

CHAPTER 1110

RAILROADS

H. F. 2216

AN ACT relating to railroad laws providing for schedule penalties for violations of railroad laws, for the authority for the state department of transportation to evaluate railroad trackage, for new procedures for changing railroad agency service, for reduced rail rates for transportation of certain goods, for operation requirements for lights on track power cars, for utilization of the grade crossing safety fund for the installation of flasher lights or gate arm signals, and for the repeal of certain obsolete or preempted sections of the railroad law.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section three hundred seven point twenty-six (307.26), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Identify those segments of railroad trackage which, if improved, may provide increased transportation services for the citizens of this state. The department shall develop and implement programs to encourage the improvement of rail freight services on such railroad trackage.

Sec. 2. Section three hundred twenty-seven C point four (327C.4), Code 1977, is amended to read as follows:

327C.4 INSPECTION--NOTICE TO REPAIR. The department shall inspect the condition of each railroad, its rail facilities, equipment, rolling stock, operations and pertinent records at reasonable times and in a reasonable manner to insure proper operations. Employees of the department shall have proper identification which shall be displayed upon request. If found unsafe, the department shall immediately notify the railroad corporation whose duty it is to put the same in repair, which shall be done by it within such time as the department shall fix. If any corporation fails to perform this duty the department may forbid and prevent it from running trains over the defective portion while unsafe or may regulate the speed and operation of trains moving over the defective portion of the railroad. If the railroad corporation violates any requirement provided by the department, the railroad corporation shall be subject to a ~~fine of not more than one hundred dollars~~ schedule two penalty for each day the repairs have not been made from the date the department

set for repairs to be completed. The court may consider the willingness and ability of the railroad corporation to cooperate in removing the safety hazard. ~~Moneys received from the assessment of any fine shall be credited to the rail assistance fund.~~ Notwithstanding the provisions of chapter twenty-five A (25A) of the Code, the state shall not be held liable for damages for any act or failure to act under the provisions of this section.

Sec. 3. Chapter three hundred twenty-seven C (327C), Code 1977, is amended by adding the following new section as section three hundred twenty-seven C point five (327C.5):

NEW SECTION. SCHEDULE VIOLATIONS--PENALTIES. Violations of the provisions of chapters three hundred twenty-seven C (327C) through three hundred twenty-seven G (327G) of the Code, shall be punished as a schedule one penalty unless otherwise indicated. Violations of a continuing nature shall constitute a separate offense for each violation unless otherwise provided. The schedule of violations shall be:

1. "Schedule one" means a penalty of one hundred dollars per violation.

2. "Schedule two" means a penalty of not less than one hundred dollars nor more than five hundred dollars per violation.

3. "Schedule three" means a penalty of not less than five hundred dollars nor more than one thousand dollars per violation.

4. "Schedule four" means a penalty of not less than five hundred dollars nor more than five thousand dollars per violation.

5. "Schedule five" means a penalty of not less than five hundred dollars nor more than five thousand dollars for the first violation and not less than five thousand dollars nor more than ten thousand dollars for each subsequent violation.

Sec. 4. Section three hundred twenty-seven C point six (327C.6), Code 1977, is amended to read as follows:

327C.6 CHANGES IN OPERATION AND IMPROVEMENTS. When, in the judgment of the department, any railroad corporation fails in any respect to comply with the ~~terms-of-its-charter-or articles-of-incorporation-or-the~~ laws of the state; or if any railroad corporation fails to operate its railroad and business in a reasonable and expedient manner which is safe and convenient to the public, the department may order such changes as it finds to be proper and shall serve an order upon such corporation. Nothing in this section or section

327C.4 shall be construed as to nullify responsibility or liability for damage to person or property by any railroad corporation.

Sec. 5. Section three hundred twenty-seven C point seven (327C.7), Code 1977, is amended to read as follows:

327C.7 ABANDONING STATION. It shall be unlawful for any railroad corporation owning or operating any railroad ~~in-whete~~ ~~er-in-part~~ in this state, ~~to-abandon-any-station-on-its-line~~ ~~of-railroad-within-this-state, or-to-remove-the-depot, or~~ to withdraw agency service, unless it shall first have filed notice of its intention with the department and otherwise complied with the provisions of this section and sections 327C.8 and 327C.9. Upon the receipt of such notice the department shall specify a notice be published and the railroad corporation shall, at its own expense, cause such notice to be published at least fifteen days in advance of the action to ~~abanden-er~~ discontinue such ~~station-er~~ agency, ~~er-remove~~ ~~such-depot,~~ and shall file proof of publication with the department. The notice shall be in such form as prescribed by the department and shall be published in a newspaper published in the county in which the station is located. An alternative notice procedure giving comparable public notice by registered mail to affected shippers may be prescribed by the department according to rules promulgated under chapter 17A.

Sec. 6. Section three hundred twenty-seven C point eight (327C.8), Code 1977, is amended to read as follows:

327C.8 OBJECTIONS--HEARING. Any person directly affected by the proposed ~~abandonment-er~~ discontinuance of any ~~station~~ ~~er~~ agency, ~~er-removal-of-any-depot,~~ may file written objections with the department, stating the grounds for such objections, within fifteen days from the time of the publication of the notice as provided in section 327C.7. Upon the filing of such objections the board shall fix the time and place for a hearing, which shall be held within sixty days from the filing of such objections. Written notice of the time and place of such hearing shall be mailed by the board to the railroad corporation and the person filing objections at least ten days prior to the date fixed for such hearing.

Sec. 7. Section three hundred twenty-seven C point nine (327C.9), Code 1977, is amended to read as follows:

327C.9 ORDER OF BOARD. Upon said hearing the board may prohibit the ~~abandonment-er~~ discontinuance of such ~~station~~ ~~er~~ agency, ~~er-the-removal-of-the-depot,~~ or may make such other

order as is warranted by the evidence produced at such hearing. But if no objections are filed the board may make an order permitting the railroad corporation to proceed with such ~~abandonment or discontinuance, or removal of the depot.~~

Sec. 8. Section three hundred twenty-seven C point thirteen (327C.13), Code 1977 Supplement, is amended to read as follows:

327C.13 HINDERING OR OBSTRUCTING DEPARTMENT. Any person who shall willfully obstruct the department or board in the performance of their duties, or who shall refuse to give any information within that person's possession that may be required by the department or board within the line of their duty, shall, upon conviction, be guilty of a simple misdemeanor subject to a schedule two penalty.

Sec. 9. Section three hundred twenty-seven C point seventeen (327C.17), Code 1977, is amended to read as follows:

327C.17 WHEN ORDER EFFECTIVE--VIOLATION. ~~All rules and orders affecting public rights, made by the department or board, as now or may hereafter be authorized for the direction and observance of railroads in this state, shall be in full force and effect from and after the date fixed by the department or board.~~ If any railroad fails, neglects, or refuses to comply with any rule or order made by the department or board within the time specified, it shall, for each day of such failure, pay a penalty of one hundred dollars be subject to a schedule two penalty. ~~Such moneys shall be credited to the railroad assistance fund.~~

Sec. 10. Section three hundred twenty-seven C point forty-three (327C.43), Code 1977, is amended to read as follows:

327C.43 VIOLATIONS. Any corporation, company, or individual owning or operating a railway within the state, neglecting or refusing to make the required reports by the date fixed ~~or fixed~~ by rule of the department, shall, upon conviction, be subject to a schedule one penalty of one hundred dollars for each and every day of delay in making the same after the date thus fixed.

Sec. 11. Section three hundred twenty-seven D point seventeen (327D.17), Code 1977, is amended to read as follows:

327D.17 CRIMINAL LIABILITY. Except as otherwise specially provided for in this chapter, and unless relieved from the consequences of a violation of the law as provided herein, any common carrier subject to the provisions hereof, or, when such common carrier is a corporation, any director or officer

thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party shall willfully do or cause to be done, or shall willfully suffer or permit to be done any act, matter, or thing in this chapter prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this chapter required to be done, or shall cause or willingly suffer or permit any act, matter, or thing, so directed or required by the provisions of this chapter to be done, not to be so done; or shall aid or abet any such omission or failure, or shall be guilty of any infraction of the provisions of this chapter, or shall aid or abet therein, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be ~~finned-not-more-than-five-thousand-ner less-than-five-hundred-dollars-for-each-offense~~ subject to a schedule four penalty.

Sec. 12. Section three hundred twenty-seven D point twenty-seven (327D.27), Code 1977 Supplement, is amended to read as follows:

327D.27 PENALTY FOR DISCRIMINATION. Any corporation making any unjust discrimination as to freight rates, or the rates for the use and transportation of railway cars, or in receiving, handling, or delivering freight, shall, upon conviction, be guilty-of-an-aggravated-misdemeanor subject to a schedule four penalty; or shall be subject to the liability prescribed in section 327D.28, to be recovered as therein provided.

Sec. 13. Section three hundred twenty-seven D point twenty-eight (327D.28), Code 1977 Supplement, is amended to read as follows:

327D.28 CIVIL FORFEITURE. Any railway corporation making any unjust discrimination as to passenger or freight rates, or the rates for the use and transportation of railway cars, or in receiving, handling, or delivering freight, shall be guilty-of-a-fraudulent-practice, upon conviction, forfeit and pay to the state an amount within the limits of a schedule five penalty. Money collected shall be deposited in the general fund of the state.

Sec. 14. Section three hundred twenty-seven D point twenty-nine (327D.29), Code 1977, is amended to read as follows:

327D.29 FREE OR REDUCED FREIGHT RATES PERMITTED. Nothing in this chapter shall apply to free or reduced rates for the transportation, storage or handling of:

1. Property for the United States, this state, or ~~municipal-governments~~ political subdivisions of this state.
2. Materials to be used by public authorities in constructing or maintaining public ~~highways-outside-of-the-corporate limits-of-cities~~ facilities.
3. Property for charitable purposes.
4. Property for exhibition at fairs or expositions.
5. Private property or goods for the family use of such employees as are entitled to free passenger transportation.
6. Private property in less than carload lots.
7. Coal.
8. Products transported to be recycled.

Sec. 15. Section three hundred twenty-seven D point forty-five (327D.45), Code 1977, is amended to read as follows:

327D.45 SCHEDULES OF JOINT RATES. The ~~department-shall make-and-publish~~ board may order a schedule of joint through railway rates for such traffic and on such routes as in its judgment the fair and reasonable conduct of business requires ~~shall-be-done-by-carriage-over-two-or-more-lines-of-railway, and-will-promote-the-interests-of-the-people-of-this-state.~~

Sec. 16. Section three hundred twenty-seven D point one hundred thirty-two (327D.132), Code 1977 Supplement, is amended to read as follows:

327D.132 VIOLATION--PENALTY. Any common carrier operating in this state violating any of the provisions of sections 327D.127 to 327D.131 by neglecting or refusing to weigh cars or to furnish certificates of weights as therein provided shall, upon conviction, be guilty-of-a-simple-misdemeanor subject to a schedule one penalty.

Sec. 17. Section three hundred twenty-seven F point fourteen (327F.14), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

327F.14 LIGHTS ON TRACK POWER CARS. Any person, firm, or corporation owning or operating a track power car in this state shall insure that such track power car is equipped with an electric headlight that will enable the operator to see an unlighted obstruction on the track at a distance of three hundred feet in clear weather. A track power car shall also be equipped with two rear electric red lights of such construction to be plainly visible during hours of darkness on a clear night at a distance of three hundred feet.

Such lights shall be in operation when the track power car is being operated.

These lighting requirements shall not be construed to penalize any person, firm or corporation if it can be shown that such lighting equipment was present in good and sufficient working order at the beginning of a trip and became disabled during the trip.

A violation of this section shall, upon conviction, be subject to a schedule one penalty.

Sec. 18. Section three hundred twenty-seven F point twenty (327F.20), Code 1977 Supplement, is amended to read as follows:

327F.20 VIOLATIONS. Any common carrier as provided in section 327F.18 violating any of the provisions of section 327F.19 shall, upon conviction, be deemed-guilty-of-a-simple misdemeanor subject to a schedule two penalty.

Sec. 19. Section three hundred twenty-seven F point twenty-eight (327F.28), Code 1977 Supplement, is amended to read as follows:

327F.28 VIOLATIONS. Any failure to comply with the provisions of section 327F.27 shall, upon conviction, be deemed a-simple-misdemeanor subject to a schedule one penalty.

Sec. 20. Section three hundred twenty-seven F point thirty-five (327F.35), Code 1977 Supplement, is amended to read as follows:

327F.35 PENALTY. Any railroad corporation found guilty of violating the provisions of section 327F.34 shall, upon conviction, be guilty-of-a-simple-misdemeanor subject to a schedule one penalty.

Sec. 21. Section three hundred twenty-seven F point thirty-six (327F.36), Code 1977 Supplement, is amended to read as follows:

327F.36 SCREEN EXHAUST FIRE CONTROLS. No locomotive or other rolling stock shall be operated unless it is equipped with proper deflector and screen exhaust fire controls and uses adequate devices to prevent the escape of blowing or burning materials or substances and is maintained in good working order to protect against the start and spread of fires along the right of way. A violation of this section shall, upon conviction, be a-simple-misdemeanor subject to a schedule one penalty. The railroad corporation, and any officers officer, agent, lessee or independent contractor found guilty of a violation of this section shall, upon conviction, be guilty-of-a-simple-misdemeanor subject to a schedule one penalty. In the event a right of way fire can be attributed to faulty screen exhaust fire control equipment, a local fire department may collect reasonable hourly charges, not to

exceed a total of two hundred fifty (250) dollars for each call from the railroad corporation.

Sec. 22. Section three hundred twenty-seven G point nine (327G.9), Code 1977 Supplement, is amended to read as follows:

327G.9 FAILURE TO FENCE--GENERAL PENALTY. If the railroad corporation refuses or neglects to comply with any provision of this chapter relating to the fencing of the tracts, such railroad corporation shall, upon conviction, be ~~guilty of a simple misdemeanor~~ subject to a schedule two penalty and every thirty days' continuance of such refusal or neglect shall constitute a separate and distinct offense.

Sec. 23. Section three hundred twenty-seven G point fourteen (327G.14), Code 1977 Supplement, is amended to read as follows:

327G.14 VIOLATIONS. Any officer or employee of any railway corporation violating any of the provisions of section 327G.13 shall, upon conviction, be ~~guilty of a simple misdemeanor~~ subject to a schedule two penalty.

Sec. 24. Section three hundred twenty-seven G point fifteen (327G.15), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter forty-eight (48), section thirty-three (33), is amended to read as follows:

327G.15 RAILWAY AND HIGHWAY CROSSING AT GRADE. Wherever a railway track crosses or shall hereafter cross a highway, street or alley, the railway corporation owning such track and the department, in the case of primary highways, the board of supervisors of the county in which such crossing is located, in the case of secondary roads, or the council of the city, in the case of streets and alleys located within a city, may agree upon the location, manner, vacation, physical structure, characteristics and maintenance of the crossing and flasher lights or gate arm signals at the crossing and allocation of costs thereof. The department shall become a party to the agreement if grade crossing safety funds are to be used. Up to seventy-five percent of the maintenance cost of flasher lights or gate arm signals at the crossing and an unlimited portion of the cost of installing flasher lights or gate arm signals at the crossing may be paid from the grade crossing safety fund.

Notwithstanding other provisions of this section, maintenance of flasher lights or gate signals installed or ordered to be installed before July 1, 1973, shall be assumed wholly by the railroad corporation.

Payments from the grade crossing safety fund shall be made

by the treasurer of state upon certification by the department that the terms of the agreement have been followed.

The department shall promulgate rules according to chapter 17A for processing claims to the grade crossing safety funds.

The provisions of this section shall not apply to the repair of the grade crossing surface.

Sec. 25. Sections three hundred twenty-seven C point eleven (327C.11), three hundred twenty-seven C point thirty-five (327C.35), three hundred twenty-seven C point thirty-nine (327C.39), three hundred twenty-seven F point six (327F.6), three hundred twenty-seven F point seven (327F.7), three hundred twenty-seven F point ten (327F.10), three hundred twenty-seven F point eleven (327F.11), three hundred twenty-seven F point twelve (327F.12), three hundred twenty-seven F point fifteen (327F.15), three hundred twenty-seven F point seventeen (327F.17), three hundred twenty-seven G point twenty-four (327G.24), three hundred twenty-seven G point twenty-five (327G.25), three hundred twenty-seven G point twenty-six (327G.26), three hundred twenty-seven G point twenty-seven (327G.27), three hundred twenty-seven H point one (327H.1), three hundred twenty-seven H point two (327H.2), three hundred twenty-seven H point three (327H.3), three hundred twenty-seven H point four (327H.4), three hundred twenty-seven H point five (327H.5), three hundred twenty-seven H point six (327H.6), three hundred twenty-seven H point seven (327H.7), three hundred twenty-seven H point eight (327H.8), three hundred twenty-seven H point nine (327H.9), three hundred twenty-seven H point ten (327H.10), three hundred twenty-seven H point eleven (327H.11), three hundred twenty-seven H point twelve (327H.12), three hundred twenty-seven H point thirteen (327H.13), three hundred twenty-seven H point fourteen (327H.14), three hundred twenty-seven H point fifteen (327H.15), three hundred twenty-seven H point sixteen (327H.16), three hundred twenty-seven H point seventeen (327H.17), and three hundred twenty-seven H point nineteen (327H.19), Code 1977, are repealed.

Sec. 26. Sections three hundred twenty-seven F point nine (327F.9), three hundred twenty-seven F point thirteen (327F.13), and three hundred twenty-seven F point sixteen (327F.16), Code 1977 Supplement, are repealed.

Approved June 26, 1978