 1] (4901)

219.92 NEW ROADS; NOTICE TO COMMISSION; FILING OF MAPS AND PROFILES. Every railroad company having constructed any railroad by way of branch or extension or otherwise, before opening the same to public use, shall notify the commission that the same is finished and in a safe condition for operation, and shall file with the commission a map and profile thereof with table of grades, curvatures, and mileage, and a statement of other characteristics of such road and an itemized statement showing the actual cost thereof; all of the foregoing to be in such form as the commission shall prescribe and to be attested by the oath of the president or other managing officer, and the chief engineer of the company.

Before the new line is operated as a public road, the commission shall inspect the same, or cause it to be inspected, and furnish the company with a certificate showing compliance with the foregoing conditions, and that the road has been inspected and found to be in safe condition for operation.

When it is found desirable to operate any portion of any new railroad built or any new branch or extension, or otherwise, before completion of the same, the commission may, on application, authorize the operation of such portion thereof pending the completion of the entire road under such terms and conditions as the commission may impose in the interests of the public.

[R. L. s. 2032; 1907 c. 260 s. 1; 1913 c. 126 s. 1] (4903)

219.93 STOPPING TRAINS AT CROSSINGS. Every company operating a railroad shall cause all trains on such railroad to come to a full stop not less than 10, nor more than 60, rods, before reaching any railroad junction or crossing at grade, unless such stoppage is rendered unnecessary by an interlocking plant or other device approved by the written order of the commission, or by the court upon appeal.

[R. L. s. 2033] (4905)

219.94 TRANSFER OF PASSENGERS. Trains shall stop at all junctions and railroad crossings where transfer of passengers is required as at stations, and, as far as can reasonably be done, companies shall so adjust their time tables as to facilitate such transfer. In case trains on intersecting roads are due at any such junction or crossing at practically the same time, within two minutes of each other, the train first arriving shall wait for the other train five minutes, unless it is known that such train cannot arrive within said time.

[R. L. s. 2034] (4906)

219.95 TOILET ROOMS IN CARS. Every company operating a railroad in the state shall provide in all cars and cabooses used for carrying passengers or other persons not employees of such company, suitable toilet rooms for the use of such persons. Any such company failing to comply with the provisions of this section shall forfeit to the state \$100 for each day that such default shall continue.

[R. L. s. 2035] (4907)

219.96 FIRE EXTINGUISHERS AND TOOLS. Every company operating a railroad in the state shall keep, at each end of each passenger and sleeping car, run or operated by it, therein, fire extinguishers of good and approved construction, in good condition for use and in a safe and convenient position, and in each car one saw and one axe to be kept inside of the car, in convenient places for use in case of accident. Provided, the saw and axe above mentioned shall not be required on cars of steel construction.

[R. L. s. 2036; 1941 c. 390; 1949 c. 392 s. 1] (4910)

219.97 FORFEITURES; VIOLATIONS; PENALTIES. Subdivision 1. Any person, company, corporation, or receiver thereof, operating any railroad in the state violating any of the provisions of section 219.02 shall be guilty of a misdemeanor; and upon conviction thereof punished by a fine of not less than \$25 nor more than \$100 for each offense; and the use of any one car for the transportation of passengers within this state without being so equipped shall constitute a separate offense for every day or part of a day so used.

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Subd. 2. Any railroad company neglecting to comply with any order of the commission made under section 219.03 or section 219.04 shall be liable to a penalty of \$25 for each day such neglect shall continue to be recovered in a civil action in the name of the state and paid into the general fund of the state treasury.

Subd. 3. Any railroad company violating the provisions of section 219.05, in addition to its liability to any person injured or to his personal representative, shall forfeit to the state not less than \$500 nor more than \$2,000 and such violation shall be deemed a separate offense for each period of 30 days that the same shall continue.

Subd. 4. Any person, firm, or corporation violating any of the provisions of sections 219.16 to 219.30 shall be guilty of a misdemeanor. The violation of section 219.22 shall not of itself constitute contributory negligence as a matter of law.

Subd. 5. Any such railroad, receiver or lessee thereof failing or neglecting to comply with the provisions of section 219.37 shall forfeit and pay to the state of Minnesota the sum of \$200 for every mile of such ditch which it fails to keep clean during any season. This amount shall be collected in a civil action brought by the attorney general or by the county attorney of any county through or into which said railroad extends.

Subd. 6. Any person, corporation, or company operating any railroad in the state violating any of the provisions of section 219.56 shall be guilty of a misdemeanor; and upon conviction thereof shall be liable for a penalty of not less than \$10 nor more than \$50 for each offense; and the use of any one caboose car prohibited in section 219.56 shall constitute a separate offense for every day or part of a day so used; and such penalty shall be recovered in a suit brought in the name of the state of Minnesota in any court having jurisdiction thereof in any county in or through which such line of railroad may run, by the attorney general or under his direction, or by the county attorney, of any county in or through which such line of railroad may be operated. All fines and penalties recovered by the state under this section shall be paid into the state treasury.

Subd. 7. Any company failing to comply with any of the provisions of sections 219.84 and 219.85 shall forfeit to the state for each such violation not less than \$500 nor more than \$1,000; and each period of 30 days that any such failure shall continue shall be deemed to constitute a separate offense.

Subd. 8. Any railroad company maintaining waiting rooms at their stations in this state which shall fail to comply with the provisions of section 219.86 shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be subject to a fine of not exceeding \$100 and costs of prosecution.

Subd. 9. Any railroad company maintaining waiting rooms at their stations in this state which shall fail to comply with the provisions of section 219.87 shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be subject to a fine of not exceeding \$100 and costs of prosecution.

Subd. 10. Any railway company, telegraph company, express company, or other common carrier failing to comply with the provisions of section 219.88 shall forfeit to the city or village where such station is located the sum of \$100 for each day that such failure shall continue; provided, that before any such company shall be deemed to be in default the council of the city or village within which such station is located shall notify such company to change the name of such station to the same name as that of such city or village within 60 days after the service of such notice upon such company.

Subd. 11. For each wilful violation of the provisions of section 219.90 in failing to report, or in making a false report, such corporation, company, or person so neglecting or refusing to comply with the provisions of section 219.90 shall forfeit and pay the sum of \$25 together with all taxable costs to be recovered in a civil action to be prosecuted by the county attorney of the county in which the neglect or refusal occurs, in the name of the state of Minnesota, which sum shall be paid over to the county in which such proceedings are had and shall be a part of the county road and bridge fund.

Subd. 12. Any carrier failing to comply with the provisions of section 219.92 or with any order of the commission made thereunder shall forfeit for each day's default \$100 to be recovered in a civil action in the name of the state of Minnesota.

Subd. 13. Any company operating a railroad violating any of the provisions of section 219.93 shall forfeit not less than \$20 nor more than \$100 to be recovered in a civil action before any justice of the peace of the county in which such vio-

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lation occurs upon the complaint of any person; one-half of such forfeiture to go to the complainant and one-half to the school fund of the county.

Subd. 14. Any superintendent, engineer, conductor, or other official or employee of any railroad company who shall violate any of the provisions of section 219.94 or cause violation thereof, shall be guilty of a gross misdemeanor.

Subd. 15. Any company operating a railroad violating any provisions of section 219.96 shall forfeit to the state not more than \$1,000; and any officer, agent, or employee of such company who shall be responsible for such violation shall be guilty of a gross misdemeanor and punished by a fine of not more than \$1,000.

Subd. 16. Any person, company, corporation, or receiver thereof operating any railroad in the state violating any of the provisions of section 219.67 shall be guilty of a misdemeanor; and upon conviction thereof liable for a penalty of not less than \$25 nor more than \$100 for each offense; and the use of any one locomotive engine prohibited in section 219.67 shall constitute a separate offense for every day or part of a day so used; and such penalty shall be recovered in a suit brought in the name of the state of Minnesota in any court having jurisdiction thereof in any county in or through which such line of railroad may run, by the attorney general or under his direction, or by the county attorney of any county in or through which such line of railroad may be operated. All fines and penalties recovered by the state under section 219.67 and under this section shall be paid into the state treasury.

[R. L. ss. 1993; 2030; 2033; 2034; 2036; 1905 c. 208 s. 2; 1905 c. 252 s. 3; 1905 c. 287 s. 2; 1907 c. 276 s. 3; 1909 c. 377 s. 2; 1909 c. 382 s. 2; 1913 c. 93 s. 2; 1913 c. 126 s. 2; 1919 c. 335 s. 3; 1921 c. 244 s. 2; 1925 c. 336 s. 17; 1941 c. 338 s. 1; 1941 c. 390 s. 11 (4726, 4731, 4732, 4743-17, 4751, 4880, 4888, 4890, 4893, 4897, 4900, 4904, 4905, 4906, 4910, 4925)]