

THE RAILWAY RATE BILL

Full Text of the Measure as Passed by the House and Amended by the Senate.

OF FAR REACHING IMPORT

Makes Pipe Lines Common Carriers. Puts Express and Sleeping Car Companies Under Authority of Interstate Commerce Commission—Publicity of Tariffs and Accounts Obligatory. Heavy Penalties For Violation of Commission's Orders—Fines and Imprisonment For Givers and Takers of Rebates—Interstate Commerce Commission to Determine, on Complaint of Shippers, What Rates Are Just and Reasonable to Be Thereafter Observed as Maximum Charges, Subject to Review by the Federal Courts.

An act to amend an act entitled "An act to regulate commerce," approved Feb. 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, that section 1 of an act entitled "An act to regulate commerce," approved Feb. 4, 1887, be amended so as to read as follows:

Makes Pipe Lines Common Carriers.

"Sec. 1. That the provisions of this act shall apply to any corporation or any person or persons engaged in the transportation of oil or other commodity, except water and except natural or artificial gas by means of pipe lines or partly by pipe lines and partly by railroad or partly by pipe lines and partly by water, who shall be considered and held to be common carriers within the meaning and purpose of this act, and to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad (or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment), from one state or territory of the United States, or the District of Columbia, to any other state or territory of the United States, or the District of Columbia, or from one place in a territory to another place in the same territory, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: Provided, however, that the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property wholly within one state and not shipped to or from a

foreign country from or to any state or territory as aforesaid.

Includes Express and Sleeping Cars.

"The term 'common carrier,' as used in this act, shall include express companies and sleeping car companies. The term 'railroad,' as used in this act, shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease, and shall also include all switches, spurs, tracks, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, and also all freight depots, yards, and grounds used or necessary in the transportation or delivery of any of said property; and the term 'transportation' shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported; and it shall be the duty of every carrier subject to the provisions of this act to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates applicable thereto.

"All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable; and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful."

Restrictions on Passenger Passes.

"No carrier subject to the provisions of this act shall hereafter, directly or indirectly, issue or give any interstate free ticket, free pass, or free transportation for passengers, except to its officers, agents, employees, surgeons, physicians, actual and bona fide attorneys, and members of their immediate families; to ministers of religion, local and traveling secretaries of Young Men's Christian associations, inmates of hospitals and charitable and eleemosynary institutions; to indigent, destitute, and

homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers, and of soldiers and sailors' homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers, and female nurses that served during the civil war; to ex-Union soldiers and sailors and Confederate soldiers; and to owners and care takers of live stock when traveling with such stock or when going to point of shipment or returning from point of delivery: Provided, that this provision shall not be construed to prohibit the interchange of passes for the officers, agents, and employees of carriers, and members of their immediate families, nor to prohibit any carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitations, nor prevent such carrier from giving free or reduced transportation to laborers transported to any place for the purpose of supplying any demand for labor at such place. Any carrier violating this provision shall be deemed guilty of a misdemeanor and shall for each offense pay to the United States a penalty of not less than one hundred nor more than two thousand dollars, and any

person, other than the persons excepted in this provision, who uses, or who solicits or accepts for himself or other person, any such interstate free ticket, free pass, or free transportation shall be subject to a like penalty and fine. Jurisdiction of offenses under this provision shall be the same as that provided for offenses in an act entitled "An act to further regulate commerce with foreign nations and among the states," approved Feb. 19, 1903, and any amendment thereof.

Railways Must Not Deal in Coal.

"From and after May 1, 1908, it shall be unlawful for any common carrier to transport from any state, territory, or district of the United States to any other state, territory, or district of the United States or to any foreign country any article or commodity, other than timber and the manufactured products thereof, manufactured, mined, or produced by it or under its authority or which it may own in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary and intended for its own use in the conduct of its business as a common carrier.

Must Provide Switches For All Shippers

"Any common carrier subject to the provisions of this act shall promptly, upon application of any shipper tendering interstate traffic for transportation, construct, maintain, and operate upon reasonable terms a switch connection with any private side track which may be constructed to connect with its railroad, where such connection is reasonably practicable and can be put in with safety and will furnish sufficient business to justify the construction and maintenance of the same; and shall furnish cars for the movement of such traffic to the best of its ability without discrimination in favor of or against any such shipper. If any common carrier shall fail to install and operate any such switch or connection as aforesaid, on application therefor in writing by any shipper, such shipper may make complaint to the commission, as provided in section 13 of this act, and the commission shall hear and investigate the same and shall determine as to the safety and practicability thereof and justification and reasonable compensation therefor, and the commission may make an order, as provided in section 15 of this act, directing the common carrier to comply with the provisions of this section in accordance with such order, and such order shall be enforced as hereinafter provided for the enforcement of all other orders by the commission, other than orders for the payment of money.

"It shall be the duty of carriers engaged in interstate commerce to give equally good service and accommodations to all persons paying the same compensation for interstate transportation of passengers."

All Tariffs Must Be Published.

Sec. 2. That section 6 of said act, as amended March 2, 1889, be amended so as to read as follows:

"Sec. 6. That every common carrier subject to the provisions of this act shall file with the commission created by this act and print and keep open to public inspection schedules showing all the rates, fares and charges for transportation between different points on its own route and between points on its own route and points on the route of any other carrier by railroad, by pipe line or by water when a through route and joint rate have been established. The schedules printed as aforesaid by any such common carrier shall plainly state the places between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately all terminal charges, storage charges, icing charges, and all other charges which the commission may require, all special privileges or facilities granted or allowed and any rules or regulations which in any wise change, affect, or determine any part of or the aggregate of such aforesaid rates, fares, and charges or the value of the service rendered to the passenger, shipper, or consignee. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be kept posted in two public and conspicuous places in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such form that they shall be accessible to the public and conveniently inspected. The provisions of this section shall apply to all traffic, transportation, and facilities defined in section 1 of this act.

"Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States the through rate on which shall not have been made public, as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production.

Thirty Days' Notice of Changes.

"No change shall be made in the rates, fares, and charges or joint rates, fares, and charges which have been filed and published by any common carrier in compliance with the requirements of this section, except after thirty days' notice to the commission and to the public published as aforesaid, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will

go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection: Provided, that the commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the requirements of this section in respect to publishing, posting, and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

As to Joint Tariffs.

"The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the commission, and where such evidence of concurrence or acceptance is filed it shall not be necessary for the carriers filing the same to also file copies of the tariffs in which they are named as parties.

"Every common carrier subject to this act shall also file with said commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party.

"The commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged and may change the form from time to time as shall be found expedient.

Rebates Prohibited.

"No carrier shall, unless otherwise provided by this act, engage or participate in the transportation of passengers or property, as defined in the first section of this act, unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this section; nor shall any carrier charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or property, or for any service in connection therewith, between the points named in such tariffs than the rates, fares, and charges which are specified in the tariff filed and in effect at the time; nor shall any carrier refund or remit in any manner or by any device any portion of the rates, fares, and charges so specified, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property, except such as are specified in such tariffs.

Right of Way For Troop Trains.

"That in time of war or threatened war preference and precedence shall, upon the representation of the president of the United States of the need therefor, be given, over all other traffic, to the transportation of troops and material of war, and carriers shall adopt every means within their control to facilitate and expedite the military traffic."

That section 1 of the act entitled "An act to further regulate commerce with foreign nations and among the states," approved Feb. 19, 1903, be amended so as to read as follows:

"That anything done or omitted to be done by a corporation common carrier subject to the act to regulate commerce and the acts amendatory thereof, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor under said acts or under this act, shall also be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in said acts or by this act with reference to such persons, except as such penalties are herein changed.

Penalties For Violation of Act.

"The willful failure upon the part of any carrier subject to said acts to file and publish the tariffs or rates and charges as required by said acts, or strictly to observe such tariffs until changed according to law, shall be a misdemeanor, and upon conviction thereof the corporation of offending shall be subject to a fine of not less than \$1,000 nor more than \$20,000 for each offense; and it shall be unlawful for any person, persons, or corporation to offer, grant, or give, or to solicit, accept, or receive any rebate, concession, or discrimination in respect to the transportation of any property in interstate or foreign commerce by any common carrier subject to said act to regulate commerce and the acts amendatory thereof whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier, as is required by said act to regulate commerce and the acts amendatory thereof, or whereby any other advantage is given or discrimination is practiced.

Prison For Rebaters.

"Every person or corporation, whether carrier or shipper, who shall knowingly and willfully offer, grant, or give, or solicit, accept, or receive any such rebate, concession, or discrimination shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than \$1,000 nor more than \$20,000: Provided, that any person, or any officer or director of any corporation subject to the provisions of this act, or the act to regulate commerce and the acts amendatory thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by any such corporation, who shall be convicted as aforesaid, shall, in addition to the fine herein provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine

and imprisonment, in the discretion of the court. Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed, or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

Liability of Agents.

"In construing and enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier or shipper, acting within the scope of his employment, shall in every case be also deemed to be the act, omission, or failure of such carrier or shipper, as well as that of the person. Whenever any carrier files with the interstate commerce commission or publishes a particular rate under the provisions of the act to regulate commerce or acts amendatory thereof, or participates in any rates so filed or published, that rate as against such carrier, its officers or agents, in any prosecution begun under this act shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section of this act.

Rebaters Forfeit Three Times the Rebate.

"Any person, corporation, or company who shall deliver property for interstate transportation to any common carrier, subject to the provisions of this act, or for whom as consignee or consignee any such carrier shall transport property from one state, territory, or district of the United States to any other state, territory, or district of the United States, or foreign country, who shall knowingly and willfully, by employee, agent, officer, or otherwise, directly or indirectly, by or through any means or device whatsoever, receive or accept from such common carrier any sum of money or any other valuable consideration as a rebate or offset against the regular charges for transportation of such property, as fixed by the schedules of rates provided for in this act, shall, in addition to any penalty provided by this act, forfeit to the United States a sum of money three times the amount of money so received or accepted and three times the value of any other consideration so received or accepted, to be ascertained by the trial court; and the attorney general of the United States is authorized and directed, whenever he has reasonable grounds to believe that any such person, corporation, or company has knowingly or willfully received or accepted from any such common carrier any sum of money or other valuable consideration as a rebate or offset as aforesaid, to institute in any court of the United States of competent jurisdiction a civil action to collect the said sum or sums so forfeited as aforesaid; and in the trial of said action all such rebates or other considerations so received or accepted for a period of six years prior to the commencement of the action may be included therein, and the amount recovered shall be three times the total amount of money or three times the total value of such consideration so received or accepted, or both, as the case may be: Provided, that the foregoing penalties shall not apply to rebates or considerations received prior to the passage and approval of this act."

Commission Must Report Investigations.

Sec. 3. That section 14 of said act, as amended March 2, 1889, be amended so as to read as follows:

"Sec. 14. That whenever an investigation shall be made by said commission, it shall be its duty to make a report in writing in respect thereto, which shall state the conclusions of the commission, together with its decision, order, or requirement in the premises; and in case damages are awarded such report shall include the findings of fact on which the award is made.

"All reports of investigations made by the commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

"The commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the commission therein contained in all courts of the United States and of the several states without any further proof or authentication thereof. The commission may also cause to be printed for early distribution its annual reports."

Commission's Power to Fix Rates.

Sec. 4. That section 15 of said act be amended so as to read as follows:

"Sec. 15. That the commission is authorized and empowered, and it shall be its duty, whenever, after full hearing upon a complaint made as provided in section 13 of this act, or upon complaint of any common carrier, it shall be of the opinion that any of the rates, or charges whatsoever, demanded, charged, or collected by any common carrier or carriers, subject to the provisions of this act, for the transportation of persons or property as defined in the first section of this act, or that any regulations or practices whatsoever of such carrier or carriers affecting such rates, are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act, to determine and prescribe what will be the just and reasonable rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged; and what regulation or practice in

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