

## CHAPTER 81.

(H. Sub. B. No. 6)

## ESTABLISHING A RAILROAD COMMISSION.

AN ACT to establish a railroad commission for the State of Washington, whereby discrimination and extortion in railroad and express charges may be prevented and reasonable and just freight and passenger service and tariff may be corrected and established; to authorize the commission to make all necessary rules and regulations for its government, and the carrying into effect the provisions of this act; to give to said commission the power to regulate the sale of railroad tickets, and to correct and provide charges for hauling loaded or empty cars, proper trackage, proper train service, sufficient freight and passenger rooms, and just and reasonable joint rates and demurral charges; to prescribe penalties for the violation of this act, and to provide means and rules for its proper enforcement, and making an appropriation therefor.

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

SECTION 1. That a Railroad Commission is hereby created, to be composed of three persons to be appointed by the Governor. Within thirty days after this enactment shall go into effect, three commissioners shall be appointed, one of whom shall be designated as chairman, one for the term of six years, one for the term of four years and one for the term of two years; and thereafter the term of each commissioner shall be six years from the date of the expiration of the term of his predecessor. Each commissioner shall hold office until his successor shall have been appointed and qualified. A commissioner may be removed by the Governor for any cause which he shall deem sufficient, which power of removal shall be absolute, and there shall be no right to review of the same in any court whatsoever; the cause or causes for such removal shall be set forth by the Governor in a written statement which shall immediately be filed with the Secretary of State.

(a) No commissioner appointed under this act shall hold any other office under the Government of the United States, or of this State, or of any County or municipal corporation within this State; and shall not, while such commissioner,

engage in any occupation or business inconsistent with his duties as such commissioner.

**Vacancies.**

(b) The Governor shall fill all vacancies in the office of commissioner by appointment, and the person so appointed shall fill out the unexpired term of his predecessor.

**Surety bond of members.**

(c) Before entering upon the duties of his office each of said commissioners shall give a surety company bond (the cost of said bond to be paid by the State) in the sum of twenty thousand (\$20,000) dollars, payable to the State of Washington, conditioned upon the faithful performance of his duties, and shall take and subscribe to the usual oath of office prescribed by law for State officers, and shall in addition thereto swear that he is not directly or indirectly interested in any railroad or express company, nor the bonds, stock, mortgages, securities, contracts or earnings of any railroad or express company, and that he will, to the best of his ability, faithfully and justly execute and enforce the provisions of this act and all laws of this State concerning railroads or express companies, which oath shall be filed with the Secretary of State.

**Salary.**

(d) Each of said Commissioners shall receive an annual salary of four thousand dollars, payable in the same manner as the salaries of other State officers.

**Organization.**

SEC. 2. The Commissioners appointed shall meet at the State Capitol and organize. A majority of said Commissioners shall constitute a quorum to transact business. Said

**Quorum.**

Commission may appoint a secretary at a salary of not more than two thousand dollars per annum, and may appoint such clerks as may be necessary, not to exceed three in number, at a salary of not to exceed twelve hundred dollars per annum each, and such other persons as experts as may be necessary to perform the duties that may be required of them by this act. The secretary shall

**Minutes.**

keep full and correct minutes of all transactions and proceedings of said Commission, and perform such duties as may be required by the Commission. The Commission shall have power to make all needful rules for their government and proceedings. They shall be known collectively as "The

**Official name and seal.**

Railroad Commission of Washington," and shall adopt and use an official seal. They shall be furnished with an office at the state capitol, and with necessary furniture, stationery and supplies, to be paid for on the order of the governor. The Commissioners, secretary and clerks, if any, shall be

entitled to receive from the State their actual necessary traveling expenses while traveling on the business of the Commission, to be paid upon the presentation to the State Auditor of an itemized statement thereof, with vouchers attached, sworn to by the party who incurred the expense and approved by the Commission. <sup>Traveling expenses.</sup>

(a) Said Commission may hold sessions at any place in this State when deemed necessary to facilitate the discharge of their duties. <sup>Sessions.</sup>

SEC. 3. That the freight and passenger tariffs, charges for transportation of loaded or empty cars, charges for demurrage, and reciprocal demurrage, trackage, train service, waiting rooms for passengers and rooms for freight and baggage at all stations of railroads, and charges for each kind and class of property, money, papers, packages and all other things to be charged for and received by each express company on all such property, money, papers, packages and things which by the contract to carry are to be transported by said express company, to be demanded, collected, enforced or performed by railroad or express companies shall be just, fair, reasonable and sufficient, and the said Railroad Commission of Washington is hereby vested with power and authority, upon complaint made as hereinafter provided or by inquiry upon their own motion, after a full hearing, to make any finding declaring any existing rate for the transportation of persons or property, or any regulation whatsoever affecting said rate or charge for transportation of loaded or empty cars or demurrage or reciprocal demurrage or the sufficiency of the train service and waiting rooms for passengers and rooms for freight and baggage to be unreasonable, or unjustly discriminatory, or insufficient, and to declare and order what shall be a just and reasonable rate, practice, regulation or thing to be charged, imposed, enforced or performed or followed in the future in the place of that found to be unreasonable or unjustly discriminatory or insufficient, and the order of the Commission shall of its own force take effect and become operative twenty days after notice thereof has been given to the railroad or express company effected thereby; which said order shall be served on railroad and express companies by delivery of a certified copy thereof under the seal of the Commission, either to the attorney for the railroad or express company, or the said company itself. Service of said order upon any officer upon <sup>Power of Commission.</sup> <sup>Service of order.</sup>

whom summons in civil actions might be served shall be a sufficient service thereof. And any railroad or express company affected by the order of the Commission and deeming it to be contrary to the law, may institute proceedings in the Superior Court of the State of Washington in the County in which the hearing before the Commission upon the complaint had been held, and have such order reviewed and its reasonableness and lawfulness inquired into and determined. Pending such review, if the Court having jurisdiction shall be of the opinion that the order or requirement of the Commission is unreasonable, or unlawful, it may suspend the same until the further order of the Court pending such litigation, in which event the Court shall require a bond of good and sufficient security conditioned that the carrier or carriers petitioning for such review shall answer for all damages caused by the delay in the enforcement of the order of the Commission, and all penalties that would attach against the said railroad or express company, and all compensation for whatever sums for transportation service any person or corporation shall be compelled to pay pending the review proceedings, in excess of the sums such person or corporation would have been compelled to pay if the order of said Commission had not been suspended. Said action of review shall be taken by the said railroad or express company within twenty days after notice of said order, and if said action of review is not taken within said time, then in all litigation thereafter arising between the State of Washington and said railroad or express company, or private parties and said railroad or express company, the said order shall be deemed final and conclusive. If, however, said action in review is instituted within said time, the said railroad or express company shall have the right of appeal or to prosecute by other appropriate proceedings, from the judgment of the Superior Court to the Supreme Court of the State of Washington, as in civil actions. In all such proceedings, however, bonds shall be required conditioned as hereinbefore provided in addition to the usual appeal bond. The action in review of such order, whether by writ of review or appeal, or otherwise, shall be by equitable proceedings before such Superior Court.

Proceedings.

Time of action.

Additional bonds.

Joint rates.

SEC. 4. That when the rate substituted by the Commission, as hereinbefore provided, shall be a joint rate, and the railroad or express companies parties thereto, fail to agree

upon the apportionment thereof among themselves within ten days after notice of such order, the Commission may issue a supplemental order, declaring the portion of such joint rate to be received by each railroad or express company party thereto, which shall take effect of its own force as part of the original order, and when the order of the Commission prescribes the just relation of rates to or from common points of the lines of the several railroads or express companies parties to the proceedings, such railroads or express companies fail to notify the Commission within five days after notice of such order, that they have agreed among themselves as to the changes to be made to effect compliance therewith, the Commission may issue a supplemental order prescribing the rate to be charged to or from such common points by either or all of the parties to the proceeding, which order shall take effect of its own force, as part of the original order, and such supplemental orders shall be subject to review by the said Superior Court within the time and in the manner hereinbefore provided for the review of original orders of the Commission: *Provided however*, That before the Commission shall have the power to fix joint rates, or compel one road to haul the cars of another, or deliver freight or cars to another road, the Commission must be satisfied that an injustice or injury will result to the shipper seeking the enforcement of said joint rate, if the same is not established.

SEC. 5. That if any railroad or express company, or officer, or agent thereof, bound thereby, shall refuse or neglect to obey or perform any order of the Commission mentioned in this act, the Commission may apply by petition to the Superior Court of this State, in any County in this State, in or through which the said railroad or express company is doing business, to enforce obedience to its order by writ of injunction or other appropriate process, and in addition thereto, the offending party shall, for each day of the continuance of said refusal or neglect, be subject to a penalty of two hundred fifty dollars, which together with the cost of suit, shall be recoverable by the Commission in an action instituted by it, on the relation of the State of Washington, in the Superior Court of the State of Washington, in any County in this State, in or through which said railroad or express company runs or does business.

Refusal or  
negligence of  
agents—  
penalty.

Complaints  
as to charges  
or rates.

SEC. 6. When complaint is made to the Commission in writing that any freight or passenger tariff rate, or charge for the transportation of loaded or empty cars, or for demurrage or reciprocal demurrage, or charge for the storing and handling of freight, rates of charge for all kinds or classes of property, money, packages, papers, or other things to be charged for and received by each railroad and express company, which by the contract of carriage are to be transported by said railroad or express company between points within this State, is unreasonable or unjustly discriminatory, or that any train service of railroads, whether freight or passenger, or the amount of trackage, or waiting rooms for passengers, or rooms for freight, or baggage at any station, or that cars of same are insufficient or improper, the Commission shall thereupon give to the railroad or express company to be effected thereby, thirty days' written notice of the time and place, when and where such complaint will be heard, and said railroad or express company shall be entitled to be heard at such time and place, to the end that justice may be done, and the Commission shall issue process to enforce the attendance of all necessary witnesses. All process herein provided for shall be served as in civil cases; issues shall be made up without delay as nearly as practicable as in civil cases; such complaint shall be instituted in the name of the Commission, and all railroads, express companies, and carriers interested, shall be made parties to the hearing, and on such hearing, all complaints made concerning any rates, charges, tolls or other matters, upon which complaints may be founded, may be joined in the one hearing, and no motion shall be entertained against such complaint for misjoinder of complaints or grievances, or misjoinder of parties; it being the intention of this act to authorize said Commission to inquire into all grievances whereof complaint may have been made, or by inquiry upon its own motion at one hearing, and by one order and judgment, decide and adjust the same, and in any review in the Courts of the orders of the Commission, the same rule shall apply and pertain with regard to the joinder of complaints, and parties, as herein provided: *Provided*, All grievances to be inquired into whether by complaint made to the Commission or by inquiry upon its own motion, shall be set out in a complaint, which shall be served upon the railroad, or express company, together with notice of the time and place of hearing.

Process—  
how served.

Intent of  
this act.

(a) The Commission shall have power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings: *Provided*, No person desiring to be present at any such hearing, shall be denied admission. Powers of Commission.

(b) The chairman, and each of the Commissioners, for the purposes mentioned in this act, shall have power to administer oaths, certify to all official acts, and to issue subpoena for the attendance of witnesses, and the production of papers, way bills, books, accounts, documents and testimony. The Superior Court of the County in which any proceeding under this act may be instituted, shall have power to compel the attendance of witnesses, and the production of papers, way bills, books, accounts, documents and testimony as required by said subpoena. The said Commission before which the testimony is to be given or produced, in case of the refusal of any witness to attend, or testify, or produce any papers required by the subpoena, shall report to the Superior Court in and for the County in which the proceeding is pending by petition, that due notice has been given of the time and place of the attendance of said witness, or the production of said papers, and that the witness has been summoned in the manner provided in this act, and that the fees and mileage of the witness has been paid or tendered to the witness for his attendance and testimony, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before said Commission, in the cause or proceeding named in the notice and subpoena, and ask an order of the said Court, compelling the witness to attend and testify before the said Commission; the Court upon the petition of the Commission, shall enter an order directing the witness to appear before the said Court, at a time and place to be fixed by the Court in such order, and then and there show cause why he has not responded to said subpoena. A copy of said order shall be served upon said witness. If it shall appear to the Court that said subpoena was regularly issued by said Commission, the Court shall thereupon enter an order that said witness appear before said Commission at said time and place as fixed in said order, and testify or produce the required papers, and upon failing to obey said order, said witness shall be dealt with as for contempt of Court. In all proceedings before the Commission, the Commissioners shall have the right in their discre- Witnesses.  
Com'n to report to Superior Court.  
Court's order.

tion, to limit the number of witnesses testifying upon any subject or proceeding to be inquired of before the Commission.

Appeal of  
dissatisfied  
party.

(c) In case the decision or order of the Commission concerning any freight or passenger tariff, rate or charge for the transportation of loaded or empty cars or for demurrage or reciprocal demurrage or charge for the storing or handling of freight, rates of charge for any kind or class of property, money, packages, papers or other things to be charged for or received by any railroad or express company inquired into by the Commission on the written complaint of any person or number of persons shall be unsatisfactory to any of the persons so making written complaint upon any matter embraced in such written complaint, such dissatisfied party shall have the right to appeal from the order of the Commission to the Superior Court of the State of Washington in the County in which the hearing before the Commissioners had been held. Said appeal shall be taken by serving on the Commission or filing with it a notice of appeal specifying the order or portion of the order appealed from within thirty days from the rendition of such decision and the execution and filing within said time of a bond in the sum of one hundred dollars conditioned to pay the costs of such appeal, which bond shall go to the State of Washington. Upon receipt of such notice and bond the Commission shall notify all persons interested in the subject matter of said appeal being taken. On said appeal the order or portion of order appealed from shall be tried *de novo* by the Superior Court without the intervention of the jury and said Court shall render such decision concerning the matter complained of as the justice of the case may require.

Notice to  
interested  
parties.

Rates conclu-  
sive, in  
actions.

SEC. 7. In all actions between private parties and railroad or express companies brought under this law, and in all actions for the enforcement of penalties provided for in this act, the rates, charges, classifications and orders prescribed by the Commission as hereinbefore provided, shall be held conclusive, and deemed and accepted to be fair and just; but in every such action any judgment averse to the railroad or express companies rendered after the Commission has determined the rate, charge, classification or order, and while same is pending on writ of review or appeal, and prior to the final determination of such action under section three of

this act, determining the reasonableness of such rate, charge, classification or order, shall be provisional only, and enforcement thereof and process thereunder, shall be stayed pending the final determination of such writ of review or appeal. Upon final determination of such writ of review or appeal, <sup>Final judgment absolute.</sup> if the judgment therein be in favor of the rate, charge, classification or order prescribed by the Commission, the judgment theretofore provisional, shall thereupon become absolute, but if the determination be against the rate, charge, classification or order, prescribed by the Commission, in such event the judgment theretofore provisional, shall be set aside or modified by the Court to meet the final determination thereof.

SEC. 8. That whenever the Commission, under section <sup>Burden of proof.</sup> three of this act, has determined any rate, regulation, order, classification or charge, in any appeal or writ of review brought by a railroad or express company to determine the reasonableness of such rate, regulation, order, classification or charge, the burden of proof shall be upon said railroad or express company to establish that such rate, regulation, order, classification or charge, established by the Commission is unreasonable or unjustly discriminatory or insufficient.

SEC. 9. The Superior Court of the State of Washington, <sup>Jurisdiction of court.</sup> in any County in or through which the said railroad or express companies is doing business, shall have jurisdiction to enforce by proper decree, injunction or orders, the rates, classifications, rulings, orders and regulations made or established by the Commission. The proceeding therefor shall be by equitable action in the name of the State and shall be instituted by the Attorney General whenever advised by the Commission that any railroad or express company or person <sup>Att'y Gen'l to institute proceedings, when.</sup> operating a line of railways or express company in this State is violating or refusing to comply with any rule, order, rate, classification or regulation made by the Commission and applicable to such railway or express company. It shall be the duty of the Superior Court in which such action is pending to require the issues therein to be promptly made <sup>Duty of Superior Court.</sup> up, and to give the same precedence over all other civil business of a different nature. If in such action the Court finds that the said defendant has failed, without sufficient cause, to comply with the rule, regulation, order, rate or classification so made and established, the Court shall decree a mandatory injunction compelling obedience to and compli-

Violation of  
decree—  
penalty.

ance with the rule, rate, order, regulation or classification by the defendant and its officers, agents, servants and employes, and may grant such other relief as may be deemed just and proper. Any violation of such decree shall render the defendant and every officer, agent, servant and employe of the defendant who is in any manner instrumental in such violation, guilty of contempt, and upon conviction thereof shall be fined in a sum not exceeding one thousand (\$1,000) dollars for each offense, or may imprison the person guilty of contempt until he shall sufficiently purge himself therefrom, and such decree shall continue and remain in effect and be in force until the rule, order, regulation, rate or classification shall be modified or vacated by the Commission, but the defendant railroad or express company may thereafter petition the Commission for and obtain a modification of the decree by reason of any change of circumstances occurring after the decree such as to render the rule, order, regulation, rate or classification involved unreasonable or unjust. An appeal within the same time as other actions, shall be allowed to the Supreme Court from the decree in such actions, and the cause shall have precedence over all other civil actions of a different nature pending in the Supreme Court.

Schedule of  
rates to be  
furnished.

SEC. 10. Each railroad and express company shall, within thirty days after this act shall take effect, furnish to the Commission a complete schedule of all rates, rules, orders, classifications or regulations then in force by it between all points in this State, and shall keep at each station, depot or office a copy thereof for inspection by all interested persons, during business hours, and thereafter shall note thereon any changes that may be made therein within ten days after such change shall be made.

Inspection of  
railroad com-  
pany's books.

SEC. 11. The Commissioners, or either of them, or such person as they may employ therefor, shall have the right, at such times as they may deem necessary, to inspect the books and papers of any railroad or express company, and to examine under oath any officer, agent or employe of such railroad or express company in relation to the business and affairs of the same. If any railroad or express company shall refuse to permit the Commissioners, or either of them, or any person authorized by them, to examine its books and papers, such railroad or express company shall, for each offense, pay to the State of Washington not less than one hundred twenty-five dollars nor more than five hundred

dollars for each day it shall so fail or refuse: *Provided*, That any person other than one of said Commissioners who shall make any such demands shall produce his authority, from said Commission, to make such inspection.

(a) Any officer, agent or employe of any railroad or express company who shall, upon proper demand, fail or refuse to exhibit to the Commissioners, or either or any of them, or any person authorized to investigate the same, any book or paper of such railroad or express company which is in the possession of, or under the control of such officer, agent or employe, shall be deemed guilty of a misdemeanor, and upon conviction in any Court having jurisdiction thereof, shall be fined for each offense a sum not less than one hundred twenty-five dollars and not to exceed five hundred dollars, or shall be imprisoned in the County jail not to exceed six months, or both such fine and imprisonment. Failure to exhibit books. Penalty.

SEC. 12. The Commission shall ascertain as early as practicable the amount of money expended in the construction and equipment per mile of every railway in Washington. The Commission may also ascertain the amounts paid for salaries to the officers of the railroad or express company and the wages paid to employes. For the purpose in this section named, the Commission may employ sworn experts to inspect and assist them when needed, and from time to time, as the information required by this section is obtained, it shall communicate the same to the Attorney General by report, and file a duplicate thereof with the Secretary of State for public use, and said information shall be printed from time to time in the annual report of the Commission. Ascertainment of amount of construction work—sworn experts.

SEC. 13. The said Commission shall cause to be prepared suitable blanks with questions calculated to elicit all information concerning railroads and express companies, and as often as it may be necessary furnish said blanks to each railroad and express company. Any railroad or express company receiving from the Commission any such blanks shall cause said blanks to be properly filled out so as to answer fully and correctly each question therein propounded, and in case they are unable to answer any question, they shall give a satisfactory reason for their failure; and the said answers, duly sworn to by the proper officers of said company, shall be returned to said Commission at its office within thirty days from the receipt thereof. Blanks.

Failure to  
fill out blanks.

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

Penalty.

Reports of  
Com'n, to  
Governor.

(b) The said Commission shall make and submit to the Governor annual reports containing a full and complete account of the transactions of their office, together with the information gathered by such Commission as herein required, and such other facts, suggestions and recommendations as may be by them deemed necessary, which report shall be published as the reports of the heads of departments.

Investigations,  
by Com'n.

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

Witnesses—  
fees thereof.

SEC. 14. Each witness who shall appear before the Commission by order of the Commission, shall receive for his attendance three dollars per day and five cents per mile traveled by the nearest practicable route in going and returning from the place of meeting of said Commission; said fees and mileage shall be paid as other accounts, upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of the Commission: *Provided*, That no

witness shall be entitled to any fees or mileage from the State of Washington when summoned at the instance of the railroad or express companies. The claim by any witness that any testimony sought to be elicited may tend to criminate the person giving it, shall not excuse said witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding excepting in a prosecution for perjury: *Provided*, The Commission shall in all cases have the right to take depositions **Depositions.** instead of compelling attendance of witnesses and to compel witnesses to attend and testify as upon a hearing before them. The sheriff or constable executing any process issued under the provisions of this act shall receive such compensation as may be allowed by the Commission, not to exceed fees as now prescribed by law for similar services. The said Commission shall have power to subpoena and compel the attendance of witnesses from any place within the State to attend upon said Commission at its meetings at any place in the State.

SEC. 15. If any railroad or express company subject hereto, directly or indirectly, or by any special rate, rebate, drawback or other device, shall charge, demand, collect, or receive from any person, firm or corporation, a greater or less compensation for services rendered, or to be rendered by it, than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service, such railroad or express company shall be deemed guilty of unjust discrimination, which is hereby prohibited. **Unjust discrimination.**

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

(b) Every railroad or express company which shall wilfully fail or refuse under such regulations as may be prescribed by the Commission, to receive and transport without delay or discrimination, the passengers, tonnage and cars, loaded or empty, of any connecting line of railroad and every railroad which shall, under such regulations as may be prescribed by the Commission, wilfully fail and refuse to transport and deliver without delay or discrimination any passen- **Failure to transport passengers or freight.**

gers, tonnage or cars, loaded or empty, destined to any point on or over the line of any connecting line of railroad shall be deemed guilty of unjust discrimination: *Provided*, Perishable freight of all kinds and live stock shall have precedence of shipment.

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

Penalty for violating above section.

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

Free carriage for State allowed hereby.

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

Employes included.

Penalty for false billing or weight.

SEC. 16. Any officer or agent of any railroad or express company subject to this act who, by means of false billing, false classification, false weights or by any other device, shall suffer or permit any person or persons to obtain transporta-

tion for property at less than regular rates then in force on such railroad or express company, or who, by means of false billing, false classification, false weighing, or by any device whatsoever shall charge any person, firm or corporation more for the transportation of property than the regular rates, shall be guilty of a misdemeanor, and on conviction thereof fined in a sum not less than one hundred dollars nor more than one thousand dollars.

SEC. 17. In case any railroad or express company subject to this act shall do, cause to be done or permit to be done any matter, act or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing herein required to be done by it, the said railroad or express company shall be liable to the person or persons, firm or corporation injured thereby for the damage sustained in consequence of such violation. Liability for damages.

SEC. 18. If any railroad or express company as aforesaid shall wilfully violate any other provisions of this act, or shall do any other act herein prohibited, or shall fail or refuse to comply with any and all lawful orders emanating from said Railroad Commission or any other duty enjoined upon it for which a penalty has not herein been provided, for every such act of violation it shall pay to the State of Washington a penalty of not more than two thousand dollars. Wilful violations—penalty.

SEC. 19. All of the penalties herein provided shall be recovered and suits therefor shall be brought in the name of the State of Washington, in the superior court of Thurston county, or in the superior court of any county in or through which said railroad or express company may do business, by the attorney general or under his direction. In all suits arising under this act the rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the State under this act shall be paid into the treasury of the State. Penalties—how recovered—to whom paid.

SEC. 20. Upon application of any person the Commission shall furnish certified copies of any classification, rates, rules, regulations or orders established by such Commission and such printed copies, published by the authority of the Commission, with seal affixed, shall be admissible in evidence in any suit, and shall be sufficient to establish the fact that any charge, rate, rule, order or classification therein contained, and which may be in issue in the trial, is the official act of the Commission. A substantial compliance with the require- Com'n to furnish copies of rates, etc.

ments of this act shall be sufficient to give effect to all the classifications, rates, charges, rules, regulations, requirements and orders established by the Commission, and none of them shall be declared inoperative for any omission of a technical matter in the performance of such act.

Commission to enforce act and report to Attorney General.

SEC. 21. It is hereby made the duty of such Commission to see that the provisions of this act, and all laws of this State concerning railroads and express companies are enforced and obeyed, and that violations thereof are promptly prosecuted, and penalties due the State therefor recovered and collected. And said Commission shall report all such violations, with the facts in their possession, to the attorney general or other officer charged with the enforcement of laws, and request him to institute the proper proceedings and all suits between the State and any railroad or express company shall have precedence over all the other suits pending therein.

Term "railroad" defined.

SEC. 22. The term "road," "railroad," "railroad companies," "railroad corporations," as used herein, shall be taken to mean and embrace all corporations, companies, individuals and association of individuals, their losses or receivers, owning or operating any railroad or part of a railroad in this State: *Provided however*, That the provisions of this act shall not apply to street railroads or to electric railroads of the class known as suburban or interurban railroads which operate cars in connection with street railroad lines, though extending also over private right-of-way, and "express company" shall mean all such corporations, companies and association of individuals, their lessees or receivers, as shall do the business of express companies on any railroad in this State.

Right of action not released hereby.

SEC. 23. This act shall not have the effect to release or waive any right of action by the State or any person for any right, penalty or forfeiture which may have arisen or may hereafter arise under any law of this State; and all penalties accruing under this act shall be cumulative of each other, and a suit for the recovery of one penalty shall not be a bar to the recovery of any other.

Appropriation.

SEC. 24. There is hereby appropriated out of any money in the State treasury not otherwise appropriated the sum of seventy-five thousand dollars, or so much thereof as may be necessary to carry out the provisions of this act.

SEC. 25. All laws and parts of laws in conflict with this act are hereby repealed. <sup>Repeal.</sup>

SEC. 26. If any section, subdivision, sentence or clause of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the act. <sup>Constitutionality.</sup>

SEC. 27. That all provisions of this act and all penalties and forfeitures provided herein applicable to railroad companies shall likewise be applicable to express companies. <sup>Applicable to express companies.</sup>

Passed the House February 25, 1905.

Passed the Senate March 1, 1905.

Approved by the Governor March 7, 1905.

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## CHAPTER 82.

(H. B. No. 203)

### RELATING TO THE INCORPORATION, MANAGEMENT AND POWERS OF COMPANIES FOR OPERATING TOLL LOGGING ROADS, ETC.

AN ACT relating to the incorporation, management and powers of companies having for their object the building of toll logging roads, chutes, water ways and other ways for the transportation of logs and other timber products, and conferring upon such companies the power of eminent domain, and declaring an emergency.

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

SECTION 1. Any two or more persons may incorporate a company, having for its principal object the construction, maintenance and operation of logging roads, chutes, flumes and artificial water courses, or water ways and other ways, for the transportation of logs and other timber products. Such corporation shall have power to acquire, hold, use and transfer all such real and personal property as shall be reasonably necessary for carrying on the business of such corporation. <sup>Incorporation and powers of.</sup>

SEC. 2. Such corporation shall have power to build, construct, maintain and operate logging roads, whether skid roads, railroads or any other kind, also chutes, flumes and artificial water courses, water ways and other ways, for the <sup>Further powers.</sup>