CHAPTER 17

The General Railroad Law

ARTICLE 1

General Provisions

**SECTION 58‑17‑10.** Definitions.

In the construction of this chapter except when such meaning would be repugnant to the context or contrary to the manifest intention of the General Assembly:

(1) The phrase "railroads and railways" shall be construed to include all railroads and railways, by whatever motive power they may be operated, except marine railways doing business as common carriers in this State and except street or interurban railroads or railways, whether operated by the corporations owning them or by other corporations or otherwise;

(2) "Railroad" shall be construed to mean a railroad or railway by whatever motive power operated except such railroads and railways as are excepted under item (1) of this section;

(3) "The General Railroad Law" shall mean this chapter; and

(4) The word "person" shall be construed and held to mean an officer, corporation, company, receiver, trustee, lessee, agent or other person acting or engaged in any of the matters and things mentioned in the General Railroad Law.

HISTORY: 1962 Code Section 58‑851; 1952 Code Section 58‑851; 1942 Code Sections 8254, 8257; 1932 Code Sections 8199, 8202; Civ. C. '22 Sections 4763, 4766; Civ. C. '12 Sections 3098, 3101; Civ. C. '02 Sections 2024, 2027; G. S. 1414, 1543; R. S. 1597, 1600; 1882 (17) 840; 1892 (21) 15; 1951 (47) 781.

**SECTION 58‑17‑20.** Definitions applicable to all laws.

The terms "railroad corporation" and "railroad company" wherever contained in the law of this State shall be deemed and taken to mean all corporations, companies or individuals owning or operating any railroad in whole or in part in this State.

HISTORY: 1962 Code Section 58‑852; 1952 Code Section 58‑852; 1942 Code Section 8254; 1932 Code Section 8199; Civ. C. '22 Section 4763; Civ. C. '12 Section 3098; Civ. C. '02 Section 2024; G. S. 1414; R. S. 1597; 1892 (21) 15; 1951 (47) 781.

**SECTION 58‑17‑30.** Persons to whom chapter shall apply.

The provisions of the General Railroad Law shall apply to all persons, firms and companies and to all associations, whether incorporated or not, operating as common carriers upon any of the lines of railroads in this State (street railways and express companies excepted) the same as to railroad corporations herein mentioned.

HISTORY: 1962 Code Section 58‑853; 1952 Code Section 58‑853; 1942 Code Section 8254; 1932 Code Section 8199; Civ. C. '22 Section 4763; Civ. C. '12 Section 3098; Civ. C. '02 Section 2024; G. S. 1414; R. S. 1597; 1892 (21) 15; 1951 (47) 781.

**SECTION 58‑17‑40.** Property to which chapter shall apply.

The provisions of the General Railroad Law shall apply to all property, to the receiving, delivery, loading, unloading, handling, storing or carriage of property on one actually or substantially continuous carriage, or as part of such continuous carriage and to the compensation therefor, whether such property be carried wholly on one railroad or partly on several railroads and whether such services are performed or compensation paid by or to one person alone or in connection with another or other persons.

HISTORY: 1962 Code Section 58‑854; 1952 Code Section 58‑854; 1942 Code Section 8299; 1932 Code Section 8299; Civ. C. '22 Section 4846; Civ. C. '12 Section 3170; Civ. C. '02 Section 2088; G. S. 1445; R. S. 1651; 1881 (17) 814.

**SECTION 58‑17‑50.** Chapter applicable to trustees, receivers and the like.

The provisions of this chapter shall apply to all railroads and railways and to the corporations, trustees, receivers or others owning or operating them.

HISTORY: 1962 Code Section 58‑855; 1952 Code Section 58‑855; 1942 Code Section 8292‑12; 1932 Code Section 8251; Civ. C. '22 Section 4811; Civ. C. '12 Section 3142; Civ. C. '02 Section 2067; G. S. 1455; R. S. 1630; 1881 (17) 817; 1898 (22) 780.

**SECTION 58‑17‑60.** Effect of stock ownership, leases and contracts on application of chapter.

No ownership or shares of the capital stock of one corporation by another corporation, nor any lease, contract or other agreement between corporations or individuals shall operate as a bar to the provisions of the General Railroad Law.

HISTORY: 1962 Code Section 58‑856; 1952 Code Section 58‑856; 1942 Code Section 8315; 1932 Code Section 8315; Civ. C. '22 Section 4862; Civ. C. '12 Section 3183; Civ. C. '02 Section 2100; G. S. 1474; R. S. 1661; 1882 (18) 823.

**SECTION 58‑17‑70.** Chapter amends charters granted since December 17, 1841.

Railroad corporations established in this State prior to February 9, 1882, whether by special act or in conformity with the provisions of any general law, shall have the powers and privileges and be subject to the duties, liabilities, restrictions and other provisions contained in the General Railroad Law which, so far as inconsistent with charters granted since December 17, 1841, shall be deemed and taken to be in alteration and amendment thereof.

HISTORY: 1962 Code Section 58‑857; 1952 Code Section 58‑857; 1942 Code Section 8259; 1932 Code Section 8204; Civ. C. '22 Section 4768; Civ. C. '12 Section 3103; Civ. C. '02 Section 2029; G. S. 1545; R. S. 1602; 1882 (17) 791.

**SECTION 58‑17‑80.** Benefit of process or proceedings; restrictions.

Every railroad corporation incorporated under the laws of this State shall have the benefit of every process or proceeding and be subject to all the restrictions which shall or may be provided or imposed by the laws of the State.

HISTORY: 1962 Code Section 58‑858; 1952 Code Section 58‑858; 1942 Code Section 8263; 1932 Code Section 8208; Civ. C. '22 Section 4772; Civ. C. '12 Section 3107; Civ. C. '02 Section 2033; R. S. 1545; 1885 (19) 171.

**SECTION 58‑17‑90.** General powers and duties of railroad companies.

Every railroad company incorporated in this State shall have all the rights, powers and privileges set forth and granted in and by this chapter and be subject to all the duties, liabilities, restrictions, provisions and limitations herein contained and such rights, powers, privileges, liabilities, provisions and limitations shall constitute part and parcel of the charter of every such corporation.

HISTORY: 1962 Code Section 58‑859; 1952 Code Section 58‑859; 1942 Code Section 8260; 1932 Code Section 8205; Civ. C. '22 Section 4769; Civ. C. '12 Section 3104; Civ. C. '02 Section 2030; R. S. 1542; 1885 (19) 171.

**SECTION 58‑17‑100.** Contracts or combinations in violation of chapter shall be void.

Any contract, combination, joint ownership or joint management contrary to the provisions of this chapter shall be null, void, and of no effect.

HISTORY: 1962 Code Section 58‑860; 1952 Code Section 58‑860; 1942 Code Section 8315; 1932 Code Section 8315; Civ. C. '22 Section 4862; Civ. C. '12 Section 3183; Civ. C. '02 Section 2100; G. S. 1474; R. S. 1661; 1881 (17) 823.

**SECTION 58‑17‑110.** Mandamus to require compliance with law.

If any railroad company neglects or refuses to comply with the provisions of the General Railroad Law or with the rules and regulations prescribed by the commission within the limits of its authority, the company is subject to a writ of mandamus, to be issued by any justice of the Supreme Court or circuit court judge, upon application of the Office of Regulatory Staff, to require compliance with the laws or the rules and regulations and failure to comply with the writ of mandamus shall be punishable as for contempt. And for any wilful violation of any laws or failure to comply with the requirements of the rules or regulations the court may award costs and counsel fees, on the return of the writ and after due deliberation thereon, as may be just.

HISTORY: 1962 Code Section 58‑864; 1952 Code Section 58‑864; 1942 Code Section 8341; 1932 Code Section 8341; Civ. C. '22 Section 4888; Civ. C. '12 Section 3208; Civ. C. '02 Section 2119; R. S. 1670; 1892 (21) 14; 2006 Act No. 318, Section 107, eff May 24, 2006.

**SECTION 58‑17‑120.** Rules of evidence shall be same as in civil cases.

In all cases under the provisions of the General Railroad Law the rules of evidence shall be the same as in civil actions, except as herein otherwise provided.

HISTORY: 1962 Code Section 58‑866; 1952 Code Section 58‑866; 1942 Code Section 8258; 1932 Code Section 8203; Civ. C. '22 Section 4767; Civ. C. '12 Section 3102; Civ. C. '02 Section 2028; 1892 (21) 14.

**SECTION 58‑17‑130.** Disposition of fines.

All fines recovered under the provisions of the General Railroad Law shall be paid one half into the State Treasury, to be used for such purposes as the General Assembly may provide, and the other half into the county treasury of the county in which the case is tried.

HISTORY: 1962 Code Section 58‑867; 1952 Code Section 58‑867; 1942 Code Section 8258; 1932 Code Section 8203; Civ. C. '22 Section 4767; Civ. C. '12 Section 3102; Civ. C. '02 Section 2028; 1892 (21) 14.

**SECTION 58‑17‑140.** Annual report of Commission with respect to railroads.

The Office of Regulatory Staff shall make an annual report to the General Assembly of its official acts, including such statements, facts, and explanations as will disclose the actual working of the system of railroad transportation in its bearing upon the business and prosperity of the State, and suggestions as to the general railroad policy of the State or any part thereof or as to the condition, affairs, or conduct of any of the railroad corporations as may seem to it appropriate, with a special report of all accidents, and the causes thereof, for the preceding year. It shall also recommend legislation as in its judgment may be necessary to secure just and reasonable rates for the transportation of passengers and freights and for the prevention of unjust discrimination. The annual report must be transmitted to the President of the Senate and the Speaker of the House of Representatives on or before the second Monday in November in each year.

HISTORY: 1962 Code Section 58‑868; 1952 Code Section 58‑868; 1942 Code Sections 8292‑19, 8292‑20; 1932 Code Sections 2133, 8278, 8279; Civ. C. '22 Sections 94, 4826, 4827; Civ. C. '12 Sections 89, 3152, 3153; Civ. C. '02 Sections 85, 2074, 2075; G. S. 1462, 1463; R. S. 79, 1637, 1638; 1882 (18) 819; 1883 (18) 485; 2006 Act No. 318, Section 108, eff May 24, 2006.

**SECTION 58‑17‑150.** Notification of needed repairs or improvements; legal action to enforce.

(A) Whenever, in the judgment of the Office of Regulatory Staff, it shall appear that repairs are necessary upon any such railroad or that any addition to the rolling stock or any enlargement of, or improvement in, the stations or station houses, any modification in the rates of fare for transporting freight or passengers or any change in the mode of operating the road and conducting its business is reasonable and expedient in order to promote the security, convenience, and accommodation of the public, the Office of Regulatory Staff shall give information in writing to the corporation of the repairs, additions, improvements, or changes which it adjudges to be proper. If the company shall fail, within sixty days, to adopt the suggestions of the Office of Regulatory Staff, it shall take legal proceedings as it may deem expedient and may call upon the Attorney General to institute and conduct such proceedings. The power herein conferred upon the Office of Regulatory Staff shall be sufficient to require of common carriers the establishment and maintenance of terminal facilities, the extension of pass tracks, sidetracks, and other than industrial tracks and all other improvements and changes which seem reasonable and expedient to the Office of Regulatory Staff.

(B) Any railroad subject to the jurisdiction of the commission may retire any team track within this State upon showing that the track has not been used for at least two years. Before any track is retired for nonuse, the railroad shall give thirty days' written notice to the commission and to the Office of Regulatory Staff . The notice must be accompanied by a fee of fifty dollars and an affidavit of the railroad's agent or employee having personal knowledge of the fact that the track has not been used by the public during the two‑year period immediately preceding the retirement date of the track.

HISTORY: 1962 Code Section 58‑981; 1952 Code Section 58‑981; 1942 Code Section 8292‑14; 1932 Code Section 8273; Civ. C. '22 Section 4821; Civ. C. '12 Section 3147; Civ. C. '02 Section 2069; G. S. 1457; R. S. 1632; 1881 (17) 818; 1920 (31) 1086; 1935 (39) 25; 1988 Act No. 658, Part II, Section 23, eff June 8, 1988; 2006 Act No. 318, Section 109, eff May 24, 2006.

**SECTION 58‑17‑160.** Railroads shall not remove from towns of more than 500.

In the exercise of the powers and rights conferred in this chapter no railroad shall remove its line of railway from any incorporated town of more than five hundred inhabitants through which it now runs.

HISTORY: 1962 Code Section 58‑982; 1952 Code Section 58‑982; 1942 Code Section 8274; 1932 Code Section 8219; Civ. C. '22 Section 4783; 1915 (29) 539; 1916 (29) 824.

**SECTION 58‑17‑170.** General supervision of railroads; enforcement of chapter.

The Office of Regulatory Staff shall have the general supervision of all railroads and railways in this State operated by steam and must examine them and keep informed as to their condition and the manner in which they are operated, with reference to the security and accommodation of the public and the compliance of the several corporations with the provisions of their charters and the laws of the State. The Office of Regulatory Staff shall enforce the provisions of this chapter.

HISTORY: 1962 Code Section 58‑1031; 1952 Code Section 58‑1031; 1942 Code Section 8292‑12; 1932 Code Section 8251; Civ. C. '22 Section 4811; Civ. C. '12 Section 3142; Civ. C. '02 Section 2067; G. S. 1455; R. S. 1630; 1881 (17) 817; 1898 (22) 780; 2006 Act No. 318, Section 110, eff May 24, 2006.

**SECTION 58‑17‑180.** Notification to railroad of violation of charter or law; suit for mandamus or to restrain continued violations.

Whenever in the judgment of the Office of Regulatory Staff it shall appear that any such corporation has violated any law or neglected, in any respect or particular, to comply with the terms of its charter or with the provisions of any of the laws of the State, especially in regard to connections with other railroads, its rates of toll, or its time schedule, the Office of Regulatory Staff shall give notice thereof in writing to such corporation and if the violation or neglect is continued after such notice, the Office of Regulatory Staff shall make application to a circuit court or a judge thereof in vacation for an injunction to restrain the company complained of from further continuing to violate the law or the terms of its charter or for a writ of mandamus as provided in Section 58‑17‑110.

HISTORY: 1962 Code Section 58‑1032; 1952 Code Section 58‑1032; 1942 Code Section 8292‑13; 1932 Code Section 8272; Civ. C. '22 Section 4820; Civ. C. '12 Section 3146; Civ. C. '02 Section 2068; G. S. 1456; R. S. 1631; 1881 (17) 817; 1935 (39) 25; 2006 Act No. 318, Section 111, eff May 24, 2006.

**SECTION 58‑17‑190.** Investigation of petitions of local governments; notice.

Upon the petition of the mayor and aldermen or council of any city or town or the governing body of any county within which any part of any such railroad is located, the commission shall request the Office of Regulatory Staff to make an examination of the condition and operation thereof. Before proceeding to make the examination, the Office of Regulatory Staff shall give to the petitioner and the railroad corporation reasonable notice, in writing, of the time and place of entering upon it.

HISTORY: 1962 Code Section 58‑1033; 1952 Code Section 58‑1033; 1942 Code Section 8292‑15; 1932 Code Section 8274; Civ. C. '22 Section 4822; Civ. C. '12 Section 3148; Civ. C. '02 Section 2070; G. S. 1458; R. S. 1633; 1881 (17) 818; 1935 (39) 25; 2006 Act No. 318, Section 112, eff May 24, 2006.

**SECTION 58‑17‑200.** Notice of railroad to remove cause of petition; report to General Assembly; institution of legal proceedings.

If, upon such examination, it shall appear to the Office of Regulatory Staff that the matter alleged by the petitioner is well founded, it must inform the corporation operating the railroad in the manner provided in Section 58‑17‑180. If the company fails for sixty days after such notice to remove the cause of the petition, the Office of Regulatory Staff shall make a report to the General Assembly for any action as it may consider expedient or, if there be necessity for prompt action, it may take any legal proceedings as may be proper and the Office of Regulatory Staff shall institute the proceedings.

HISTORY: 1962 Code Section 58‑1034; 1952 Code Section 58‑1034; 1942 Code Section 8292‑15; 1932 Code Section 8274; Civ. C. '22 Section 4822; Civ. C. '12 Section 3148; Civ. C. '02 Section 2070; G. S. 1458; R. S. 1633; 1881 (17) 818; 1935 (39) 25; 2006 Act No. 318, Section 113, eff May 24, 2006.

ARTICLE 3

Incorporation and Operation by Purchaser of Railroad

**SECTION 58‑17‑310.** Purchaser of railroad shall reorganize and commence operation within sixty days; exceptions.

Any person acquiring any railroad within this State by purchase, foreclosure, or otherwise shall organize under the provisions of this article and put into operation such road within sixty days from the purchase or acquisition thereof.

The provisions of this section do not apply to acquisitions of railroads by merger or consolidation.

HISTORY: 1962 Code Section 58‑901; 1952 Code Section 58‑901; 1942 Code Section 8277; 1932 Code Section 8222; Civ. C. '22 Section 4786; Civ. C. '12 Section 3117; Civ. C. '02 Section 2043; 1897 (22) 533; 1994 Act No. 479, Section 1, eff July 14, 1994.

**SECTION 58‑17‑320.** Penalties for failure to reorganize.

Should any such person mentioned in Section 58‑17‑310 fail to reorganize such company as provided by said section, within the time therein limited, such person shall pay a penalty of fifty dollars per day for each and every day they shall fail to operate such railroad, this penalty to be collected by the Office of Regulatory Staff. But the penalty herein provided shall not attach when reasonable cause for failure to operate can be shown.

Any person shall, in addition to the penalty above provided, forfeit all of his franchises, powers, and privileges.

HISTORY: 1962 Code Section 58‑902; 1952 Code Section 58‑902; 1942 Code Section 8278; 1932 Code Section 8223; Civ. C. '22 Section 4787; Civ. C. '12 Section 3118; Civ. C. '02 Section 2044; 1897 (22) 533; 1935 (39) 25; 2006 Act No. 318, Section 114, eff May 24, 2006.

**SECTION 58‑17‑330.** Reorganization provisions not applicable to certain sidetracks or spur tracks.

The provisions of Section 58‑17‑310 shall only apply to the main lines and regular branches of railroads and shall not apply to any sidetracks or spur tracks constructed for special or temporary purpose or occasional use.

HISTORY: 1962 Code Section 58‑903; 1952 Code Section 58‑903; 1942 Code Section 8279; 1932 Code Section 8224; Civ. C. '22 Section 4788; Civ. C. '12 Section 3119; Civ. C. '02 Section 2045.

**SECTION 58‑17‑340.** Formation of corporation following purchase of railroad by virtue of mortgage or deed of trust by filing certificate.

In case of the sale of any railroad situated wholly or partly within this State, by virtue of any mortgage or deed of trust, whether under foreclosure or other judicial proceeding or pursuant to any power contained in such mortgage or deed of trust, the purchaser thereof or his survivor representatives or assigns may, together with his associates, if any, form a corporation for the purpose of owning, possessing, maintaining and operating such railroad, or such portion thereof as may be situated within this State, by filing in the office of the Secretary of State a certificate specifying the name and style of such corporation, the number of its directors, the names of its directors and the period of their services, not exceeding one year, the amount of the capital stock of such corporation and the number of shares into which it is to be divided.

But nothing herein contained shall be construed to authorize in any manner the purchase or lease of such railroad by any railroad corporation or steamship company chartered either by this or any other state except as herein provided.

HISTORY: 1962 Code Section 58‑904; 1952 Code Section 58‑904; 1942 Code Section 8276; 1932 Code Section 8221; Civ. C. '22 Section 4785; Civ. C. '12 Section 3116; Civ. C. '02 Section 2042; G. S. 1420; R. S. 1610; 1881 (17) 793; 1889 (20) 377.

**SECTION 58‑17‑350.** Maximum amount of capital stock which may be named in certificate; increase.

The capital stock to be named in the certificate aforesaid shall in no case be greater than the amount of the capital stock specified in the original charter of the railroad so sold and any amendment or amendments thereto. Nothing herein contained, however, shall be construed to prevent an increase of capital stock to such additional amount as may be needed to convert any bonds or other indebtedness of the original corporation into stock and the corporation so formed may divide its capital stock into common and preferred stock upon such terms and with such conditions as may be prescribed.

HISTORY: 1962 Code Section 58‑905; 1952 Code Section 58‑905; 1942 Code Section 8276; 1932 Code Section 8221; Civ. C. '22 Section 4785; Civ. C. '12 Section 3116; Civ. C. '02 Section 2042; G. S. 1420; R. S. 1610; 1881 (17) 793; 1889 (20) 377.

**SECTION 58‑17‑360.** Persons signing certificate shall be body corporate; powers.

The persons signing such certificate and their successors shall be a body corporate and politic, by the name specified in such certificate, with power to sue and be sued, contract and be contracted with and to own, possess, maintain and operate the railroad referred to in such certificate and to transact all business connected therewith.

HISTORY: 1962 Code Section 58‑906; 1952 Code Section 58‑906; 1942 Code Section 8276; 1932 Code Section 8221; Civ. C. '22 Section 4785; Civ. C. '12 Section 3116; Civ. C. '02 Section 2042; G. S. 1420; R. S. 1610; 1881 (17) 793; 1889 (20) 377.

**SECTION 58‑17‑370.** Powers, rights and the like of corporation organized under article.

Any corporation organized under the provisions of this article shall possess all the powers, rights, immunities, privileges and franchises in respect to such railroad, or the part thereof included in such certificate, and in respect to the real and personal property appertaining to it, which were possessed or enjoyed by the corporation which owned or held such railroad previous to such sale, under or by virtue of its charter and any amendments thereto and of other laws of this State or the laws of any other state in which any part of such railroad may have been situated, not inconsistent with the laws of this State.

HISTORY: 1962 Code Section 58‑907; 1952 Code Section 58‑907; 1942 Code Section 8280; 1932 Code Section 8225; Civ. C. '22 Section 4789; Civ. C. '12 Section 3120; Civ. C. '02 Section 2046; G. S. 1421; R. S. 1611; 1881 (17) 793.

**SECTION 58‑17‑380.** Adoption of bylaws, rules and regulations by corporation.

Any such corporation may make bylaws, rules and regulations in relation to its business, the number of its directors and the times and places of holding meetings of the stockholders and directors and may alter and change such bylaws as may be deemed expedient; provided, that such bylaws, rules and regulations shall conform to the laws of this State.

HISTORY: 1962 Code Section 58‑908; 1952 Code Section 58‑908; 1942 Code Section 8283; 1932 Code Section 8228; Civ. C. '22 Section 4792; Civ. C. '12 Section 3123; Civ. C. '02 Section 2048; G. S. 1423; R. S. 1612; 1881 (17) 794.

**SECTION 58‑17‑390.** Amount of capital stock corporation may issue.

Any such corporation may issue capital stock to such an aggregate amount as may be deemed necessary, not exceeding the amount named in its certificate of organization.

HISTORY: 1962 Code Section 58‑909; 1952 Code Section 58‑909; 1942 Code Section 8283; 1932 Code Section 8228; Civ. C. '22 Section 4792; Civ. C. '12 Section 3123; Civ. C. '02 Section 2048; G. S. 1423; R. S. 1612; 1881 (17) 794.

**SECTION 58‑17‑400.** Issuance and sale of bonds; execution of mortgage or deed of trust to secure payment of bonds.

Any such corporation may make and issue bonds bearing such rate of interest, not exceeding seven per cent per annum, payable at such times and places and in such amount or amounts as it may deem expedient and may sell and dispose of such bonds at such prices and in such manner as it may deem proper and secure the payment of such bonds by mortgage or deeds of trust on its railroad or any part thereof and its real and personal property and franchises. And all of the property and franchises of such corporation embraced or intended to be embodied in any such mortgage or deed of trust, whether then held or thereafter acquired, shall be subject to the lien and operation of such mortgage or deed of trust and, in case of sale under it, shall pass to and become vested in the purchaser thereof so as to enable him to form a new corporation in the manner herein prescribed and to vest in such new corporation all the faculties, rights, immunities, privileges and franchises possessed by its predecessor or conferred by this chapter.

HISTORY: 1962 Code Section 58‑910; 1952 Code Section 58‑910; 1942 Code Section 8281; 1932 Code Section 8226; Civ. C. '22 Section 4790; Civ. C. '12 Section 3121; Civ. C. '02 Section 2047; G. S. 1422; R. S. 1612; 1881 (17) 793.

**SECTION 58‑17‑410.** Sinking fund.

Any such corporation may so establish sinking funds for the payment of its liabilities.

HISTORY: 1962 Code Section 58‑911; 1952 Code Section 58‑911; 1942 Code Section 8283; 1932 Code Section 8228; Civ. C. '22 Section 4792; Civ. C. '12 Section 3123; Civ. C. '02 Section 2048; G. S. 1423; R. S. 1612; 1881 (17) 794.

**SECTION 58‑17‑420.** Charter subject to amendment, alteration or repeal by State.

Any railroad corporation formed under the provisions of this article shall be subject, as to the charter of such corporation, to the provisions of Section 12‑401 of the Code of Laws of South Carolina, 1962, any provision in the original charter of the company which owned or held such railroad previous to such sale or any amendment thereto to the contrary notwithstanding.

HISTORY: 1962 Code Section 58‑912; 1952 Code Section 58‑912; 1942 Code Section 8284; 1932 Code Section 8229; Civ. C. '22 Section 4793; Civ. C. '12 Section 3124; Civ. C. '02 Section 2049; 1881 (17) 795.

Editor's Note

Section 12‑401 of the Code of Laws of South Carolina, 1962, referred to in this section, was repealed by 1962 Act No. 847 (1962 (52) 1896). Prior to its repeal that section read as follows:

"It shall be deemed a part of the charter of every corporation created under the provisions of any general law and of every charter granted, renewed, or amended by act or joint resolution of the General Assembly, unless such act or joint resolution shall, in express terms, declare the contrary, that such charter and every amendment and renewal thereof shall always remain subject to amendment, alteration or repeal by the General Assembly."

**SECTION 58‑17‑430.** Certificate as evidence of incorporation.

A copy of such certificate, attested by the Secretary of State or his deputy, shall, in all courts and places, be evidence of the due organization and existence of such corporation and of the matters specified in such certificate.

HISTORY: 1962 Code Section 58‑913; 1952 Code Section 58‑913; 1942 Code Section 8276; 1932 Code Section 8221; Civ. C. '22 Section 4785; Civ. C. '12 Section 3116; Civ. C. '02 Section 2042; G. S. 1420; R. S. 1610; 1881 (17) 793; 1889 (20) 377.

ARTICLE 5

Consolidation or Acquisition of Railroad Companies or Interests

**SECTION 58‑17‑610.** Merger or consolidation with continuous or connected railroad authorized.

Any railroad company organized under the laws of this State and operating a railroad, whether wholly within or partly within and partly without this State, under the authority of this State, or of this State and any adjoining state, may consolidate its capital stock, franchises, and property with those of any other railroad company organized and operated under the laws of this or any other state so as to form a new consolidated corporation, or either of such companies may merge or be merged into the other when two or more railroads of the companies proposed to be consolidated or merged are continuous or are connected either directly with each other or by means of any intervening railroad. Railroads terminating on the banks of any river which are or may be connected by ferry or otherwise shall be considered continuous within the meaning of this article. Any consolidation of railroad companies shall be carried out by each railroad company according to the provisions of this article. Any merger of railroad companies shall be carried out by each railroad company according to and with the effects stated in Title 33, Chapter 11, and in such a merger, dissenting stockholders' rights shall be determined in accordance with Title 33, Chapter 13.

HISTORY: 1962 Code Section 58‑921; 1952 Code Section 58‑921; 1942 Code Section 8285; 1932 Code Section 8230; Civ. C. '22 Section 4794; Civ. C. '12 Section 3125; Civ. C. '02 Section 2050; G. S. 1425; R. S. 1615; 1901 (23) 717; 1994 Act No. 479, Section 2, eff July 14, 1994.

**SECTION 58‑17‑620.** Procedure for consolidation.

Any consolidation of railroad companies must be made under the conditions, provisions, and restrictions and with the powers in this article mentioned and contained, that is to say:

(1) The directors of the several corporations proposing to consolidate may enter into a joint agreement, under the corporate seal of each company, for the consolidation of such companies and railroads and prescribing the terms and conditions of them, the mode of carrying it into effect, the name of the new corporation, the number and names of the directors and other officers of it who shall be the first directors and officers and their places of residence, the number of shares of the capital stock, the amount of par value of each share, the manner of converting the capital stock of each of the companies into that of the new corporation and how and when directors and officers must be chosen, with such other details as they shall consider necessary to perfect such new organization and the consolidation of such companies;

(2) Such agreement must be submitted to the stockholders of each of the companies at a meeting thereof, called separately, for the purpose of taking it into consideration; due notice of the time and place of holding such meeting and the object of it must be given by a general notice published in some newspaper in the city, town, or county in which the company has its principal office or place of business; at the meeting of stockholders the agreement of the directors must be considered and a vote, by ballot, taken for the adoption or rejection of it, each share entitling the holder of it to one vote; the ballots must be cast in person or by proxy; if a majority of all the votes of all the stockholders are for the adoption of the agreement that fact must be certified thereon by the secretary of the respective companies, under the seal of it; and the agreement so adopted, or a certified copy of it, must be filed in the office of the Secretary of State, and must from thence be deemed and taken to be the agreement and the act of consolidation of the companies and a copy of the agreement and act of consolidation, duly certified by the Secretary of State under the seal of it, must be evidence of the existence of such new corporation.

HISTORY: 1962 Code Section 58‑922; 1952 Code Section 58‑922; 1942 Code Section 8286; 1932 Code Section 8231; Civ. C. '22 Section 4795; Civ. C. '12 Section 3126; Civ. C. '02 Section 2051; G. S. 1426; R. S. 1616; 1881 (17) 795; 1994 Act No. 479, Section 3, eff July 14, 1994.

**SECTION 58‑17‑630.** Consolidation fees.

Upon the consolidation of any railroad company there shall be paid to the Secretary of State a fee upon the capital stock of the combined company as in the organization of a new company; provided, that credit shall be given thereon for any charter fees paid by companies forming the consolidated company.

HISTORY: 1962 Code Section 58‑922.1; 1952 Code Section 12‑455; 1942 Code Sections 7738, 7757; 1932 Code Sections 7738, 7757; Civ. C. '22 Section 4312; Civ. C. '12 Section 2842; Civ. C. '02 Section 1888; 1901 (23) 710; 1925 (34) 246; 1927 (35) 30.

**SECTION 58‑17‑640.** New charter shall be issued to consolidated company; no additional fee shall be charged.

When railroad companies are consolidated under the provisions of this article a charter of incorporation for the new company so formed by such consolidation shall be issued to the owners and stockholders of the companies so consolidating or to such of them as the stockholders of each of such companies shall designate. Only the fees provided by law for consolidation shall be charged and no additional fee shall be charged for any such charter.

HISTORY: 1962 Code Section 58‑923; 1952 Code Section 58‑923; 1942 Code Section 8285; 1932 Code Section 8230; Civ. C. '22 Section 4794; Civ. C. '12 Section 3125; Civ. C. '02 Section 2050; G. S. 1425; R. S. 1615; 1901 (23) 717.

**SECTION 58‑17‑650.** Procedure for assessment of damages of dissenting stockholder.

Any stockholder of any company hereby authorized to consolidate with any other who shall refuse to convert his stock into the stock of the consolidated company may, at any time within thirty days after the adoption of the agreement of consolidation by the stockholders, as in this article provided, apply, by petition, to the court of common pleas of the county in which the chief office of the company may be kept or to a judge of such court in vacation, if no such court sits within such period, on reasonable notice to the company, to appoint three disinterested persons to estimate the damage, if any, done to such stockholder by the proposed consolidation and whose award, or that of a majority of them, when confirmed by the court, shall be final and conclusive. The persons so appointed shall also appraise the stock of any such stockholder at the full market value thereof, without regard to any depreciation or appreciation in consequence of such consolidation and the company may, at its election, either pay to the stockholder the amount of damages so found and awarded, if any, or the value of the stock so ascertained and determined. And upon the payment of the value of the stock, as aforesaid, the stockholder shall transfer the stock so held by him to the company, to be disposed of by the directors of the company or to be retained for the benefit of the remaining stockholders. In case the value of the stock, as aforesaid, is not paid within thirty days from the filing of the award and confirmation thereof by the court and notice to the company, the damages so found and confirmed shall be a judgment against the company and collected as other judgments in such court are by law recoverable.

HISTORY: 1962 Code Section 58‑924; 1952 Code Section 58‑924; 1942 Code Section 8292; 1932 Code Section 8237; Civ. C. '22 Section 4801; Civ. C. '12 Section 3132; Civ. C. '02 Section 2057; G. S. 1432; R. S. 1622; 1881 (17) 796.

**SECTION 58‑17‑660.** Rights, duties and the like of consolidated corporation.

Upon the making and perfecting the agreement and act of consolidation, as provided in Section 58‑17‑620, and filing it, or a copy, with the Secretary of State as aforesaid, the several corporations parties thereto shall be deemed and taken to be one corporation by the name provided in such agreement and act, possessing within this State all the rights, privileges and franchises and subject to all the restrictions, disabilities and duties of each of such corporations so consolidated.

HISTORY: 1962 Code Section 58‑925; 1952 Code Section 58‑925; 1942 Code Section 8287; 1932 Code Section 8232; Civ. C. '22 Section 4796; Civ. C. '12 Section 3127; Civ. C. '02 Section 2052; G. S. 1427; R. S. 1617; 1881 (17) 796.

**SECTION 58‑17‑670.** Transfer of rights, liabilities and the like to consolidated corporation.

Upon the consummation of the act of consolidation all and singular the rights, privileges and franchises of each of such corporations, parties to such consolidation and all the property, real, personal and mixed, and all debts due on whatever account, as well as all stocks, subscriptions and other things in action belonging to each of such corporations, shall be taken and deemed to be transferred to, and vested in, such new corporation, without further act or deed and all property and rights‑of‑way and every other interest shall be as effectually the property of the new corporation as they were of the former corporations, parties to such agreement. The title to real estate, either by deed or otherwise, under the laws of this State vested in either of such corporations shall not be deemed to revert or be in any way impaired by reason of this chapter. But all rights of creditors and all liens upon the property of such corporations shall be preserved unimpaired and the respective corporations may be deemed to continue in existence to preserve them and all debts, liabilities and duties of either of such companies shall thenceforth attach to the new corporation and be enforced against it to the same extent as if such debts, liabilities and duties had been incurred or contracted by it.

HISTORY: 1962 Code Section 58‑926; 1952 Code Section 58‑926; 1942 Code Section 8288; 1932 Code Section 8233; Civ. C. '22 Section 4797; Civ. C. '12 Section 3128; Civ. C. '02 Section 2053; G. S. 1428; R. S. 1618; 1881 (17) 796.

**SECTION 58‑17‑680.** Consolidated corporation shall not acquire greater rights than those of consolidating corporations.

No new consolidated corporation coming into existence under this article shall thereby acquire any extraordinary rights, privileges and exemptions not enjoyed by one or more of the companies consolidating under their respective charters.

HISTORY: 1962 Code Section 58‑927; 1952 Code Section 58‑927; 1942 Code Section 8292‑3; 1932 Code Section 8240; Civ. C. '22 Section 4804; Civ. C. '12 Section 3135; Civ. C. '02 Section 2060; G. S. 1434; R. S. 1624; 1881 (17) 798.

**SECTION 58‑17‑690.** Consolidated corporation shall establish offices.

Such new company shall, as soon as convenient after such consolidation, establish such offices as may be desirable, one of which shall be at some point in this State, on the line of its road, and may change them at pleasure, giving public notice thereof in some newspaper published on the line of the road.

HISTORY: 1962 Code Section 58‑928; 1952 Code Section 58‑928; 1942 Code Section 8289; 1932 Code Section 8234; Civ. C. '22 Section 4798; Civ. C. '12 Section 3129; Civ. C. '02 Section 2054; G. S. 1429; R. S. 1619; 1881 (17) 796.

**SECTION 58‑17‑700.** Liability of consolidated corporation to suits.

Suits may be brought and maintained against such new company in any of the courts of this State for all causes of action in the same manner as against other railroad companies therein.

HISTORY: 1962 Code Section 58‑929; 1952 Code Section 58‑929; 1942 Code Section 8290; 1932 Code Section 8235; Civ. C. '22 Section 4799; Civ. C. '12 Section 3130; Civ. C. '02 Section 2055; G. S. 1430; R. S. 1620; 1881 (17) 796.

**SECTION 58‑17‑710.** Property of consolidated corporation subject to taxation.

The portion of the road of such consolidated company in this State and all its real estate and other property theretofore subject to taxation shall be subject to like taxation and assessed in the same manner, and with like effect, as the property of other railroad companies in this State.

HISTORY: 1962 Code Section 58‑930; 1952 Code Section 58‑930; 1942 Code Section 8291; 1932 Code Section 8236; Civ. C. '22 Section 4800; Civ. C. '12 Section 3131; Civ. C. '02 Section 2056; G. S. 1431; R. S. 1621; 1881 (17) 796.

**SECTION 58‑17‑720.** Consolidations and the like of competing railroads prohibited.

No corporations owning and controlling lines of railroad which can compete as set forth in Section 58‑17‑740 shall make any consolidation, amalgamation or merger of stocks or franchises or of railroads or interests and any contract or agreement for the same shall be null and void.

HISTORY: 1962 Code Section 58‑931; 1952 Code Section 58‑931; 1942 Code Section 8292‑2; 1932 Code Section 8239; Civ. C. '22 Section 4803; Civ. C. '12 Section 3134; Civ. C. '02 Section 2059; 1894 (21) 811.

**SECTION 58‑17‑730.** Certain consolidations with companies of other states not authorized.

Nothing in this article contained shall be taken to authorize the consolidation of any company of this State with any company of any other state whose laws shall not also authorize such consolidation.

HISTORY: 1962 Code Section 58‑932; 1952 Code Section 58‑932; 1942 Code Section 8285; 1932 Code Section 8230; Civ. C. '22 Section 4794; Civ. C. '12 Section 3125; Civ. C. '02 Section 2050; G. S. 1425; R. S. 1615; 1901 (23) 717.

**SECTION 58‑17‑740.** Purchase of connecting railroad sold under mortgage, deed of trust or judicial process.

When any railroad shall be sold and conveyed by virtue of any mortgage or deed of trust or under and by virtue of any process or decree of any court of this State or of the circuit court of the United States, any company with which such railroad connects may purchase and pay for such railroad, may issue its own stock for such an amount as the purchasers may deem the full and fair value thereof and may hold and enjoy the railroad so purchased with all the rights, privileges and franchises and with the same rights to charge for tolls, transportation and car services and subject to the same restrictions as were held, enjoyed and limited by and in respect to the company of which the road may be so sold. But no person shall purchase or lease any railroad lying in whole or in part within this State, or any interest therein or shall operate any such railroad when such purchaser or lessee already owns, operates or is interested in a line or lines of railroad which, either alone or in conjunction with other connecting railroads lying within or without this State, can compete between any two or more points within this State and any such purchase, lease or acquisition is hereby declared to be null and void. Nor shall any person owning or exercising a controlling interest in any such competing company or companies, either directly or indirectly, purchase or lease, in whole or in part, any such railroad. Any incorporators or individuals so offending by making any such acquisition shall also forfeit any franchise or license which they may hold from this State to operate or hold the competing road which they own, operate or are interested in and the company owning the railroad so to be controlled shall forfeit its charter, franchise or license to own and operate such railroad.

HISTORY: 1962 Code Section 58‑933; 1952 Code Section 58‑933; 1942 Code Section 8292‑1; 1932 Code Section 8238; Civ. C. '22 Section 4802; Civ. C. '12 Section 3133; Civ. C. '02 Section 2058; G. S. 1433; R. S. 1623; 1881 (17) 798; 1894 (21) 811.

**SECTION 58‑17‑750.** Purchase or guarantee of bonds and stock of other companies; purchase, use or lease of other roads.

Except as prohibited in Section 58‑17‑770 and in sections 7 and 20 of article 9 of the Constitution of 1895, any railroad company created by and existing under the laws of this State may from time to time, purchase and hold the stocks or bonds of any other railroad company chartered by or of which the road is authorized to extend into this State. And except as prohibited in Section 58‑17‑770 and in sections 7 and 20 of article 9 of the Constitution of 1895, any railroad company may enter into a contract for the purchase, use or lease of any other railroad, upon such terms as may be agreed upon with the company owning it and may run, use and operate such road in accordance with such contract or lease; provided, the roads of the companies so contracting or leasing shall be directly, or by means of intervening railroads, connected with each other. Any railroad corporation organized under the laws of this State may guarantee the bonds, stocks or dividends of any other railroad corporation, whenever the roads of such corporations shall connect with each other or shall form a continuous line or railroad directly or by means of any connecting railroad or by steamboat or steamship line, such guaranty to be upon such terms and conditions as may be agreed upon by the stockholders of the corporations making it.

But all such agreements and all parts of them shall, at all times, be subject to amendment, alteration or repeal by the General Assembly.

HISTORY: 1962 Code Section 58‑934; 1952 Code Section 58‑934; 1942 Code Section 8292‑3; 1932 Code Section 8240; Civ. C. '22 Section 4804; Civ. C. '12 Section 3135; Civ. C. '02 Section 2060; G. S. 1434; R. S. 1624; 1881 (17) 798.

Editor's Note

Sections 7 and 20 of article 9 of the Constitution of 1895, referred to in this Code section, no longer appear in the Constitution following the revision and rewriting of that article by amendment ratified by 1971 Act No. 64 (1971 (57) 47). Prior to the amendment the sections read as follows:

"Section 7. Consolidation, etc., with competing line; jury may decide whether lines are parallel or competing. ‑ No railroad, or other transportation company, and no telegraph or other transmitting corporation, or the lessees, purchasers or managers of any such corporation, shall consolidate the stock, property or franchises of such corporation with, or lease or purchase the works or franchises of, or in any way control, any other railroad or other transportation, telegraph or other transmitting company owning or having under its control a parallel or competing line; and the question whether railroads or other transportation, telegraph or other transmitting companies are parallel or competing lines shall, when demanded by the party complainant, be decided by a jury as in other civil causes."

"Section 20. Right of way. ‑ No right of way shall be appropriated to the use of any corporation until full compensation therefor shall be first made to the owner or secured by a deposit of money, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury of twelve men, in a court of record, as shall be prescribed by law."

**SECTION 58‑17‑760.** Ownership of stock or bonds of connecting railroad or steamboat company.

A railroad corporation may aid in the construction of any branch or connecting railroad within the limits of this State, whether connecting by railroad or steamboat lines, by subscribing for shares of stock in such corporation or of any steamship line connecting the terminus of such railroad company with any port of the United States or by taking its notes or bonds, to be secured by mortgage or otherwise, as the parties may agree, and shall be entitled to vote on all shares of stock so subscribed for and held.

HISTORY: 1962 Code Section 58‑935; 1952 Code Section 58‑935; 1942 Code Section 8292‑5; 1932 Code Section 8242; Civ. C. '22 Section 4806; Civ. C. '12 Section 3137; Civ. C. '02 Section 2062; G. S. 1435; R. S. 1625; 1881 (17) 799.

**SECTION 58‑17‑770.** Ownership of stock or company controlling stock of competing railroad prohibited; dissolution.

No person owning or operating directly or indirectly any railroad lying in whole or in part within this State or owning or controlling at the time, either solely or in connection with others, a majority of the stock of a corporation owning or controlling, by stock, ownership or otherwise, any such railroad shall own or be interested in the stock of any corporation chartered by this State which owns or leases, in whole or in part, or is otherwise interested in any railroad which competes in the manner set forth in Section 58‑17‑720 with the railroad or railroads so owned or operated by such person. A purchase or acquisition of the stock of a company controlling such last‑named company by stock ownership is likewise prohibited. In the event of such acquisition of such stock, or an interest therein, by any such person first in this section above named, the charter of the corporation of this State last mentioned owning such railroad shall be forfeited and its franchises are ipso facto withdrawn and all railroad charters hereafter accepted are declared to be granted subject to this condition. And the Attorney General of this State shall proceed at once, in the name of the State, to have such dissolution decreed by a court of competent jurisdiction and to dispose of the property of such corporation and distribute its assets to its creditors and stockholders according to law. The Attorney General shall see to the observance of this section and shall proceed by action, or other appropriate proceedings, legal or equitable, to inquire into, restrain or terminate the unlawful exercise of any franchise or disobedience to the terms hereof.

HISTORY: 1962 Code Section 58‑936; 1952 Code Section 58‑936; 1942 Code Section 8292‑4; 1932 Code Section 8241; Civ. C. '22 Section 4805; Civ. C. '12 Section 3136; Civ. C. '02 Section 2061; 1894 (21) 811.

**SECTION 58‑17‑780.** Penalty for owning, leasing or operating competing lines.

Any railroad company owning, leasing or operating competing railroad lines within this State in violation of law shall be subject to a penalty of one hundred dollars for every day that such competing lines are owned, leased or operated, such penalty to be recovered in any court of competent jurisdiction in any county through which either of such competing lines may pass by any citizen thereof who may sue for it, one half of such penalty to go to the person suing therefor and the other half to the State. But the provisions of this section shall be without prejudice to any remedy which the State may be entitled to in its own behalf.

HISTORY: 1962 Code Section 58‑936; 1952 Code Section 58‑937; 1942 Code Section 8461; 1932 Code Section 8478; Civ. C. '22 Section 5014; Civ. C. '12 Section 3316; Civ. C. '02 Section 2210; 1897 (22) 492.

ARTICLE 7

Stock and Stockholders

**SECTION 58‑17‑910.** Stock subscriptions.

For the purpose of raising the capital stock of any railroad company incorporated in this State it shall be lawful to open books of subscription at such times and places and under the direction of such persons as the incorporators may appoint. Such subscriptions to the capital stock may be made in land, money, bonds, machinery, materials and work, at such rates as may be agreed upon with the company.

HISTORY: 1962 Code Section 58‑941; 1952 Code Section 58‑941; 1942 Code Section 8262; 1932 Code Section 8207; Civ. C. '22 Section 4771; Civ. C. '12 Section 3106; Civ. C. '02 Section 2032; R. S. 1544; 1885 (19) 171.

**SECTION 58‑17‑920.** Time within which proxy must be executed.

No proxy executed by a stockholder of any railroad company shall be valid unless executed and dated within six months previous to the meeting at which it is issued.

HISTORY: 1962 Code Section 58‑942; 1952 Code Section 58‑942; 1942 Code Section 8268; 1932 Code Section 8213; Civ. C. '22 Section 4777; Civ. C. '12 Section 3112; Civ. C. '02 Section 2038; G. S. 1437; R. S. 1607; 1903 (24) 79.

**SECTION 58‑17‑930.** Access to lists of stockholders.

The Office of Regulatory Staff shall have, at all times, access to the list of stockholders of every corporation operating a railroad and may, in its discretion, at any time, cause the list to be copied, in whole or in part, for its own information or for the information of persons owning stock in such corporation.

HISTORY: 1962 Code Section 58‑943; 1952 Code Section 58‑943; 1942 Code Section 8292‑26; 1932 Code Section 8287; Civ. C. '22 Section 4835; Civ. C. '12 Section 3159; Civ. C. '02 Section 2081; G. S. 1469; R. S. 1644; 1881 (17) 821; 1935 (39) 25; 2006 Act No. 318, Section 115, eff May 24, 2006.

**SECTION 58‑17‑940.** Application for examination of books.

On the application in writing of a director or of any person or persons owning one‑fiftieth part of the entire paid‑in capital stock of any corporation operating a railroad or the bonds or other evidences of indebtedness of the corporation equal in amount to one‑fiftieth part of its paid‑in capital stock, the Office of Regulatory Staff must make an examination into the books of the corporation.

HISTORY: 1962 Code Section 58‑944; 1952 Code Section 58‑944; 1942 Code Section 8292‑25; 1932 Code Section 8286; Civ. C. '22 Section 4834; Civ. C. '12 Section 3158; Civ. C. '02 Section 2080; G. S. 1468; R. S. 1643; 1881 (17) 821; 2006 Act No. 318, Section 116, eff May 24, 2006.

**SECTION 58‑17‑950.** Liability of stockholders of certain corporations.

Every stockholder in a railroad corporation, created under the Constitution of 1868 and prior to the adoption of the Constitution of 1895, shall be jointly and severally liable to the creditors thereof in an amount, besides the value of his share or shares therein, not exceeding five per cent of the par value of the share or shares held by him at the time the obligation held by or the debt due the creditor was created; provided, that such obligation or debt shall have been payable within one year after it was created or incurred, and that proceedings to hold such stockholder liable therefor shall be commenced whilst he remains a stockholder therein or within two years after he shall have ceased to be such stockholder.

Persons holding stock in such company as executors, administrators or by way of collateral security shall not be personally subject to the liabilities of the stockholders under the foregoing provisions, but the persons pledging such stock shall be liable as a stockholder and the estates and funds in the hands of such executors or administrators shall be liable in their hands in like manner and to the same extent as the deceased testator or intestate or the ward or person interested in such trust fund would have been if they had respectively been living and competent to act and hold the stock in their own names.

HISTORY: 1962 Code Section 58‑945; 1952 Code Section 58‑945; 1942 Code Section 8266; 1932 Code Section 8211; Civ. C. '22 Section 4775; Civ. C. '12 Section 3110; Civ. C. '02 Section 2036; R. S. 1548; 1885 (19) 171.

ARTICLE 9

General Powers of Railroads

**SECTION 58‑17‑1110.** Powers and authority conferred by chapter additional.

The powers and authority conferred by this chapter are in addition to the powers and authority which any such railroad company may have by virtue of its charter or by virtue of the general laws of this State.

HISTORY: 1962 Code Section 58‑951; 1952 Code Section 58‑951; 1942 Code Section 8273; 1932 Code Section 8218; Civ. C. '22 Section 4782; 1915 (29) 539.

**SECTION 58‑17‑1120.** General corporate powers.

Every such corporation may make such bylaws for its regulation and government in any and all matters whatsoever, not inconsistent with the Constitution and laws of the United States and of this State, as may be deemed necessary and may add to, alter or amend them from time to time as may be desired; may appoint all necessary officers and prescribe their duties; may sue and be sued and plead and be impleaded in any court in this State or in the United States; may accept, purchase, hold, lease or otherwise acquire any property, real or personal, necessary or convenient to, and for the purposes of, the corporation and may use, sell, convey and dispose of such property as the interest of the company may require; may make contracts; may have and use a common seal; and may do all other lawful acts properly incident to and connected with such corporation and necessary and convenient for the control and transaction of its business.

HISTORY: 1962 Code Section 58‑952; 1952 Code Section 58‑952; 1942 Code Section 8261; 1932 Code Section 8206; Civ. C. '22 Section 4770; Civ. C. '12 Section 3105; Civ. C. '02 Section 2031; R. S. 1543; 1885 (19) 172.

**SECTION 58‑17‑1130.** Execution of mortgages; issuance of bonds.

Any such company may mortgage its property and franchises and issue bonds on such terms and conditions and for such purposes and uses of the corporation as the company may from time to time deem necessary.

HISTORY: 1962 Code Section 58‑953; 1952 Code Section 58‑953; 1942 Code Section 8262; 1932 Code Section 8207; Civ. C. '22 Section 4771; Civ. C. '12 Section 3106; Civ. C. '02 Section 2032; R. S. 1544; 1885 (19) 171.

**SECTION 58‑17‑1140.** Certain mortgages shall secure certain previous bonds and other debts.

No railroad corporation which has previously issued bonds shall subsequently make or execute any mortgage upon its road, equipment and franchises, or any of its property, real or personal, without including in and securing by such mortgage all bonds previously issued and all pre‑existing debts and liabilities of the corporation. But nothing in this section contained shall apply to a mortgage for the purchase money of any such road, equipment, franchise or property, real or personal, or to a mortgage made or executed for the purpose, in whole or in part, of building, extending, improving or equipping such railroad, or any part thereof, or any other railroad, the greater part of whose stock is held by it, or to any pledge or hypothecation of any choses in action or other securities held or owned by it. Nor shall this section require that a mortgage executed by a corporation shall secure the payment of previously issued bonds or pre‑existing debts and liabilities of the corporation when the bonds to be issued under the mortgage are intended, in whole or in part, to take up, by funding or otherwise, such previously issued bonds or pre‑existing debts and liabilities or when such previously issued bonds or pre‑existing debts and liabilities are secured by a pre‑existing mortgage or other lien.

HISTORY: 1962 Code Section 58‑954; 1952 Code Section 58‑954; 1942 Code Section 8267; 1932 Code Section 8212; Civ. C. '22 Section 4776; Civ. C. '12 Section 3111; Civ. C. '02 Section 2037; G. S. 1436; R. S. 1605; 1882 (18) 709; 1896 (22) 118; 1904 (24) 414.

**SECTION 58‑17‑1150.** Acquisition of land and rights‑of‑way.

Every railroad company shall have every right, power and privilege necessary for the purpose of acquiring such lands or rights‑of‑way as it may require for the location or construction of such railway, for the erection or location of depots, warehouses, stations and other necessary and convenient establishments or for extending or altering them.

HISTORY: 1962 Code Section 58‑961; 1952 Code Section 58‑961; 1942 Code Section 8263; 1932 Code Section 8208; Civ. C. '22 Section 4772; Civ. C. '12 Section 3107; Civ. C. '02 Section 2033; R. S. 1545; 1885 (19) 171.

**SECTION 58‑17‑1160.** Acquisition of rights‑of‑way around tracks.

Railroad corporations organized under the provisions of this chapter may acquire rights‑of‑way, not exceeding seventy‑five feet from the center of their track in each direction, and additional land necessary for deep cuts, high fills, borrow pits, streams and highway changes made necessary by the construction of the railroad; provided, that in no case shall the right of way acquired exceed one hundred and fifty feet from the center of the track in each direction. And such corporations may exercise the same powers with relation to such tracks and their depots and crossing other railroads, highways and streams as railroads chartered by the General Assembly.

HISTORY: 1962 Code Section 58‑962; 1952 Code Section 58‑962; 1942 Code Section 8186; 1932 Code Section 8186; Civ. C. '22 Section 4366; Civ. C. '12 Section 2880; Civ. C. '02 Section 1924; 1909 (26) 45.

**SECTION 58‑17‑1170.** Crossing or connecting with other railroads; purchase, sale, lease or consolidation of property and franchises.

Every such company may connect with or cross any other railroad on its line and may purchase, lease or consolidate with, or sell or lease its property and franchises to, any other railroad in or out of this State, in such manner and upon such terms as may be agreed between such railroad companies not inconsistent with laws of this State or of the United States.

HISTORY: 1962 Code Section 58‑963; 1952 Code Section 58‑963; 1942 Code Section 8264; 1932 Code Section 8209; Civ. C. '22 Section 4773; Civ. C. '12 Section 3108; Civ. C. '02 Section 2034; R. S. 1546; 1885 (19) 171; 1908 (25) 1090.

**SECTION 58‑17‑1180.** Extension of lines and construction and extension of branches; rights and restrictions in acquiring rights‑of‑way.

It shall be lawful for any railroad or railway corporation chartered by this State, and it shall be taken as the exercise of powers conferred by its charter, to continue or extend the main track or line of such railroad or any extension thereof or to build or extend branch roads from such main track or line to any point or points in the vicinity thereof whenever it may be deemed advisable by such corporation so to do; but such extension or branch shall not exceed five miles in length. For the purpose of acquiring a right of way for any such extension or branch track, such railroad or railway corporation shall have and be entitled to all the rights and privileges and be subject to all the restrictions contained in the General Railroad Law in reference to the manner of acquiring the right of way.

HISTORY: 1962 Code Section 58‑964; 1952 Code Section 58‑964; 1942 Code Section 8270; 1932 Code Section 8215; Civ. C. '22 Section 4779; Civ. C. '12 Section 3114; Civ. C. '02 Section 2040; G. S. 1561a; R. S. 1609; 1885 (19) 168.

**SECTION 58‑17‑1190.** Relocation of lines and other changes in tracks and facilities.

Any railroad company owning or operating a railroad, or any part thereof, in this State, under authority of the laws of this State, may reconstruct its lines, tracks or any part of them, relocate or straighten any line or lines or portion of a line or lines, build embankments for the purpose of avoiding trestles, bridges or other openings upon which such railroad may be constructed, change the grade of a track or tracks, widen cuts or embankments when necessary for proper construction or maintenance, build such additional main line or lines, track or tracks, turnouts, switches, spur tracks, sidetracks, depots, depot facilities, yards, terminal facilities, water facilities, storage facilities and other such additional tracks, buildings, facilities, ways and appliances as may be necessary for the proper accommodation of the public business of such railroad company and build cutoff lines, branch lines and other lines for the purpose of the better and more expeditious handling of the public business.

HISTORY: 1962 Code Section 58‑965; 1952 Code Section 58‑965; 1942 Code Section 8271; 1932 Code Section 8216; Civ. C. '22 Section 4780; 1915 (29) 539.

**SECTION 58‑17‑1200.** Acquisition of real estate for relocation of lines and other changes in tracks and facilities.

For the purposes mentioned in Section 58‑17‑1190 any railroad company may acquire by purchase or gift and hold real estate necessary, and if the real estate is not acquired by purchase or gift, the railroad company may acquire it by condemnation.

HISTORY: 1962 Code Section 58‑966; 1952 Code Section 58‑966; 1942 Code Section 8272; 1932 Code Section 8217; Civ. C. '22 Section 4781; 1915 (29) 539; 1987 Act No. 173 Section 47, eff nine months from approval by Governor (approved by Governor on June 30, 1987).

**SECTION 58‑17‑1210.** Operation of sections of road completed or acquired.

Every such company may also forthwith, upon the completion or acquirement by purchase, lease or consolidation of any portion or section of its railroad between any points through which it may run under its charter, operate and maintain such portion or section, with all the rights, powers and privileges hereby granted to the company.

HISTORY: 1962 Code Section 58‑968; 1952 Code Section 58‑968; 1942 Code Section 8265; 1932 Code Section 8210; Civ. C. '22 Section 4774; Civ. C. '12 Section 3109; Civ. C. '02 Section 2035; R. S. 1547; 1908 (25) 1090.

ARTICLE 11

Railroad Crossings

**SECTION 58‑17‑1310.** Commission shall regulate crossings and culverts.

The Public Service Commission shall regulate and control by special order in each case the manner in which any street, street railway or other railroad track may cross any railroad track and the manner of constructing culverts under any railroad so as to effect proper drainage of adjacent territory.

HISTORY: 1962 Code Section 58‑991; 1952 Code Section 58‑991; 1942 Code Section 8227; 1932 Code Section 8269; Civ. C. '22 Section 4817; 1912 (27) 791; 1935 (39) 25.

**SECTION 58‑17‑1320.** Consent of Office of Regulatory Staff to one railroad crossing another at same grade.

A railroad shall not be constructed to cross another railroad at the same level or across navigable or tidewaters without the consent, in writing, of the Office of Regulatory Staff, in the manner as the Office of Regulatory Staff prescribes. It is unlawful for any corporation to construct a branch or extension or otherwise to take any proceedings contemplating a new crossing of one railroad with another, at the same level, unless the crossing has been approved, in advance and in writing, by the Office of Regulatory Staff. Preliminary approval of any crossing plan is subject to revision by the Office of Regulatory Staff. The court of common pleas shall have full equity jurisdiction of the provisions of this section.

HISTORY: 1962 Code Section 58‑992; 1952 Code Section 58‑992; 1942 Code Section 8429; 1932 Code Section 8429; Civ. C. '22 Section 4982; Civ. C. '12 Section 3284; Civ. C. '02 Section 2179; G. S. 1530; R. S. 1723; 1881 (17) 834; 1935 (39) 25; 2006 Act No. 318, Section 117, eff May 24, 2006.

**SECTION 58‑17‑1330.** Railroad shall not obstruct highways at crossings.

When a railroad is laid out across a highway or other way it shall be constructed so as not to obstruct such way.

HISTORY: 1962 Code Section 58‑993; 1952 Code Section 58‑993; 1942 Code Section 8430; 1932 Code Section 8430; Civ. C. '22 Section 4983; Civ. C. '12 Section 3285; Civ. C. '02 Section 2180; G. S. 1531; R. S. 1724; 1881 (17) 836.

**SECTION 58‑17‑1340.** Altering course of highway.

A railroad corporation may alter the course of a highway or other way, other than a street in any incorporated city or town, for the purpose of facilitating the crossing of it by its road, or permitting its road to pass at the side thereof without crossing, upon obtaining a decree of the governing body of the county prescribing the manner and time of such alteration. The corporation shall pay all damages occasioned to private property by the alteration, as in the case of land taken for its road.

HISTORY: 1962 Code Section 58‑994; 1952 Code Section 58‑994; 1942 Code Section 8432; 1932 Code Section 8432; Civ. C. '22 Section 4985; Civ. C. '12 Section 3287; Civ. C. '02 Section 2182; G. S. 1533; R. S. 1726; 1881 (17) 836; 1893 (21) 481.

**SECTION 58‑17‑1350.** Crossing on level shall be protected.

A railroad corporation whose road is crossed by a highway or other way within the corporate limits of any city or town on a level therewith, shall, at its own expense, so guard or protect its rails by plank, timber or otherwise as to secure a safe and easy passage across its road and if, in the opinion of the proper municipal authorities thereof, any subsequent alteration of the highway or other way, or any additional safeguards, are required at the crossing they may order the corporation to establish the same.

HISTORY: 1962 Code Section 58‑995; 1952 Code Section 58‑995; 1942 Code Section 8433; 1932 Code Section 8433; Civ. C. '22 Section 4986; Civ. C. '12 Section 3288; Civ. C. '02 Section 2183; G. S. 1534; R. S. 1727; 1881 (17) 837; 1931 (37) 152.

**SECTION 58‑17‑1360.** County may authorize highway or town way to cross railroad.

A highway or town way may be laid out across a railroad previously constructed when the governing body of the county adjudge that the public convenience and necessity require it and, in such case, after due notice to the railroad corporation and hearing all parties interested, such body may thus lay out a highway across a railroad or may authorize a city or town, on the petition of the mayor and aldermen thereof, to lay out a way across a railroad in such manner as not to injure or obstruct the railroad.

HISTORY: 1962 Code Section 58‑996; 1952 Code Section 58‑996; 1942 Code Section 8434; 1932 Code Section 8434; Civ. C. '22 Section 4987; Civ. C. '12 Section 3289; Civ. C. '02 Section 2184; G. S. 1535; R. S. 1728; 1881 (17) 837.

**SECTION 58‑17‑1370.** Stock guards or cattle gaps shall be constructed.

Each railroad company whose line of road lies wholly or partly in this State shall construct and keep in repair an adequate stock guard or cattle gap at every point where the line of railroad of any such company crosses the line of any fence in this State. For every violation of this section the railroad company so violating it shall pay to the owner of the fence upon the line of which such stock guard or cattle gap should have been constructed and kept in repair the sum of one hundred dollars, to be recovered by action in the court of common pleas for the county in which such stock guard or cattle gap should have been constructed and kept in repair.

HISTORY: 1962 Code Section 58‑997; 1952 Code Section 58‑997; 1942 Code Sections 8435, 8436; 1932 Code Sections 8435, 8436; Civ. C. '22 Sections 4988, 4989; Civ. C. '12 Sections 3290, 3291; Civ. C. '02 Sections 2185, 2186; G. S. 1536, 1537; R. S. 1729, 1730; 1881 (17) 837.

**SECTION 58‑17‑1380.** Trains shall stop at crossings of railroad lines; exceptions.

Whenever lines of two steam railroads cross each other on the same grade in this State, every train on either shall be brought to a full stop before reaching the crossing. But this section shall not apply when the crossing is equipped with interlocking devices, signal lights, semaphores or other safety appliances which shall indicate that the train may cross in safety or when a flagman or watchman is stationed at the crossing and he signals that the train may cross in safety.

HISTORY: 1962 Code Section 58‑998; 1952 Code Section 58‑998; 1942 Code Section 8354; 1932 (37) 1144.

**SECTION 58‑17‑1390.** Signs shall be maintained at crossings with public roads.

Every railroad corporation shall cause signs to be placed and constantly maintained alongside of each public road or street where it is crossed by the railroad on the same level. Each such sign shall be elevated so as to be easily seen by travelers and on each side of it shall be printed in large letters the words "Railroad Crossing" unless the railroad corporation elects to place two of such signs at each crossing, one on each side of the track in which case each of such signs may have thereon in large letters, only on the side facing the traffic approaching the crossing, the words "Railroad Crossing." But this section shall not apply to streets in cities, towns and villages unless the corporation be required to put up such sign by the officers having charge of such streets.

HISTORY: 1962 Code Section 58‑999; 1952 Code Section 58‑999; 1942 Code Section 8356; 1932 Code Section 8356; Civ. C. '22 Section 4904; Civ. C. '12 Section 3223; Civ. C. '02 Section 2133; G. S. 1484; R. S. 1686; 1891 (20) 116; 1937 (40) 155.

**SECTION 58‑17‑1410.** Commission may require flagman to be stationed at important crossings.

The Public Service Commission may, upon the application of a county supervisor, if it deem it necessary, require any railroad corporation to have a stationary flagman at any crossing the importance of which may demand it.

HISTORY: 1962 Code Section 58‑1001; 1952 Code Section 58‑1001; 1942 Code Section 8380; 1932 Code Section 8380; Civ. C. '22 Section 4928; Civ. C. '12 Section 3233; Civ. C. '02 Section 2142; G. S. 1489; R. S. 1695; 1881 (17) 826; 1935 (39) 25.

**SECTION 58‑17‑1420.** Appeal from Commission order requiring flagman; appointment of civil engineer to decide matter.

Any such railroad company, after receiving such notice, may, within ten days after such receipt, apply to the circuit court of the circuit in which such crossing is situated, or to a judge thereof if the court be not in session, and claim a re‑examination of the locality and a revision of the action of the Commission. The court or judge, as the case may be, shall appoint forthwith some civil engineer, not connected with any railroad, to examine into the matter forthwith and he may either affirm the demand of the Commission or modify it and his determination shall be final.

HISTORY: 1962 Code Section 58‑1002; 1952 Code Section 58‑1002; 1942 Code Section 8381; 1932 Code Section 8381; Civ. C. '22 Section 4929; Civ. C. '12 Section 3234; Civ. C. '02 Section 2143; G. S. 1490; R. S. 1696; 1881 (17) 826; 1935 (39) 25.

**SECTION 58‑17‑1430.** Railroad shall comply with orders as to crossings or flagmen.

Every railroad company shall, within the time indicated by the Commission or county supervisor, as the case may be, or within the time given by the civil engineer to such corporation upon re‑examination, maintain and construct such crossing in the manner demanded of it by the Commission or county supervisor, as the case may be, or civil engineer, or station a flagman, if such should be required, at the locality where it has been found necessary, as aforesaid.

HISTORY: 1962 Code Section 58‑1003; 1952 Code Section 58‑1003; 1942 Code Section 8382; 1932 Code Section 8382; Civ. C. '22 Section 4930; Civ. C. '12 Section 3235; Civ. C. '02 Section 2144; G. S. 1491; R. S. 1697; 1881 (17) 826; 1935 (39) 25.

**SECTION 58‑17‑1440.** Penalty and damages for injury at crossing not having required signals.

If a person is injured in his person or property by collision with the engine or any car of a railroad corporation at a crossing and it appears that the corporation neglected to give the signals required by the General Railroad Law and that such neglect contributed to the injury, the corporation shall be liable for all damages caused by the collision or to a fine recoverable by indictment, unless it is shown that in addition to a mere want of ordinary care the person injured or the person having charge of his person or property was at the time of the collision guilty of gross or wilful negligence or was acting in violation of the law and that such gross or wilful negligence or unlawful act contributed to the injury.

HISTORY: 1962 Code Section 58‑1004; 1952 Code Section 58‑1004; 1942 Code Section 8377; 1932 Code Section 8377; Civ. C. '22 Section 4925; Civ. C. '12 Section 3230; Civ. C. '02 Section 2139; G. S. 1529; R. S. 1692; 1881 (17) 824; 1919 (31) 102.

**SECTION 58‑17‑1450.** Railroad crossing safety requirements.

All railroad crossings on public highways must be inspected for conditions which unsafely obstruct a motorist's view of approaching trains, for the presence of crossbucks prescribed by Section 58‑17‑1390, and for the presence of stop signs authorized by law to be placed at railroad crossings. The Department of Transportation hereinafter referred to as the department, is responsible for inspecting railroad crossings on state maintained highways, the governing body of each county is responsible for inspecting railroad crossings on county maintained roads, and the governing body of each municipality is responsible for inspecting railroad crossings on road and street rights‑of‑way maintained by municipalities. The department shall inform counties and municipalities of the railroad crossings they are responsible for inspecting. By January 1, 1989, the governing body of each county and municipality must notify the department of the office and public official to whom the governing body has assigned responsibility for performing the inspections. If the person inspecting a railroad crossing finds that the required crossbucks are not in place, properly in place or maintained, or finds that a motorist's view of approaching trains is unsafely obstructed by vegetation, growth, or objects not permanently affixed to realty which are within the right‑of‑way of the railway, the person inspecting the crossing must immediately notify the Deputy Director of Engineering within the Department of Transportation of the hazard. The notice must identify the crossing and describe the hazard. The inspector in the notice shall also inform the State Highway Engineer whether or not there is a stop sign at the crossing and, if not, whether or not in his opinion one should be added. Upon receipt of notice from the person inspecting the crossing, the department must give written notice of the hazard immediately by certified mail to any officer or registered agent of the railroad within the State. Notice from the department shall direct the railroad to cut or remove the vegetation, growth, and objects not permanently affixed to realty that are obstructing a motorist's view or to erect, maintain, or properly situate crossbucks.

The department must also notify the governing body of any county or municipality which maintains the highways or roadways at the crossing that the inspector stated in his opinion that a stop sign should be added at the crossing.

Removal and elimination of obstructions must be made by the responsible railroad within sixty days of receipt of notification from the department. Measures to assure that crossbucks are properly in place and maintained must be taken by the responsible railroad within thirty days of receipt of notification from the department; however, if crossbucks are not present or have been removed, then the railroad has ten days from the notification to erect new crossbucks. Failure of the railroad company to remove or eliminate the obstruction within the railroad's right‑of‑way and to erect or properly place and maintain crossbucks within the specified time period subjects the railroad company to a civil penalty of not less than one hundred dollars nor more than five hundred dollars. The railroad company is subject to an additional civil penalty of one hundred dollars a day for each day obstructions remain after the specified period and for each day crossbucks are not erected or properly placed and maintained after the specified period.

The person initially inspecting the railroad crossing is responsible for inspecting the crossing at appropriate intervals after notice to the railroad of the hazard to determine if obstructions have been eliminated and crossbucks properly placed and serviced within the period allowed before civil penalties may be assessed.

If the person inspecting the railroad crossing finds that a motorist's view of approaching trains is obstructed by vegetation, growth, or objects not permanently affixed to realty that lie outside the right‑of‑way of the railroad but within right‑of‑way of highways and roads maintained by the State, county, or municipality, the person inspecting the railroad crossing must immediately give written notice of the hazard to the appropriate department of the State, county, or municipality, upon whose right‑of‑way the obstruction exists. If the obstruction is on the right‑of‑way maintained by a county or municipality, the person inspecting the crossing must also give immediate written notice of the hazard to the Deputy Director of Engineering within the Department of Transportation.

The department, counties, and municipalities have sixty days from issuance of the written notice by the person inspecting the crossing to eliminate the obstructions within their respective rights‑of‑way.

The person initially inspecting the railroad crossing is responsible for inspecting the crossing after notice of the hazard has been given and reporting to the department the date upon which obstructions are eliminated. If counties or municipalities do not eliminate the obstructions within sixty days of receipt of notification, the department must remove or eliminate the obstructions. Counties and municipalities must reimburse the Department of Transportation for the department's cost in eliminating the obstructions.

If the person inspecting the railroad crossing finds that motorists' view of approaching trains is obstructed by vegetation, growth, or objects not permanently affixed to realty that lie on private property outside the right‑of‑way of the railroad and outside the highway or road right‑of‑way of the State, county, or municipality, he must immediately give written notice of the hazard to the owner of the property and to the appropriate agency of the State, county, or municipality which maintains that highway or roadway. The owner of the property has sixty days after receipt of the notice to eliminate the obstructions and the inspector shall reinspect the crossing after this sixty‑day period has expired to determine if the obstructions have been eliminated.

By January first of each year, counties and municipalities must report all railroad crossings that were inspected during the preceding year and at which no obstructions were found to the department. The department must make an annual report of inspections conducted during the preceding year. The annual report must be provided to the Senate Transportation Committee and the Education and Public Works Committee of the House of Representatives.

HISTORY: 1962 Code Section 58‑1005; 1952 Code Section 58‑1005; 1942 Code Section 8378; 1932 Code Section 8378; Civ. C. '22 Section 4926; Civ. C. '12 Section 3231; Civ. C. '02 Section 2140; G. S. 1487; R. S. 1693; 1881 (17) 824; 1988 Act No. 319, Section 1, eff February 24, 1988; 1990 Act No. 420, Section 1, eff April 24, 1990; 1993 Act No. 181, Section 1564, eff July 1, 1993.

Editor's Note

1988 Act No. 319, section 3, provides as follows:

"SECTION 3. Nothing contained in this act shall be construed to increase, diminish, or otherwise affect liability with respect to provisions of law in force and effect pertaining to railroad crossings in this State prior to the enactment of this act."

ARTICLE 13

Reports and Investigations Generally

**SECTION 58‑17‑1610.** Filing of annual schedule and report.

Each railroad company chartered by this State is required to file in the Office of Regulatory Staff, on or before the thirty‑first day of March in each year, a full and detailed schedule and report of the condition and operations of the road for the current year ending on the thirty‑first day of December then immediately preceding. The schedule and report must be made in accordance with the following rules and form:

(1) All liabilities, including interest accrued on funded debt, must be entered upon the books in the month when they were incurred, without reference to the date of payment.

(2) Expenses must be charged each month with such supplies, materials, and similar articles as have been used during that month, without reference to the time when they were purchased or paid for.

(3) No expenditure must be charged to property accounts except for actual interest during construction, equipment, or other property, unless it is made on old work in such a way as clearly to increase the value of the property over and above the cost of renewing the old work and in such cases only the amount of increased cost must be charged, and the amount allowed on account of the old work must be stated.

(4) Mileage of passenger and freight trains must include only the miles shown to be run by distances between stations and allowances made to passenger or freight trains for switching and all mileage of switch engines, computed on a basis of eight miles per hour for the time of actual service, must be stated separately.

(5) Season ticket passengers must be computed on the basis of twelve passengers per week for the time of each ticket.

(6) Local traffic must include all passengers carried on local tickets and all freight carried at local tariff or special local rates and all other traffic must be considered through.

These rules are subject to any changes as may be made upon petition by the Office of Regulatory Staff by the Public Service Commission under the authority conferred on it by Section 58‑17‑1900.

HISTORY: 1962 Code Section 58‑1041; 1952 Code Section 58‑1041; 1942 Code Section 8269; 1932 Code Section 8214; Civ. C. '22 Section 4778; Civ. C. '12 Section 3113; Civ. C. '02 Section 2039; G. S. 1438, 1439; R. S. 1608; 1935 (39) 25; 2006 Act No. 318, Section 118, eff May 24, 2006.

**SECTION 58‑17‑1620.** Manner and form of reports; amendment of defective reports; preservation of reports.

The Office of Regulatory Staff must require the annual reports to be made by railroad companies in manner and form and at the time provided for herein and may require reports to be made of other matters. The Office of Regulatory Staff may, from time to time, make changes it considers proper, giving the corporations one year's notice of any changes or additions that require any alterations in the method or form of keeping their accounts. The Office of Regulatory Staff shall, on or before the first day of June in each year, furnish to the several railroads blank forms of any reports. When the report received from any corporation is defective or probably erroneous, the Office of Regulatory Staff must notify the corporation to amend it within fifteen days. The originals of the report or reports, as amended, subscribed and sworn to by the officers of the corporation, must be preserved in the office of the Office of Regulatory Staff. The Office of Regulatory Staff must prepare tables and abstracts of all the returns it considers expedient.

HISTORY: 1962 Code Section 58‑1042; 1952 Code Section 58‑1042; 1942 Code Section 8292‑20; 1932 Code Section 8279; Civ. C. '22 Section 4827; Civ. C. '12 Section 3153; Civ. C. '02 Section 2075; G. S. 1463; R. S. 1638; 1881 (17) 819; 2006 Act No. 318, Section 118, eff May 24, 2006.

**SECTION 58‑17‑1630.** List of names and residences of president and directors shall be filed.

Every railroad company owning or operating a line of railroad situated in whole or in part within the limits of this State must deposit with the Office of Regulatory Staff a list containing the names and residences of the president and board of directors of the railroad company owning or operating the line of railroad.

HISTORY: 1962 Code Section 58‑1043; 1952 Code Section 58‑1043; 1942 Code Section 8342; 1932 Code Section 8342; Civ. C. '22 Section 4889; Civ. C. '12 Section 3209; Civ. C. '02 Section 2120; 1892 (21) 14; 1935 (39) 25; 2006 Act No. 318, Section 118, eff May 24, 2006.

**SECTION 58‑17‑1640.** Information to be furnished Office of Regulatory Staff on request.

Every railroad corporation must at all times, on request, furnish the Office of Regulatory Staff any information required by it concerning the condition, management, and operation of its railroad and particularly with copies of time tables and the rates of transporting freight and passengers upon its road and other roads with which its business is connected.

HISTORY: 1962 Code Section 58‑1044; 1952 Code Section 58‑1044; 1942 Code Section 8292‑17; 1932 Code Section 8276; Civ. C '22 Section 4824; Civ. C. '12 Section 3150; Civ. C. '02 Section 2072; G. S. 1460; R. S. 1635; 1881 (17) 819; 1935 (39) 25; 2006 Act No. 318, Section 118, eff May 24, 2006.

**SECTION 58‑17‑1650.** Interrogatories.

The Office of Regulatory Staff may make and propound to any of the railroad companies of this State any interrogatories additional to those contained in the schedule and report herein provided for, which must be answered by the companies in the same manner.

HISTORY: 1962 Code Section 58‑1045; 1952 Code Section 58‑1045; 1942 Code Section 8292‑24; 1932 Code Section 8285; Civ. C. '22 Section 4833; Civ. C. '12 Section 3157; Civ. C. '02 Section 2079; G. S. 1467; R. S. 1642; 1892 (21) 16; 2006 Act No. 318, Section 118, eff May 24, 2006.

**SECTION 58‑17‑1660.** Investigations and examinations of books and places of business; rules and regulations.

The Office of Regulatory Staff must, when necessary, investigate the books and papers of the railroad companies doing business in this State, ascertain if the rules and regulations of the commission have been complied with, and make personal visitations of railroad offices, stations, and other places of business for the purpose of examination. The Public Service Commission must make rules and regulations concerning the examinations, which rules and regulations must be observed and obeyed as other rules and regulations of the commission.

HISTORY: 1962 Code Section 58‑1046; 1952 Code Section 58‑1046; 1942 Code Section 8292‑27; 1932 Code Section 8288; Civ. C. '22 Section 4836; Civ. C. '12 Section 3160; Civ. C. '02 Section 2082; R. S. 1645; 1892 (21) 13; 2006 Act No. 318, Section 118, eff May 24, 2006.

**SECTION 58‑17‑1670.** Examination of agents and employees.

The Office of Regulatory Staff may examine all agents and employees of railroad companies and other persons under oath and otherwise, in order to procure the necessary information to make just and reasonable rates of freight and passenger tariffs, and to ascertain if rules and regulations are observed or violated and to propose to the commission necessary and proper rules and regulations concerning the examinations. The rules and regulations herein provided for must be obeyed and enforced as all other rules and regulations provided for in this chapter.

HISTORY: 1962 Code Section 58‑1047; 1952 Code Section 58‑1047; 1942 Code Section 8292‑27; 1932 Code Section 8288; Civ. C. '22 Section 4836; Civ. C. '12 Section 3160; Civ. C. '02 Section 2082; R. S. 1645; 1892 (21) 13; 2006 Act No. 318, Section 118, eff May 24, 2006.

**SECTION 58‑17‑1680.** Issuance of subpoenas; fees; issuance of attachment to compel attendance; contempt for refusal to obey court order.

The Office of Regulatory Staff, in making an examination for the purpose of obtaining information pursuant to this chapter, may obtain from the commission subpoenas for the attendance of witnesses pursuant to such rules as the commission may prescribe and the witnesses must receive from the State Treasury one dollar per day and five cents per mile traveled by the nearest practical route in going to and returning from the place of meeting of the Office of Regulatory Staff, to be ordered paid by the Comptroller General upon presentation of subpoenas by the witnesses as to the number of days served and miles traveled sworn to before the clerk of the Office of Regulatory Staff. In case any person wilfully fails or refuses to obey a subpoena, any circuit judge of the court of common pleas and general sessions of any county, upon application of the Office of Regulatory Staff, must issue an attachment for the witness and compel him to attend and give his testimony upon matters lawfully required by the Office of Regulatory Staff. A circuit judge may punish for contempt as in other cases of refusal to obey the process or order of the court.

HISTORY: 1962 Code Section 58‑1048; 1952 Code Section 58‑1048; 1942 Code Sections 8292‑22, 8292‑27; 1932 Code Sections 8283, 8288; Civ. C. '22 Sections 4831, 4836; Civ. C. '12 Sections 3155, 3160; Civ. C. '02 Sections 2077, 2082; G. S. 1465; R. S. 1640, 1645; 1892 (21) 13, 16; 1935 (39) 25; 2006 Act No. 318, Section 118, eff May 24, 2006.

**SECTION 58‑17‑1690.** Penalty for failing to furnish reports or obstructing commission.

Every officer, agent, or employee of any railroad company who wilfully neglects or refuses to make and furnish any report required by the commission as necessary to the purposes of this chapter or who wilfully hinders, delays, or obstructs the commission in the discharge of the duties imposed upon it shall forfeit and pay a sum of not less than one hundred dollars nor more than one thousand dollars for each offense, to be recovered in any action in the name of the State as provided in Section 58‑17‑3940.

HISTORY: 1962 Code Section 58‑1049; 1952 Code Section 58‑1049; 1942 Code Section 8292‑23; 1932 Code Section 8284; Civ. C. '22 Section 4832; Civ. C. '12 Section 3156; Civ. C. '02 Section 2078; G. S. 1465; R. S. 1640; 1892 (21) 16; 2006 Act No. 318, Section 118, eff May 24, 2006.

ARTICLE 15

Rates and Charges; Routes

**SECTION 58‑17‑1810.** Extent of rate‑making power.

The powers herein conferred upon the Commission to fix passenger and freight rates, joint and several, are hereby delegated to it by the General Assembly as fully as the General Assembly itself could exercise them.

HISTORY: 1962 Code Section 58‑1061; 1952 Code Section 58‑1061; 1942 Code Section 8292‑27; 1932 Code Section 8288; Civ. C. '22 Section 4836; Civ. C. '12 Section 3160; Civ. C. '02 Section 2082; R. S. 1645; 1892 (21) 13.

**SECTION 58‑17‑1820.** Rates to which chapter not applicable.

Nothing in the General Railroad Law shall be taken as in any manner abridging or controlling the rates for freight charged by any railroad company in this State for carrying freight which comes from or goes beyond the boundaries of the State or on which less than local rates on any railroad carrying it are charged by such railroad, but such railroad companies shall possess the same power and right to charge such rates for carrying such freights as they possessed prior to December 19, 1892.

HISTORY: 1962 Code Section 58‑1062; 1952 Code Section 58‑1062; 1942 Code Section 8304; 1932 Code Section 8304; Civ. C. '22 Section 4851; Civ. C. '12 Section 3174; Civ. C. '02 Section 2092; R. S. 1656; 1892 (21) 8.

**SECTION 58‑17‑1830.** Power of Commission over rates and routes.

The Public Service Commission shall:

(1) As provided in Section 58‑17‑1850, make reasonable and just rates of freight and passenger tariffs, to be observed by all railroad companies doing business in this State on the railroads therein;

(2) Make reasonable and just routes to be observed by all railroad companies doing business in this State and reasonable and just rules and regulations to be observed by all such railroad companies as to charges to any and all points for the necessary hauling and delivery of all freight;

(3) Make such just and reasonable rules and regulations as may be necessary for preventing unjust discrimination in the transportation of freight and passengers on the railroads in this State;

(4) Have the power to make just and reasonable joint rates for all connecting roads doing business in this State as to all traffic or business passing from one of such roads to another and to require the making of such connections at intersecting points of the schedules of trains as the public convenience may in its judgment demand;

(5) Make reasonable and just rates of charges for the use of railroad cars carrying any kind of freight and passengers on such railroad, no matter by whom owned or carried;

(6) Make just and reasonable rules and regulations to be observed by such railroad companies or railroads to prevent the giving or paying of any rebate or bonus, directly or indirectly, and the misleading or deceiving of the public in any manner as to the real rates charged for freight and passengers; and

(7) Have power, by rules and regulations, to designate and fix the difference in rates of freight and passenger transportation to be allowed for shorter and longer distances on the same or different railroads and to ascertain what shall be the limit of longer and shorter distances.

HISTORY: 1962 Code Section 58‑1063; 1952 Code Section 58‑1063; 1942 Code Section 8304; 1932 Code Section 8304; Civ. C. '22 Section 4851; Civ. C. '12 Section 3174; Civ. C. '02 Section 2092; R. S. 1656; 1892 (21) 11; 1944 (43) 1228.

**SECTION 58‑17‑1840.** Notice before establishment of joint rates; hearing.

Before applying joint rates to roads that are not under the management and control of one company the Commission shall give thirty days' notice to such roads of the joint rate contemplated and of its division between such roads and shall give a hearing to any road desiring to object thereto.

HISTORY: 1962 Code Section 58‑1064; 1952 Code Section 58‑1064; 1942 Code Section 8304; 1932 Code Section 8304; Civ. C. '22 Section 4851; Civ. C. '12 Section 3174; Civ. C. '02 Section 2092; R. S. 1656; 1892 (21) 11.

**SECTION 58‑17‑1850.** Prescribing schedule of rates; schedules as evidence.

The commission must make for each of the railroad corporations doing business in this State, as soon as practicable, a schedule of just and reasonable rates of charges for transportation of passengers and freight cars on each of the railroads. When a lawsuit involves a railroad corporation's charges for the transportation of passengers, freight, or cars or unjust discrimination in relation to these charges, the schedule shall be considered in all of the courts of this State as sufficient evidence that the rates therein fixed are just and reasonable rates of charges for the transportation of passengers, freights, and cars upon the railroad when the schedules have been prepared and published for all the railroad companies organized under the laws of this State as provided in this section. The commission must not be a party to any lawsuit.

HISTORY: 1962 Code Section 58‑1065; 1952 Code Section 58‑1065; 1942 Code Section 8305; 1932 Code Section 8305; Civ. C. '22 Section 4852; Civ. C. '12 Section 3175; Civ. C. '02 Section 2093; R. S. 1657; 1898 (22) 810; 1935 (39) 25; 2006 Act No. 318, Section 119, eff May 24, 2006.

**SECTION 58‑17‑1860.** Copies of schedules shall be posted.

When any such schedule for any such railroad company shall have been made or revised such railroad company shall post at each of its stations a copy of such schedule for the protection of the people. Any railroad corporation which shall fail to post at any of its stations a copy of the schedule of rates as provided in this section shall be liable to a penalty of one hundred dollars for each and every day in which it shall fail to post such schedule, to be recovered by any citizen who will sue therefor, one half of such penalty to go to the State, the other half to the citizen suing for the same.

HISTORY: 1962 Code Section 58‑1066; 1952 Code Section 58‑1066; 1942 Code Section 8305; 1932 Code Section 8305; Civ. C. '22 Section 4852; Civ. C. '12 Section 3175; Civ. C. '02 Section 2093; R. S. 1657; 1898 (22) 810; 1935 (39) 25.

**SECTION 58‑17‑1870.** Annual publications of freight rates on watermelons and cantaloupes.

All railroad companies doing business in this State shall publish during the months of January and February of each year, the rates of freight on watermelons and cantaloupes per carload of twenty‑four thousand pounds and upwards, from the various points in this State to the different markets of the country. Such rates shall not be increased during the year in which they are published. Any railroad company violating the provisions of this section by charging rates higher than those so published shall forfeit to the person injured double the amount of the freight charged, to be recovered in any court of competent jurisdiction.

HISTORY: 1962 Code Section 58‑1067; 1952 Code Section 58‑1067; 1942 Code Section 8309; 1932 Code Section 8309; Civ. C. '22 Section 4856; Civ. C. '12 Section 3179; 1903 (24) 82.

**SECTION 58‑17‑1880.** Revision of schedules.

The Commission shall from time to time and as often as circumstances may require, change and revise each such schedule. Thirty days' notice of any such change or revision shall first be given to the railroad company to be affected thereby before such change or revision shall go into effect.

HISTORY: 1962 Code Section 58‑1068; 1952 Code Section 58‑1068; 1942 Code Section 8305; 1932 Code Section 8305; Civ. C. '22 Section 4852; Civ. C. '12 Section 3175; Civ. C. '02 Section 2093; R. S. 1657; 1898 (22) 810; 1935 (39) 25.

**SECTION 58‑17‑1890.** Printed schedules shall be prima facie evidence.

Any such schedule purporting to have been printed and published as aforesaid shall be received and held in any such suit as is referred to in Section 58‑17‑1850 as prima facie the schedule of the Commission without further proof than the production of the schedule desired to be used as evidence, with a certificate of the Commission that it is a true copy of the schedule prepared by it for the railroad company therein named and that it has been duly published as required by law.

HISTORY: 1962 Code Section 58‑1069; 1952 Code Section 58‑1069; 1942 Code Section 8305; 1932 Code Section 8305; Civ. C. '22 Section 4852; Civ. C. '12 Section 3175; Civ. C. '02 Section 2093; R. S. 1657; 1898 (22) 810; 1935 (39) 25.

**SECTION 58‑17‑1900.** Supervision of contracts concerning rates and division of earnings.

All contracts and agreements between railroad companies doing business in this State as to rates of freight and passenger tariffs must be submitted to the Office of Regulatory Staff for inspection and correction, that it may be seen whether or not they are in violation of the law, of the provisions of the Constitution or of the rules and regulations of the commission, and all arrangements and agreements whatever as to the division of earnings of any kind by competing railroad companies doing business in this State shall be submitted to the Office of Regulatory Staff for inspection and approval, insofar as they affect rules and regulations made by the commission to secure to all persons doing business with such companies just and reasonable rates of freight and passenger tariffs and so far as they are affected by any of the provisions contained in this chapter for securing to all persons just, equal, and reasonable facilities for the transportation of freight and passengers. The commission may make such rules and regulations as to such contracts and agreements as may be considered necessary and proper. Any agreements not approved by the commission or by virtue of which rates shall be charged exceeding the rates fixed for freight and passengers shall be violations of this chapter and are unlawful and void.

HISTORY: 1962 Code Section 58‑1070; 1952 Code Section 58‑1070; 1942 Code Section 8292‑21; 1932 Code Section 8282; Civ. C. '22 Section 4830; Civ. C. '12 Section 3154; Civ. C. '02 Section 2076; G. S. 1464; R. S. 1639, 1665; 1892 (21) 13; 2006 Act No. 318, Section 120, eff May 24, 2006.

**SECTION 58‑17‑1910.** Procedure when contracts concerning rates violate chapter.

If any contract, agreement, or arrangement is, in the opinion of the Office of Regulatory Staff, in violation of any of the provisions of this chapter, the Office of Regulatory Staff must notify the railroad companies in writing specifying its objections. If, within five days after receipt of the notice, the railroad companies fail or neglect to amend and alter the contract, agreement, or arrangement in a manner satisfactory to the Office of Regulatory Staff, the Office of Regulatory Staff must institute and conduct any legal proceedings necessary to enforce the penalties prescribed in this chapter for violations of its provisions.

HISTORY: 1962 Code Section 58‑1071; 1952 Code Section 58‑1071; 1942 Code Section 8292‑21; 1932 Code Section 8282; Civ. C. '22 Section 4830; Civ. C. '12 Section 3154; Civ. C. '02 Section 2076; G. S. 1464; R. S. 1639, 1665; 1892 (21) 13; 2006 Act No. 318, Section 121, eff May 24, 2006.

**SECTION 58‑17‑1920.** Use of mileage books.

Any railroad company selling mileage books for transportation shall receive coupons from mileage books sold by such railroad company on its trains for transportation within the State and check baggage upon presentation of such mileage books. But any railroad company selling or honoring mileage books for transportation which are interchangeable may require the holder thereof to present them in exchange for tickets.

HISTORY: 1962 Code Section 58‑1073; 1952 Code Section 58‑1073; 1942 Code Section 8409; 1932 Code Section 8409; Civ. C. '22 Section 4957; 1912 (27) 778; 1915 (29) 102.

**SECTION 58‑17‑1930.** Sale of interchangeable mileage shall be continued; family use.

No railroad company selling such interchangeable mileage books shall discontinue the use of local mileage but the use of interchangeable mileage books shall not be extended to the members of the purchaser's family unless such selling company shall so elect; if it is so extended such ticket shall be valid and good for the carriage over the lines of such railroad of the purchaser and the actual members of his family living with him at the time of purchase if the name of the person so entitled to use such ticket shall be furnished in writing to the railroad selling it by the purchaser at the time of the purchase and shall be inserted in the ticket.

HISTORY: 1962 Code Section 58‑1074; 1952 Code Section 58‑1074; 1942 Code Sections 8408, 8409; 1932 Code Sections 8408, 8409; Civ. C. '22 Sections 4956, 4957; Civ. C. '12 Section 3262; 1904 (24) 439; 1912 (27) 778; 1915 (29) 102.

**SECTION 58‑17‑1940.** Surcharge for intrastate Pullman transportation shall be unlawful.

It shall be unlawful for any railroad or Pullman car company doing business in this State to collect from any person within the boundaries of the State any surtax or surcharge for Pullman car transportation from one point to any other point within the bounds of the State. But nothing in this section shall be construed to affect in any way the charge which any railroad or Pullman car company requires for transportation in interstate travel.

HISTORY: 1962 Code Section 58‑1075; 1952 Code Section 58‑1075; 1942 Code Section 1692; 1932 Code Section 8296; 1924 (33) 945.

**SECTION 58‑17‑1950.** Charge of unreasonable rates shall constitute extortion.

If any railroad corporation organized or doing business in this State shall charge, collect, demand or receive more than a fair and reasonable rate of toll or compensation for transportation of passengers or freight of any description or for the use and transportation of any railroad car upon its tracks or any of its branches or upon any railroad within this State which it has the right, license or permission to use, operate or control, it shall be guilty of extortion and, upon conviction thereof, shall be fined in a sum not less than one hundred nor more than one thousand dollars.

HISTORY: 1962 Code Section 58‑1076; 1952 Code Section 58‑1076; 1942 Code Section 8293; 1932 Code Sections 1696, 8293; Civ. C. '22 Section 4841; Cr. C. '22 Section 642; Civ. C. '12 Section 3165; Cr. C. '12 Section 667; Civ. C. '02 Section 2083; Cr. C. '02 Section 476; G. S. 373; R. S. 1646; 1892 (21) 10.

**SECTION 58‑17‑1960.** Unjust discrimination in rates unlawful.

If any such railroad corporation shall make any unjust discrimination in its rates and charges of toll as compensation for the transportation of passengers or freight of any description or for the use and transportation of any railroad car upon its road or upon any of the branches thereof or upon any railroads connected therewith which it has the right, license or permission to operate or control within this State, it shall be guilty of having violated the provisions of this chapter and, upon conviction thereof, shall be fined in a sum of not less than one hundred nor more than one thousand dollars.

HISTORY: 1962 Code Section 58‑1077; 1952 Code Section 58‑1077; 1942 Code Section 8294; 1932 Code Sections 1697, 8294; Civ. C. '22 Section 4842; Cr. C. '22 Section 643; Civ. C. '12 Section 3166; Cr. C. '12 Section 668; Civ. C. '02 Section 2084; Cr. C. '02 Section 477; G. S. 374; R. S. 1647; 1892 (21) 10, 11.

**SECTION 58‑17‑1970.** Allowing or receiving rebate or other advantage shall be unlawful.

It shall be unlawful for any such railroad or person engaged solely in shipping or receiving property, directly or indirectly, to allow or receive any rebate, drawback or other advantage, in any form, upon shipments made or services rendered or received by them as aforesaid.

HISTORY: 1962 Code Section 58‑1078; 1952 Code Section 58‑1078; 1942 Code Section 8294; 1932 Code Sections 1697, 8294; Civ. C. '22 Section 4842; Cr. C. '22 Section 643; Civ. C. '12 Section 3166; Cr. C. '12 Section 668; Civ. C. '02 Section 2084; Cr. C. '02 Section 477; G. S. 374; R. S. 1647; 1892 (21) 10, 11.

**SECTION 58‑17‑1980.** Charges to be in proportion to distance traveled and freight handled.

It shall be unlawful for any such railroad to charge, collect or receive:

(1) For the transportation of any passenger or freight of any description upon its railroad for any distance within this State the same or a greater amount of toll or compensation than is at the same time charged, collected or received for the transportation of any passenger of the same class or a like quantity of freight of the same class over a greater distance on the same railroad;

(2) At any point upon its railroad a higher rate of toll or compensation for receiving, handling or delivering freight of the same class and quantity than it shall at the same time charge, collect or receive at any other point upon the same railroad;

(3) For transportation of any passenger or freight of any description over its railroad a greater amount as toll or compensation than shall at the same time be charged, collected or received by it for the transportation of any passenger of the same class or a like quantity of freight of the same class being transported over any portion of the same railroad of equal distance;

(4) From any person a higher or greater amount of toll or compensation than it shall at the same time charge, collect or receive from any other person for receiving, handling or delivering freight of the same class and like quantity at the same time upon its railroad;

(5) From any person for the transportation of any freight upon its railroad a higher or greater rate of toll or compensation than it shall at the same time charge, collect or receive from any person for the transportation of a like quantity of freight of the same class being transported from the same point over equal distances of the same railroad;

(6) From any person for the use and transportation of any railroad car or cars upon its railroad for any distance the same or a greater amount of toll or compensation than is at the same time charged, collected or received from any other person for the use and transportation of any railroad car or cars of the same class and number for a like purpose being transported over a greater distance of the same railroad; or

(7) From any person for the use and transportation of any railroad car or cars upon its railroad a higher or greater rate of toll or compensation than it shall at the same time charge, collect or receive from any other person for the use and transportation of any railroad car or cars of the same class and number for a like purpose being transported from the same point over an equal distance of the same railroad.

But nothing herein contained shall be so construed as to prevent any such railroad from issuing commutation, excursion or thousand mile tickets as they were issued by such corporations on December 21, 1882.

HISTORY: 1962 Code Section 58‑1079; 1952 Code Section 58‑1079; 1942 Code Section 8295; 1932 Code Section 8295; Civ. C. '22 Section 4843; Civ. C. '12 Section 3167; Civ. C. '02 Section 2085; G. S. 1442; R. S. 1648; 1881 (17) 790; 1882 (18) 10; 1883 (18) 480.

**SECTION 58‑17‑1990.** Discriminating rates shall be prima facie evidence of unjust discrimination.

All such discriminating rates, charges, collections or receipts as are described in Section 58‑17‑1980, whether made directly or by means of any rebate, drawback or other shift or evasion, shall be deemed and taken against such railroad as prima facie evidence of the unjust discrimination prohibited by the provisions of this article. This section shall not be construed so as to exclude other evidence tending to show any unjust discrimination in freight and passenger rates.

HISTORY: 1962 Code Section 58‑1080; 1952 Code Section 58‑1080; 1942 Code Section 8295; 1932 Code Section 8295; Civ. C. '22 Section 4843; Civ. C. '12 Section 3167; Civ. C. '02 Section 2085; G. S. 1442; R. S. 1648; 1882 (18) 487.

**SECTION 58‑17‑2000.** Charging greater compensation for certain services for shorter distance than for longer distance shall be unlawful; exceptions.

It is unlawful for any railroad to charge or receive any greater compensation for carrying, receiving, storing, forwarding, or handling articles of the same character and description for a shorter than a longer distance in one continuous carriage; provided, that:

(1) Nothing in the General Railroad Law contained shall be construed so as to require any corporation or combination of corporations to regulate their charges for shorter distances by their proportion of through rates between terminal or junctional competitive points.

(2) If one corporation uses, operates, or otherwise controls, wholly or in part, several lines or divisions of theretofore independent railroads within the State, the Public Service Commission may fix different rates of toll or compensation for freight traffic on each of such previously independent lines or divisions.

(3) The commission may make special rates for the purpose of developing all manufacturing, mining, milling, and internal improvements in this State.

HISTORY: 1962 Code Section 58‑1081; 1952 Code Section 58‑1081; 1942 Code Section 8297; 1932 Code Section 8297; Civ. C. '22 Section 4844; Civ. C. '12 Section 3168; Civ. C. '02 Section 2086; G. S. 1443; R. S. 1649; 1887 (19) 790; 2006 Act No. 318, Section 122, eff May 24, 2006.

**SECTION 58‑17‑2010.** Exceptions as to uniformity in freight charges.

Nothing in the General Railroad Law shall apply to the carriage, receiving, storing, handling or forwarding of property carried for the United States, or any state thereof, at lower rates of freight and charges than for the general public or to the transportation of articles free or at reduced rates of freight for charitable purposes or to or from public fairs or expositions for exhibition.

HISTORY: 1962 Code Section 58‑1082; 1952 Code Section 58‑1082; 1942 Code Section 8298; 1932 Code Section 8298; Civ. C. '22 Section 4845; Civ. C. '12 Section 3169; Civ. C. '02 Section 2087; G. S. 1444; R. S. 1650; 1887 (19) 840.

**SECTION 58‑17‑2020.** Commission shall fix storage charges on freight.

The Commission shall fix and prescribe a schedule of maximum rates and charges for storage of freight made and charged by railroad companies doing business in this State and shall fix the time after the reception of freight at the place of destination at which such charges of storage shall begin, with power to vary the time according to the value and character of the freight stored, the nature of the place of destination, the residence of the consignee and such other circumstances as in its judgment should be considered in fixing such time.

HISTORY: 1962 Code Section 58‑1083; 1952 Code Section 58‑1083; 1942 Code Section 8306; 1932 Code Sections 7211, 8306; Civ. C. '22 Sections 3925, 4853; Civ. C. '12 Sections 2607, 3176; Civ. C. '02 Sections 1733, 2094; 1901 (23) 719; 1935 (39) 25.

**SECTION 58‑17‑2030.** Procedure for fixing or changing storage rates and charges.

All the provisions of this title prescribing the procedure of the commission in fixing freight and passenger tariffs, hearing petitions of carriers and shippers, and altering and amending such tariffs apply to the subject of fixing and amending rates and charges for storage.

HISTORY: 1962 Code Section 58‑1084; 1952 Code Section 58‑1084; 1942 Code Section 8306; 1932 Code Sections 7211, 8306; Civ. C. '22 Sections 3925, 4853; Civ. C. '12 Sections 2607, 3176; Civ. C. '02 Sections 1733, 2094; 1901 (23) 719; 1935 (39) 25; 2006 Act No. 318, Section 123, eff May 24, 2006.

**SECTION 58‑17‑2040.** Discrimination and excessive charges for storage prohibited.

No railroad company shall make or retain, directly or indirectly, any charge for storage of freight greater than that fixed by the Commission for each particular storage, nor shall it discriminate between persons directly or indirectly by means of rebate or any other device in such charges.

HISTORY: 1962 Code Section 58‑1085; 1952 Code Section 58‑1085; 1942 Code Section 8307; 1932 Code Sections 7212, 8307; Civ. C. '22 Sections 3926, 4854; Civ. C. '12 Sections 2608, 3177; Civ. C. '02 Sections 1733, 2095; 1901 (23) 719, 720.

**SECTION 58‑17‑2050.** Suit to recover for discrimination or excessive charges for storage.

If any railroad company shall violate any provisions of Sections 58‑17‑2020 to 58‑17‑2040 either by exceeding the rates of storage prescribed or by discriminating, as aforesaid, the person so paying such overcharge or subjected to such discrimination may sue therefor in any court of this State having jurisdiction of the claim and shall have all the remedies, and be entitled to recover the same penalties and measure of damages, as are prescribed in the case of overcharge of freight rates, upon making like demand as is prescribed in such case and after like failure of the company to pay such claim.

HISTORY: 1962 Code Section 58‑1086; 1952 Code Section 58‑1086; 1942 Code Section 8308; 1932 Code Sections 7213, 8308; Civ. C. '22 Sections 3927, 4855; Civ. C. '12 Sections 2609, 3178; Civ. C. '02 Sections 1734, 2096; 1901 (23) 719, 720.

**SECTION 58‑17‑2060.** Promulgation of reciprocal demurrage rules.

The Public Service Commission may make and promulgate reciprocal demurrage rules governing the regulation of railroads and shippers in this State as fully and effectually as if they were made and promulgated by the General Assembly.

HISTORY: 1962 Code Section 58‑1087; 1952 Code Section 58‑1087; 1942 Code Section 8223; 1932 Code Section 8266; Civ. C. '22 Section 4814; 1917 (30) 163; 1935 (39) 25.

**SECTION 58‑17‑2070.** Consignee entitled to itemized statement of charges; correction of errors.

Whenever any article of freight shall be shipped to any point within the limits of this State, whether shipped from a point beyond the limits of this State or not, it shall be lawful for the consignee of such article to demand and receive from the agent of the railroad company delivering it, and before the payment of any charges upon it, a full and correct statement of such charges, the class to which such article belongs, the rates of freight charged for such class and the total amount to be paid by the consignee together with the proportion thereof to be paid to each road over which, or any part of which, such freight may have passed, whether such road be beyond the limits of this State or not. If such itemized statement be not incorporated in the waybill the agent shall deliver the article on the payment of the freight and procure as soon as possible such required items when demanded. If any errors should then appear it shall be immediately corrected by such agent.

HISTORY: 1962 Code Section 58‑1088; 1952 Code Section 58‑1088; 1942 Code Section 8300; 1932 Code Section 8300; Civ. C. '22 Section 4847; Civ. C. '12 Section 3171; Civ. C. '02 Section 2089; G. S. 1446; R. S. 1652; 1889 (20) 378.

**SECTION 58‑17‑2080.** Consignee may require settlement according to contract.

In all cases the railroad company delivering freight to a consignee shall be required to settle its freight charges according to the contract as set forth in the bill of lading from the shipping point and no such company shall retain the article of freight after the consignee offers and is ready and willing to comply with the terms of such bill of lading.

HISTORY: 1962 Code Section 58‑1089; 1952 Code Section 58‑1089; 1942 Code Section 8301; 1932 Code Section 8301; Civ. C. '22 Section 4848; Civ. C. '12 Section 3172; Civ. C. '02 Section 2090; G. S. 1448; R. S. 1654; 1889 (20) 378.

**SECTION 58‑17‑2090.** Suit to recover charges in excess of legal rate.

When any common carrier charges more than the legal rate of transportation applying to any goods, commodities, livestock, or any other kind of property, as shown by any rates fixed by law or by the tariffs filed with the Office of Regulatory Staff and approved by the Public Service Commission or, in the case of interstate transportation, by the Interstate Commerce Commission, as required by law, the consignee or owner and holder of a bill of lading, or the owner of any property transported, who may have paid the illegal charge has the right to recover in any court of competent jurisdiction the amount paid in excess of the legal rate applying to the property and the person shall not be defeated of a recovery on account of the fact that the payment may have been made voluntarily. But an action shall not be maintained hereunder until after thirty days from demand upon the common carrier for the repayment of the excess charges.

HISTORY: 1962 Code Section 58‑1090; 1952 Code Section 58‑1090; 1942 Code Section 8302; 1932 Code Section 8302; Civ. C. '22 Section 4849; 1914 (28) 641; 1935 (39) 25; 2006 Act No. 318, Section 124, eff May 24, 2006.

**SECTION 58‑17‑2100.** Classification of cotton as "heavy goods"; weights.

All cotton packed in bales transported by common carriers within the limits of this State shall be classed as "heavy goods," that is to say an article to be weighed and charged for and treated accordingly. But any common carrier before receiving such cotton for shipment may demand from the shipper the weights of the several bales thereof and may adopt them as the weights upon which freight is to be charged. And in case of loss, no recovery shall be had by any shipper for a greater amount than the weights so furnished by him.

HISTORY: 1962 Code Section 58‑1091; 1952 Code Section 58‑1091; 1942 Code Section 8303; 1932 Code Section 8303; Civ. C. '22 Section 4850; Civ. C. '12 Section 3173; Civ. C. '02 Section 2091; G. S. 1449; R. S. 1655; 1889 (20) 378.

ARTICLE 17

Receipts for and Delivery of Goods

**SECTION 58‑17‑2210.** Issuance and contents of duplicate freight receipts; delivery of goods on presentation of receipt.

All railroad companies in this State shall on demand issue duplicate freight receipts to shippers, describing the articles received or the marks and numbers on the packages received, in which shall be stated the class or classes of freight shipped, the freight charges over the road giving the receipt and, so far as practicable, the freight charges over other roads that carry such freight. No additional charge shall be made for giving any such receipt. When the consignee presents the railroad receipt to the agent of the railroad that delivers such freight, such agent shall deliver the articles shipped on payment of the rate charged for the class of freights mentioned in the receipt. If any railroad company shall violate the provision of this section such railroad company shall incur a penalty to be fixed and collected as provided in Section 58‑17‑3940.

HISTORY: 1962 Code Section 58‑1101; 1952 Code Section 58‑1101; 1942 Code Sections 8340, 8422; 1932 Code Sections 8340, 8422; Civ. C. '22 Sections 4887, 4970; Civ. C. '12 Sections 3207, 3275; Civ. C. '02 Sections 2118, 2175; G. S. 1512; R. S. 1669, 1719; 1881 (17) 831; 1892 (21) 14.

**SECTION 58‑17‑2220.** Merchandise must be promptly forwarded according to directions.

Every railroad corporation shall promptly forward merchandise consigned or directed to be sent over another road connecting with its road according to the directions contained thereon or accompanying such merchandise and shall not receive and forward over its road any merchandise consigned, ordered or expressly directed to be received and forwarded by a different route.

HISTORY: 1962 Code Section 58‑1102; 1952 Code Section 58‑1102; 1942 Code Section 8427; 1932 Code Section 8427; Civ. C. '22 Section 4975; Civ. C. '12 Section 3277; Civ. C. '02 Section 2177; G. S. 1514; R. S. 1721; 1881 (17) 832.

ARTICLE 19

Reweighing Coal or Other ARTICLEs Delivered in Carload Lots; Scales

**SECTION 58‑17‑2310.** Consignees of coal or other articles delivered in carload lots may have same reweighed.

Any consignee of coal or other articles to be delivered to him in carload lots by any common carrier at any point within the limits of this State where such common carrier maintains track scales may demand that such coal or other articles to be reweighed before delivery to him by such common carrier and such common carrier, within forty‑eight hours after such demand, shall reweigh such articles and deliver to such consignee a written, or partly written and partly printed, statement, showing the true weight thereof.

HISTORY: 1962 Code Section 58‑1111; 1952 Code Section 58‑1111; 1942 Code Section 8319; 1932 Code Section 8319; Civ. C. '22 Section 4866; Civ. C. '12 Section 3187; 1906 (25) 117.

**SECTION 58‑17‑2320.** Forfeiture of freight for failure to reweigh.

Any common carrier refusing or failing to comply with any of the provisions of Section 58‑17‑2310 shall forfeit the right to any freight incurred through transportation of such coal or other article or, in the event that such freight shall have been prepaid, shall be liable as a penalty to the consignee for the amount of freight so prepaid, to be recovered by suit in any court of competent jurisdiction.

HISTORY: 1962 Code Section 58‑1112; 1952 Code Section 58‑1112; 1942 Code Section 8320; 1932 Code Section 8320; Civ. C. '22 Section 4867; Civ. C. '12 Section 3188; 1906 (25) 117.

**SECTION 58‑17‑2330.** No demurrage or similar charge shall be made after demand for reweighing.

No demurrage or other similar charges shall be made by any common carrier against a consignee making the demand specified in Section 58‑17‑2310 between the time of the making of such demand and the time of delivery by such common carrier to such consignee of the statement required in said section.

HISTORY: 1962 Code Section 58‑1113; 1952 Code Section 58‑1113; 1942 Code Section 8321; 1932 Code Section 8321; Civ. C. '22 Section 4868; Civ. C. '12 Section 3189; 1906 (25) 117.

**SECTION 58‑17‑2340.** Common carriers shall maintain scales under certain conditions.

Every common carrier doing business in this State shall, upon demand of any person having a sidetrack adjacent to and used in connection with the business of such person, erect and maintain on such sidetrack suitable scales for reweighing such coal or other articles in carload lots. But such person shall agree and become liable to such common carrier to pay the amount incurred by such common carrier in the erection and maintenance of such scales. In such event, the common carrier shall reweigh such coal or other articles delivered in carload lots to such person upon such sidetrack, as provided for in Section 58‑17‑2310. Upon refusal so to weigh, such common carrier shall be liable for the same penalties provided in Sections 58‑17‑2320 and 58‑17‑2330.

HISTORY: 1962 Code Section 58‑1114; 1952 Code Section 58‑1114; 1942 Code Section 8322; 1932 Code Section 8322; Civ. C. '22 Section 4869; Civ. C. '12 Section 3190; 1906 (25) 117.

**SECTION 58‑17‑2350.** Jurisdiction over railroad track and platform scales; penalties.

All railroad track and platform scales used in connection with shipping are hereby placed under the jurisdiction of the Office of Regulatory Staff for inspection and it may require the installation or replacement of scales when needed. A failure or refusal to carry out the instructions of the Office of Regulatory Staff in reference to the scales shall be punished by a penalty of two hundred dollars for each refusal to be recovered by suit in any court of competent jurisdiction by any person aggrieved. Any sum so recovered must be turned into the State Treasury for general use.

HISTORY: 1962 Code Section 58‑1115; 1952 Code Section 58‑1115; 1942 Code Section 8323; 1932 Code Section 8323; Civ. C. '22 Section 4870; 1912 (27) 578; 1935 (39) 25; 2006 Act No. 318, Section 125, eff May 24, 2006.

ARTICLE 21

Transportation of Livestock

**SECTION 58‑17‑2510.** Prompt loading and unloading of livestock required.

Every railroad company receiving livestock for transportation shall cause such livestock to be loaded not more than two hours before the scheduled departure of the train carrying them and every railroad company delivering livestock at its destination for unloading shall cause them to be unloaded within two hours after the arrival of the trains carrying them, except that a longer time may be allowed if voluntarily consented to in writing by the owner or shipper on a paper other than the bill of lading. But this section shall apply in the unloading of stock only if the consignee in person or his duly authorized agent shall make demand in writing for such unloading within two hours after the arrival of the train carrying such livestock.

This section shall not apply at stations where no unloading pen is maintained or where there is no agent of the railroad on duty upon the arrival of such train.

HISTORY: 1962 Code Section 58‑1122; 1952 Code Section 58‑1122; 1942 Code Section 8348; 1932 Code Section 8348; Civ. C. '22 Section 4896; 1916 (29) 822.

**SECTION 58‑17‑2520.** Information required to be furnished owners or shippers of livestock.

Any railroad company doing business in this State shall be required to furnish the owner or shipper, or their agents, full information concerning the shipment, movement and delivery of livestock when en route and on said company's line or in said company's possession. If the company cannot make the time published in its schedule it must, whenever as much as three hours behind schedule time, wire the owner and agent at destination the extent and cause of the delay and advise him of the expected time of arrival. Upon failure to furnish such information and upon failure to give the shipper benefit of the best connection as published in its schedule, the railroad company shall pay a fine of not more than twenty‑five dollars.

Nothing herein contained shall interfere with the transmission of train orders. In the event of a failure upon the part of any common carrier to give the information herein required, it shall be incumbent upon such common carrier affirmatively to show that such failure was due to the necessary use of its wire or wires for the transmission of train orders.

HISTORY: 1962 Code Section 58‑1127; 1952 Code Section 58‑1127; 1942 Code Section 8349; 1932 Code Sections 1715, 8349; Civ. C. '22 Section 4897; Cr. C. '22 Section 660; Civ. C. '12 Section 3216; Cr. C. '12 Section 685; 1906 (25) 114.

ARTICLE 23

Connecting Carriers

**SECTION 58‑17‑2610.** Connecting railroads shall operate as one for rate purposes when operated by same company.

All connecting railroads doing business in this State and under the management or control, by lease, ownership, association or otherwise, of one and the same person shall for purposes of transportation, in applying freight and passenger tariffs, be considered as constituting but one and the same road and the rate shall be computed as upon parts of one and the same road unless otherwise specified by the Commission.

HISTORY: 1962 Code Section 58‑1141; 1952 Code Section 58‑1141; 1942 Code Section 8337; 1932 Code Section 8337; Civ. C. '22 Section 4884; Civ. C. '12 Section 3204; Civ. C. '02 Section 2115; 1896 (22) 118; 1935 (39) 25.

**SECTION 58‑17‑2620.** Railroads authorized to join tracks; expenses.

When any railroad company owning, leasing or operating a railroad in or through any part of this State shall have its terminus or any part of its track at or near the terminus of any other railroad in this State having the same gauge or shall cross such other railroad's track, such railroad company may join its track by safe and proper switches, with such other railroad and for this purpose may enter upon the right of way of such other railroad. But if the railroad with which such connection is proposed shall refuse to join in paying the expenses of making such connection the railroad proposing the connection shall pay them.

HISTORY: 1962 Code Section 58‑1142; 1952 Code Section 58‑1142; 1942 Code Section 8335; 1932 Code Section 8335; Civ. C. '22 Section 4882; Civ. C. '12 Section 3202; Civ. C. '02 Section 2113; 1887 (19) 823.

**SECTION 58‑17‑2630.** Condemnation when connecting switches are refused.

Should any railroad company refuse to allow the connecting switches put in its line, when requested under Section 58‑17‑2620, the other road seeking such connection may proceed to procure the right to use so much of the franchise of the former as may be necessary for such purpose in the manner provided by law for taking private property for the use of a railroad.

HISTORY: 1962 Code Section 58‑1143; 1952 Code Section 58‑1143; 1942 Code Section 8336; 1932 Code Section 8336; Civ. C. '22 Section 4883; Civ. C. '12 Section 3203; Civ. C. '02 Section 2114; 1887 (19) 823.

**SECTION 58‑17‑2640.** Facilities for interchange of traffic shall be furnished.

Railroads subject to this chapter shall afford all reasonable, proper and equal facilities for the interchange of traffic between their own roads and other carriers, whether at terminal or junction points, for the receiving, forwarding and delivering of freight and passengers to and from points on their lines beyond and shall not discriminate in their rates or charges between or against any such connecting carriers.

HISTORY: 1962 Code Section 58‑1144; 1952 Code Section 58‑1144; 1942 Code Section 8330; 1932 Code Section 8330; Civ. C. '22 Section 4877; Civ. C. '12 Section 3197; Civ. C. '02 Section 2108.

**SECTION 58‑17‑2650.** Lines of two or more railroads which pass through city or town shall be connected; expenses.

Whenever the lines of railroad of two or more corporations may enter or pass through the corporate limits of any city or town in this State, the corporations owning such lines shall build such connecting tracks as may be necessary to effect an actual connection of such lines for the purpose of interchanging and delivering cars and freight in carload lots. The entire reasonable cost of construction and maintenance of such connecting track shall be borne by such railroad corporations whose tracks are so connected, in such ratable proportion as shall be determined and adjusted by the Public Service Commission. Failure to comply with the provisions of this section for six months after the building of any new line of railroad into such city or town shall subject each and every such corporation so failing to a penalty of twenty‑five dollars per day, to be recovered in an action by any citizen of such city or town, one half for his own benefit and the other half for the benefit of the State. But any one of such railroad corporations may relieve itself from liability to such penalty by giving notice in writing within thirty days from the date when it shall become liable to the operation of this section to the other corporations so liable thereto of its readiness to proceed with the construction of such connecting track and if the other corporation or corporations so notified shall fail to unite in such construction within ten days after such written notice the corporation giving such notice may proceed to the construction of such track and may recover of each and every other line so connected such proportion of the costs of such construction as shall be determined by the Commission. But the recovery thereof shall not operate to discharge such delinquent corporation or corporations from liability to the penalty above imposed up to the time of the full completion of such connecting track. But the Commission may suspend the operation of the requirements of this section at such junctional points when it can be shown, upon a full and fair hearing before it, that the erection and operation of such connection would be unreasonable and unnecessary.

HISTORY: 1962 Code Section 58‑1145; 1952 Code Section 58‑1145; 1942 Code Section 8331; 1932 Code Section 8331; Civ. C. '22 Section 4878; Civ. C. '12 Section 3198; Civ. C. '02 Section 2109; 1900 (23) 388; 1935 (39) 25.

**SECTION 58‑17‑2660.** Rights‑of‑way for connecting tracks in cities and towns; condemnation if track crosses private property.

For the purpose of building any such track the right of way may be taken over and across the property of either or all of such railroad corporations and by and with consent of the council of such city or town such connecting track may be laid across or along any of the streets of such city or town or the public grounds thereof. But such compensation shall be made to abutting landowners as they may be entitled to by law. In case it should be necessary for such connecting track to cross any private property other than as above specified, the right of condemnation is hereby given under the provisions of this Code upon the subject, to be exercised upon the application of either or all of such railroad corporations.

HISTORY: 1962 Code Section 58‑1146; 1952 Code Section 58‑1146; 1942 Code Section 8332; 1932 Code Section 8332; Civ. C. '22 Section 4879; Civ. C. '12 Section 3199; Civ. C. '02 Section 2110; 1900 (23) 388.

**SECTION 58‑17‑2670.** Railroad building new line into city or town shall connect and pay part of cost of original connecting track.

Any railroad corporation building a new line into such city or town after the construction of such connecting track shall be required to connect its line with such track and to pay to each and every corporation owning such track a part of the costs thereof which shall be fixed and determined by the Commission.

HISTORY: 1962 Code Section 58‑1147; 1952 Code Section 58‑1147; 1942 Code Section 8333; 1932 Code Section 8333; Civ. C. '22 Section 4880; Civ. C. '12 Section 3200; Civ. C. '02 Section 2111; 1900 (23) 388; 1935 (39) 25.

**SECTION 58‑17‑2680.** Connecting line may cross other tracks.

In building such connecting line the right is granted, under the supervision of the Office of Regulatory Staff, to run across or along any existing track at grade.

HISTORY: 1962 Code Section 58‑1148; 1952 Code Section 58‑1148; 1942 Code Section 8333; 1932 Code Section 8333; Civ. C. '22 Section 4880; Civ. C. '12 Section 3200; Civ. C. '02 Section 2111; 1900 (23) 388; 1935 (39) 25; 2006 Act No. 318, Section 126, eff May 24, 2006.

**SECTION 58‑17‑2690.** No discrimination between connections at same point.

Each railroad company chartered by this State shall deal with all its connections at any one point on the same terms and shall afford the like usual facilities for the interchange of freight between all of its connections at the same point.

HISTORY: 1962 Code Section 58‑1149; 1952 Code Section 58‑1149; 1942 Code Section 8315; 1932 Code Section 8315; Civ. C. '22 Section 4862; Civ. C. '12 Section 3183; Civ. C. '02 Section 2100; G. S. 1474; R. S. 1661; 1881 (17) 823.

**SECTION 58‑17‑2700.** Cars shall be transferred to connected track on demand; fees.

All railroad corporations whose tracks shall be so connected shall transfer to any railroad track any car upon demand of the consignee or owner of the freight in such car, at such transfer charges as may be fixed by the Commission, not to exceed one dollar per car in any case, empty cars to be returned free. Failure to comply with the written demand of the consignee or owner within twenty‑four hours shall subject the railroad corporation so failing to a penalty of one dollar per hour so long as such failure may continue, to be deducted from the freight bill of such owner or consignee or to be recovered by an action of law, unless it be determined by the jury to be reasonably impracticable for such railroad corporation to make such transfer within such time.

HISTORY: 1962 Code Section 58‑1150; 1952 Code Section 58‑1150; 1942 Code Section 8334; 1932 Code Section 8334; Civ. C. '22 Section 4881; Civ. C. '12 Section 3201; Civ. C. '02 Section 2112; 1900 (23) 388; 1935 (39) 25.

**SECTION 58‑17‑2710.** Each connected railroad shall furnish facilities for receiving and forwarding traffic of another without delay, preference or prejudice.

Every railroad company doing business in this State working railways which form a part of a continuous line of railway communication shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic, freight or passengers arriving by the other, without any unreasonable delay and without any preference or advantage or prejudice or disadvantage, so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication and so that all reasonable accommodation may, by means of the railways of the several companies, be at all times afforded to the public in that behalf.

The above‑mentioned facilities and benefits shall be afforded as well to other railroads as to the public.

HISTORY: 1962 Code Section 58‑1151; 1952 Code Section 58‑1151; 1942 Code Section 8326; 1932 Code Section 8326; Civ. C. '22 Section 4873; Civ. C. '12 Section 3193; Civ. C. '02 Section 2104; 1896 (22) 119.

**SECTION 58‑17‑2720.** Railroads shall receive and deliver cars to and from connecting lines at uniform rates and with uniform service.

All railroad corporations doing business in this State shall receive from, deliver to and handle with connecting lines at each of its junctions or terminal points in this State all cars or trains bound to or from any point upon its own line or beyond upon the same terms and upon the same charges, either by way of trackage or by way of its proportion of the entire rate charged upon such cars, trains or freight, that it charges or demands either under the law or by contract or agreement with any other railroad connecting with it at such junction or terminal point where it performs the same or similar service for each of such railroads and shall furnish the same facilities to each of such railroads.

HISTORY: 1962 Code Section 58‑1152; 1952 Code Section 58‑1152; 1942 Code Section 8324; 1932 Code Section 8324; Civ. C. '22 Section 4871; Civ. C. '12 Section 3191; Civ. C. '02 Section 2102; 1896 (22) 119.

**SECTION 58‑17‑2730.** Railroad shall issue or recognize through bills of lading between competitive points.

No railroad doing business in this State shall be allowed to refuse to issue or recognize a through bill of lading between competitive points when issued over or by one railroad with which it connects when it issues or recognizes such bills of lading when goods are shipped to or from such points over any other competitive railroad with which it connects reaching such point. Such railroad shall not charge or receive for such goods passing over its lines, either by the appropriate schedule for local freight or a division of a through freight rate, a greater sum when such goods are shipped by or over one line of railroad with which it connects than it would charge or receive when such goods are shipped by or over any other line of railroad with which it connects. But nothing herein contained shall prevent any such railroad from demanding payment of its charges in advance of performing the service of carrying such goods or from limiting its liability to losses or damage to such freight upon its own line by a clause inserted in the bill of lading.

HISTORY: 1962 Code Section 58‑1153; 1952 Code Section 58‑1153; 1942 Code Section 8325; 1932 Code Section 8325; Civ. C. '22 Section 4872; Civ. C. '12 Section 3192; Civ. C. '02 Section 2103; 1896 (22) 119.

**SECTION 58‑17‑2740.** Shipper may designate routes; changing of route shall be unlawful.

All persons shipping from, into, within or through this State may designate the route or routes by which such goods shall be shipped, subject to such reasonable exceptions and regulations as the Public Service Commission shall from time to time prescribe, and it shall be unlawful for any person other than the holder of the bill of lading to vary such route so designated or to ship such goods by any other route or to receive such goods if so diverted, unless the route so designated shall be interrupted or be incapable of being used at the time by strike or casualty preventing the running of trains thereon.

HISTORY: 1962 Code Section 58‑1154; 1952 Code Section 58‑1154; 1942 Code Section 8327; 1932 Code Section 8327; Civ. C. '22 Section 4874; Civ. C. '12 Section 3194; Civ. C. '02 Section 2105; 1896 (22) 119; 1944 (43) 1231.

**SECTION 58‑17‑2750.** Civil penalty on railroad for violation of certain statutory provisions.

Any transportation company violating any of the provisions of Sections 58‑17‑2710 to 58‑17‑2740 wilfully or knowingly shall be subject to a suit for each violation thereof at the instance of any person and upon proof of such violation the person instituting such suit shall be entitled to recover a penalty of five hundred dollars for such violation. Each violation of any of said sections shall constitute a separate cause of action.

HISTORY: 1962 Code Section 58‑1155; 1952 Code Section 58‑1155; 1942 Code Section 8328; 1932 Code Section 8328; Civ. C. '22 Section 4875; Civ. C. '12 Section 3195; Civ. C. '02 Section 2106; 1896 (22) 119.

**SECTION 58‑17‑2760.** Criminal penalty on individuals for violation of certain statutory provisions.

Any person who shall wilfully violate, aid in violating or direct or order any one to violate any of the provisions of Sections 58‑17‑2710 to 58‑17‑2740 as to the transportation of through freight shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment not less than three months nor more than twelve months, or both, in the discretion of the court.

HISTORY: 1962 Code Section 58‑1156; 1952 Code Section 58‑1156; 1942 Code Section 8328‑1; 1932 Code Section 1698; Cr. C. '22 Section 644; Cr. C. '12 Section 669; Cr. C. '02 Section 478; 1896 (22) 121.

**SECTION 58‑17‑2770.** Discrimination in deliveries prohibited.

It shall not be lawful for any railroad company, chartered by this State, to discriminate against any railroad company which may connect with it, either at one of its terminal stations or at any intermediate point on its line where such companies have stations and agents established, by neglecting or refusing to deliver with due diligence to such connecting road, in the yard or on the track of such road, all cars wholly or partly loaded with freight consigned to points on such connecting road or to points beyond its line. When freight is to be delivered to a connecting road to complete its transportation, such delivery shall be made by the railroad which brought the freight to the connecting point and no additional charge shall be made therefor. But the delivering road may demand of its connection payment of all charges which have accrued thereon, on or before delivery of such freight on the tracks or in the yards of such connecting road.

HISTORY: 1962 Code Section 58‑1157; 1952 Code Section 58‑1157; 1942 Code Section 8312; 1932 Code Section 8312; Civ. C. '22 Section 4859; Civ. C. '12 Section 3180; Civ. C. '02 Section 2097; G. S. 1471; R. S. 1658; 1881 (17) 822.

**SECTION 58‑17‑2780.** Discrimination by refusing to receive freight or to issue bills of lading prohibited.

It shall not be lawful for any railroad company chartered by this State to discriminate in favor of or against any railroad company which may connect with it, either at one of its terminal stations or at an intermediate point on its line where such companies have stations and agents established, as against any other railroad company which may connect with it at the same station or point, by refusing either to receive freight for shipment or to issue through bills of lading, at equal rates of freight therefor, to any one given destination reached by any or all of such connecting roads, or their connections, for which freight is received or through bills of lading are issued, to be forwarded by any other of such connecting roads at the same point, except that if any of such connections shall refuse to transport freight from its own terminus to the ultimate destination of such freight at the same rate as is charged by any other connection at the same point, the initial road shall be released from the provisions of this section and the connecting road shall not be entitled to the benefit of its provisions.

HISTORY: 1962 Code Section 58‑1158; 1952 Code Section 58‑1158; 1942 Code Section 8313; 1932 Code Section 8313; Civ. C. '22 Section 4860; Civ. C. '12 Section 3181; Civ. C. '02 Section 2098; G. S. 1472; R. S. 1659; 1881 (17) 822.

**SECTION 58‑17‑2790.** Discrimination in rates of freight as to other railroads prohibited.

It shall not be lawful for any railroad company chartered by this State to discriminate in its rates of freight in favor of or against any railroad company which may connect with it, either at one of its terminal stations, or at any intermediate point on its line. In all cases the charges on freight of the same character, having the same original point of shipment and the same destination, shall be uniform to and from all lines making connections with such railroad at the same point.

HISTORY: 1962 Code Section 58‑1159; 1952 Code Section 58‑1159; 1942 Code Section 8314; 1932 Code Section 8314; Civ. C. '22 Section 4861; Civ. C. '12 Section 3182; Civ. C. '02 Section 2099; G. S. 1473; R. S. 1660; 1881 (17) 822.

**SECTION 58‑17‑2800.** "Railroad company chartered by this State" defined.

In the construction of Sections 58‑17‑2770 to 58‑17‑2790 the term "railroad company chartered by this State" shall be held to mean each railroad company holding its franchise under a separate charter granted by this State.

HISTORY: 1962 Code Section 58‑1160; 1952 Code Section 58‑1160; 1942 Code Section 8315; 1932 Code Section 8315; Civ. C. '22 Section 4862; Civ. C. '12 Section 3183; Civ. C. '02 Section 2100; G. S. 1474; R. S. 1661; 1881 (17) 823.

**SECTION 58‑17‑2810.** Railroads shall deliver cars from other roads on equal terms; damages; effect of rebates or fraud.

Each railroad company in this State shall, at its terminus or any intermediate station, be required to switch off and deliver to any connecting road having the same gauge, in the yard of the latter, all cars passing over its lines, or any portion of them, containing goods or freights consigned, without rebate or deception, by any route, at the option of the shipper, according to customary or published rates, to any point over or beyond such connecting road. Any failure to do so with reasonable diligence shall render the railroad company so failing liable to the owner or consignee for all damages that may result therefrom with interest and all costs and disbursements. Should the defendant in any suit brought under this section set up as a defense that the plaintiff has accepted a rebate, or practiced fraud or deception touching the rate, it shall be a complete reply to such defense if the plaintiff can prove that defendant or its agents has allowed a rebate or rebates, or practiced like fraud or deception, from the same competing points against the rival line.

HISTORY: 1962 Code Section 58‑1161; 1952 Code Section 58‑1161; 1942 Code Section 8316; 1932 Code Section 8316; Civ. C. '22 Section 4863; Civ. C. '12 Section 3184; Civ. C. '02 Section 2101; R. S. 1662; 1887 (19) 822.

**SECTION 58‑17‑2820.** Refusal to pay freight to connecting carrier shall be unlawful.

It shall be unlawful for any railroad chartered or operated in this State to refuse to pay any carrier on traffic delivered at any of its terminal or junction points such freight charges as may have accrued from the original point of shipment to the terminal or junction points, wherever delivery may be made, and to which at current rates the carrier making such delivery and previous carriers interested may be justly entitled to whenever such freight may be collected by the road making the delivery to consignee; provided, that:

(1) The total amount of freight charges does not exceed an amount equal to one half the market value of the property transported;

(2) This section does not apply on property which, from its nature, is classed as "prepaid freight" or which may be destined for points designated and conducted as prepaid stations, of which due public notice has been given; and

(3) Such carrier shall afford to such railroad company making the delivery to the consignee the same advantages and facilities, in the handling and interchange of business, that it affords any other railroad at the same point.

HISTORY: 1962 Code Section 58‑1162; 1952 Code Section 58‑1162; 1942 Code Section 8329; 1932 Code Section 8329; Civ. C. '22 Section 4876; Civ. C. '12 Section 3196; Civ. C. '02 Section 2107; 1896 (22) 117.

ARTICLE 25

Passenger Service

**SECTION 58‑17‑3010.** Passenger trains shall stop at stations advertised as stops.

Every railroad company in this State shall cause all its trains of cars for passengers to stop entirely upon each arrival at a station advertised by such company as a station for receiving passengers upon such trains for a time sufficient to receive and let off passengers.

HISTORY: 1962 Code Section 58‑1171; 1952 Code Section 58‑1171; 1942 Code Section 8361; 1932 Code Section 8361; Civ. C. '22 Section 4909; Civ. C. '12 Section 3225; Civ. C. '02 Section 2134; G. S. 1486; R. S. 1687; 1881 (17) 824.

**SECTION 58‑17‑3020.** Passenger trains shall stop at county seats.

All passenger trains operated by and upon any railroad in this State shall stop to let off a passenger or upon signal to take on a passenger at all stations located at any county seat within this State. In case the county seat is not located on the main line of such railroad, but is served by a branch line therefrom, then such passenger trains shall stop at the junctional point of such branch line with such main line when such junctional point is not more than twenty‑three miles distant from the county seat and the provisions of this section shall apply as to each junctional point in such county where such junctional points are more than thirty miles apart. Any railroad company violating any provision of this section shall pay a penalty of one hundred dollars for each and every offense, one half of such penalty to go to any person who shall sue for it and one half to the county in which the offense occurs. Nothing herein contained shall bar any action for actual or punitive damages growing out of any violation of this section and any such causes of action may be united in the same complaint.

HISTORY: 1962 Code Section 58‑1172; 1952 Code Section 58‑1172; 1942 Code Section 8401; 1932 Code Section 8401; Civ. C. '22 Section 4949; Civ. C. '12 Section 3254; 1907 (25) 658; 1914 (28) 730; 1919 (31) 170.

**SECTION 58‑17‑3030.** Connections with intersecting railroads; passenger train requirement.

The Office of Regulatory Staff must, from time to time, examine into the schedules of all the railroads in this State for the carriage of passengers, with a view to ascertaining if the roads can reasonably make close connection with intersecting roads and wherever, in its opinion, close connection can be made without injustice or material injury to any road it shall make the appropriate orders to require such connection. And, to better secure connections, upon petition of the Office of Regulatory Staff, the commission may require all persons operating railroads, except those in the hands of receivers, to run at least one unmixed daily passenger train each way over the railroad and may likewise require those persons to furnish to the traveling public facilities for passage over the railroads twice each way daily. A road may appeal an order of the commission as in cases of appeals from inferior courts.

HISTORY: 1962 Code Section 58‑1173; 1952 Code Section 58‑1173; 1942 Code Section 8405; 1932 Code Section 8405; Civ. C. '22 Section 4953; Civ. C. '12 Section 3258; Civ. C. '02 Section 2163; 1896 (22) 115; 1897 (22) 455; 1901 (23) 718; 1935 (39) 25; 2006 Act No. 318, Section 127, eff May 24, 2006.

**SECTION 58‑17‑3040.** Posting bulletins as to late trains.

Whenever any passenger train on any railroad in this State shall be more than one half hour behind its schedule time the railroad company shall keep posted at every telegraph station along its line, when a telegraph operator is on duty at such station, the time such train is behind its schedule and shall change such bulletin every quarter hour until such train arrives, stating therein the time such train is behind and the hour at which it is expected to arrive. But such bulletins shall not be required to be posted at any station until one half hour before the regular schedule time at which such train is to arrive at such station. Any railroad company which shall refuse or neglect to comply with the provisions of this section shall forfeit and pay the sum of ten dollars for each and every such refusal or neglect, such sum to be sued for and recovered by any person aggrieved in any court of competent jurisdiction in the county where such refusal or neglect occurs.

HISTORY: 1962 Code Section 58‑1174; 1952 Code Section 58‑1174; 1942 Code Section 8417; 1932 Code Section 8417; Civ. C. '22 Section 4965; Civ. C. '12 Section 3270; Civ. C. '02 Section 2170; G. S. 1495; R. S. 1714; 1887 (19) 811; 1903 (24) 80; 1908 (25) 1075.

**SECTION 58‑17‑3050.** Publishing change of timetable.

Notice of any change in passenger schedules or timetables shall be published at least three days before such change goes into effect.

HISTORY: 1962 Code Section 58‑1175; 1952 Code Section 58‑1175; 1942 Code Section 8418; 1932 Code Section 8418; Civ. C. '22 Section 4966; Civ. C. '12 Section 3271; Civ. C. '02 Section 2171; R. S. 1715; 1889 (20) 378.

**SECTION 58‑17‑3060.** Discontinuing passenger train or changing it to mixed train without approval of Commission shall be unlawful.

It shall be unlawful for any railroad company or person operating a railroad service in this State to discontinue the operation of any passenger train or to change any passenger train into a mixed passenger and freight train and operate it as such without first making application to and securing the approval of the Public Service Commission. Each day of the violation of the provisions of this section shall be considered a separate offense. Any person violating any of the provisions of this section shall be punishable by a fine not exceeding twenty‑five dollars, to be imposed and collected by any court of competent jurisdiction.

HISTORY: 1962 Code Section 58‑1176; 1952 Code Section 58‑1176; 1942 Code Section 8250; 1940 (41) 1839.

**SECTION 58‑17‑3070.** Accommodations for passengers.

Every railroad corporation shall furnish reasonable accommodations for the convenience and safety of passengers. For every wilful neglect to provide such accommodations such railroad corporation shall forfeit not less than five nor more than twenty dollars, to be recovered in an action against such corporation.

HISTORY: 1962 Code Section 58‑1177; 1952 Code Section 58‑1177; 1942 Code Section 8395; 1932 Code Section 8395; Civ. C. '22 Section 4943; Civ. C. '12 Section 3248; Civ. C. '02 Section 2157; G. S. 1502; R. S. 1710; 1881 (17) 830.

**SECTION 58‑17‑3080.** Waiting rooms for passengers.

Every railroad company owning or operating a railroad in this State shall erect and keep at every office where tickets are sold for travel over its road two good rooms or apartments of reasonable size for the amount of travel at such office, which must be furnished with comfortable seats for the accommodation of passengers. The rooms must be in charge of an employee of the company and kept open at such hours as to accommodate passengers traveling over the road on any of its passenger trains. The Office of Regulatory Staff must enforce the provisions of this section.

HISTORY: 1962 Code Section 58‑1178; 1952 Code Section 58‑1178; 1942 Code Section 8413; 1932 Code Section 8413; Civ. C. '22 Section 4961; Civ. C. '12 Section 3266; Civ. C. '02 Section 2168; G. S. 1494; R. S. 1712; 1935 (39) 25; 2006 Act No. 318, Section 128, eff May 24, 2006.

**SECTION 58‑17‑3090.** Requiring erection of depots.

The Public Service Commission may require all railroads at junctional points, and at other points as the travel and public interest in its judgment shall justify in this State, to erect union or other depots for the convenience and accommodation of the public and if any railroad company refuses or fails so to do, when required by the commission within the time specified by the commission, it shall forfeit and pay a sum of not less than fifty dollars per day after the expiration of time as set forth in the order or circular of the commission, to be recovered in an action in any county in this State in which such violation has occurred in the name of the State. The Office of Regulatory Staff shall institute any action.

HISTORY: 1962 Code Section 58‑1179; 1952 Code Section 58‑1179; 1942 Code Section 8415; 1932 Code Section 8415; Civ. C. '22 Section 4963; Civ. C. '12 Section 3268; Civ. C. '02 Section 2169; 1897 (22) 418; 1907 (25) 504; 1906 (25) 9; 1935 (39) 25; 2006 Act No. 318, Section 129, eff May 24, 2006.

**SECTION 58‑17‑3100.** Separate water closets shall be maintained at stations.

All railroads or other persons operating any system of cars, carriages or other conveyances for the purpose of transporting passengers for hire shall, when ordered so to do by the Public Service Commission, build, keep and maintain at all passenger stations and other places where people are regularly taken on and put off of such cars, carriages or other conveyances, two separate and distinct water closets, one for female passengers and one for male passengers and such closets shall be kept in fit and suitable condition for the use and convenience of passengers. But this section shall not be construed to have reference to flag stations on railroad lines where there is no regularly kept passenger station. Any person refusing, failing or neglecting to observe the provisions of this section shall be liable to pay a penalty of fifty dollars for each and every day he shall fail, refuse or neglect to provide such water closets, such penalty to be recovered by any citizen who will sue therefor, one half of such penalty to go to the school fund of the county in which such suit is brought and the other half to the citizen suing for it.

HISTORY: 1962 Code Section 58‑1180; 1952 Code Section 58‑1180; 1942 Code Section 8414; 1932 Code Section 8414; Civ. C. '22 Section 4962; Civ. C. '12 Section 3267; 1906 (25) 4; 1935 (39) 25.

**SECTION 58‑17‑3110.** Railroads not required to have second‑class coaches.

No railroad to which the provisions of this chapter apply shall be required to have second‑class coaches or to sell second‑class tickets.

HISTORY: 1962 Code Section 58‑1181; 1952 Code Section 58‑1181; 1942 Code Section 8407; 1932 Code Section 8407; Civ. C. '22 Section 4955; Civ. C. '12 Section 3260; 1906 (25) 44; 1920 (31) 900; 1923 (33) 124; 1935 (39) 25.

**SECTION 58‑17‑3120.** Installation of cinder deflectors or wire screens; enforcement of requirement.

All railroad companies operating passenger trains or coaches by steam, within or through this State, must put cinder deflectors or wire screens that will effectually keep cinders from engines from entering cars upon all windows of passenger coaches, so as to protect passengers when the windows are raised. The deflectors must extend from the bottom of windows the entire length and three inches above the top of the sash and must be six inches wide and permanently fastened to each outside edge of each window. Any railroad company refusing or neglecting to comply with the provisions of this section is subject to a penalty of not less than five hundred dollars nor more than one thousand dollars for each coach not screened as required by this section, to be recovered by the Office of Regulatory Staff at the request of any person aggrieved by such refusal or neglect, for the benefit of the State. The Office of Regulatory Staff must enforce this section.

HISTORY: 1962 Code Section 58‑1182; 1952 Code Section 58‑1182; 1942 Code Section 8402; 1932 Code Sections 1693, 8402; Civ. C. '22 Section 4950; Cr. C. '22 Section 639; Civ. C. '12 Section 3255; Cr. C. '12 Section 664; 1908 (25) 1052; 1909 (26) 119; 1910 (26) 119; 1912 (27) 777; 1931 (37) 89; 1935 (39) 25; 1936 (39) 1713; 2006 Act No. 318, Section 130, eff May 24, 2006.

**SECTION 58‑17‑3130.** Exemptions from requirements of cinder deflectors.

The provisions of Section 58‑17‑3120 shall not be construed to apply to Pullman or sleeping cars operated in this State which are equipped with deflectors that effectually prevent cinders from entering cars, nor shall it be necessary to equip any air‑conditioned railroad passenger coaches, Pullman cars or dining cars with cinder deflectors or wire screens.

HISTORY: 1962 Code Section 58‑1183; 1952 Code Section 58‑1183; 1942 Code Section 8402; 1932 Code Sections 1693, 8402; Civ. C. '22 Section 4950; Cr. C. '22 Section 639; Civ. C. '12 Section 3255; Cr. C. '12 Section 664; 1908 (25) 1052; 1909 (26) 119; 1910 (26) 119; 1912 (27) 777; 1931 (37) 89; 1935 (39) 25; 1936 (39) 1713.

**SECTION 58‑17‑3140.** Use of baggage checks.

Every railroad corporation, when requested, shall give checks to their passengers for their baggage when delivered for transportation in good shipping order and shall redeliver such baggage to the passengers upon the surrender of their checks. Any corporation which wilfully refuses to comply with the provisions of this section shall forfeit ten dollars for each offense.

HISTORY: 1962 Code Section 58‑1184; 1952 Code Section 58‑1184; 1942 Code Section 8410; 1932 Code Section 8410; Civ. C. '22 Section 4958; Civ. C. '12 Section 3263; Civ. C. '02 Section 2166; G. S. 1503; R. S. 1711; 1881 (17) 829.

ARTICLE 27

Safety; Notice of Accidents

**SECTION 58‑17‑3310.** Certification of compliance of railroad or branch extension.

A railroad or branch or extension of a railroad must not be opened for public use until the Office of Regulatory Staff, after an examination, certifies that all laws relating to the construction thereof have been complied with and that the road appears to be in a safe condition for operation, unless the Office of Regulatory Staff, after ten days' written notice to it by the railroad company of such proposed opening, fails to make an examination.

HISTORY: 1962 Code Section 58‑1191; 1952 Code Section 58‑1191; 1942 Code Section 8363; 1932 Code Section 8363; Civ. C. '22 Section 4911; Civ. C. '12 Section 3227; Civ. C. '02 Section 2136; G. S. 1516; R. S. 1689; 1881 (17) 824; 1935 (39) 25; 2006 Act No. 318, Section 131, eff May 24, 2006.

**SECTION 58‑17‑3320.** Safety devices shall be installed and used on direction of Commission.

The Public Service Commission may require the installation and use by the railroads operating trains in or through this State of any safety device which, in its judgment, after due consideration and trial, shall have been proven materially to contribute to the safety of operation of trains and the protection of the lives and limbs of the crews operating such trains or the traveling public or to their reasonable comfort or the sanitation of passenger and freight trains on which passengers travel or employees work, as well as depots, both passenger and freight.

HISTORY: 1962 Code Section 58‑1192; 1952 Code Section 58‑1192; 1942 Code Section 8225; 1932 Code Section 8268; Civ. C. '22 Section 4816; Civ. C. '12 Section 3144; 1911 (27) 159; 1935 (39) 25.

**SECTION 58‑17‑3330.** Penalty for failure to obey orders of Commission regarding safety devices.

A failure to comply with any such order of the Commission within the time fixed by the Commission shall subject the railroad to a penalty of five hundred dollars, to be collected by suit in any court of competent jurisdiction by any person aggrieved. All penalties and forfeitures collected hereunder shall be paid over, one half into the State Treasury, and the other half into the county treasury of the county in which the suit is brought imposing the penalty, such revenues accruing from such collections to be used for general State and county purposes.

HISTORY: 1962 Code Section 58‑1193; 1952 Code Section 58‑1193; 1942 Code Section 8226; 1932 Code Section 8271; Civ. C. '22 Section 4819; Civ. C. '12 Section 3145; 1911 (27) 159; 1935 (39) 25.

**SECTION 58‑17‑3340.** Brakes and brakemen.

Every railroad corporation shall cause a good and sufficient brake to be attached to every car used upon its railroad for the transportation of passengers or freight, except four wheeled freight cars used only for transporting freight and shall cause to be stationed on every passenger train trusty and skillful brakemen, equal in number at least to one for every two cars in the train, except on passenger trains on which power brakes are used, and one such brakeman upon the last car of every freight train, which must always be equipped with a good and sufficient brake.

HISTORY: 1962 Code Section 58‑1194; 1952 Code Section 58‑1194; 1942 Code Section 8350; 1932 Code Section 8350; Civ. C. '22 Section 4898; Civ. C. '12 Section 3217; Civ. C. '02 Section 2127; G. S. 1499; R. S. 1681.

**SECTION 58‑17‑3350.** Tools and appliances.

Every railroad corporation must equip each of its trains, for use in case of accident, with such tools and appliances as the Office of Regulatory Staff may direct.

HISTORY: 1962 Code Section 58‑1195; 1952 Code Section 58‑1195; 1942 Code Section 8351; 1932 Code Section 8351; Civ. C. '22 Section 4899; Civ. C. '12 Section 3218; Civ. C. '02 Section 2128; G. S. 1500; R. S. 1682; 1935 (39) 25; 2006 Act No. 318, Section 132, eff May 24, 2006.

**SECTION 58‑17‑3360.** Electric hand lanterns.

All railroad carriers must equip trainmen in their employ engaged in switching and train movements in intrastate commerce in this State with electric hand lanterns, of a type approved by the Office of Regulatory Staff, containing at least one extra bulb capable of being immediately lighted in case of failure of the main bulb. The use by any railroad carrier of oil lanterns in connection with such movements is hereby prohibited. Any railroad carrier violating any of the provisions of this section must be punished by a fine not less than twenty‑five dollars nor more than one hundred dollars and each day during which any flagrant violation continues constitutes a separate offense.

HISTORY: 1962 Code Section 58‑1196; 1952 Code Section 58‑1196; 1942 Code Section 1696; 1938 (40) 1621; 2006 Act No. 318, Section 133, eff May 24, 2006.

**SECTION 58‑17‑3370.** Formation of passenger trains.

In forming a passenger train, baggage, freight, merchandise or lumber cars shall not be placed in rear of passenger cars.

HISTORY: 1962 Code Section 58‑1199; 1952 Code Section 58‑1199; 1942 Code Section 8353; 1932 Code Section 8353; Civ. C. '22 Section 4901; Civ. C. '12 Section 3220; Civ. C. '02 Section 2130; G. S. 1481; R. S. 1680; 1881 (17) 823.

**SECTION 58‑17‑3380.** Warning boards shall be maintained near drawbridges and grade crossings.

Every company, lessee, manager or receiver owning or operating a railroad in this State shall provide, maintain and place warning boards near drawbridges and places where railroads cross at grade. Such boards shall have letters of sufficient size to be clearly seen from the engine and to describe the place of danger and shall be placed not more than eight feet from the side of the track.

HISTORY: 1962 Code Section 58‑1200; 1952 Code Section 58‑1200; 1942 Code Section 8357; 1932 Code Section 8357; Civ. C. '22 Section 4905; 1914 (28) 103; 1972 (57) 3061.

**SECTION 58‑17‑3390.** Penalty for failure to erect or replace warning boards.

Any railroad company, receiver or lessee thereof doing business within this State which shall fail to comply with the provisions of Section 58‑17‑3380 after ten days' notice thereof in writing shall be subject to a fine of five dollars per day for every day thereafter that such failure shall continue and any such railroad, receiver or lessee failing to re‑erect such warning board, in case any such board for any cause be down or removed, after ten days' notice in writing, shall be subject to the penalty herein provided of five dollars per day for each day that such railroad, receiver or lessee shall fail to so re‑erect such warning boards. This penalty shall be recoverable by any person resident in this State in any court of competent jurisdiction, one half to go to the person bringing the action and one half to go into the county treasury in which such action may be brought, to be used for ordinary county purposes.

HISTORY: 1962 Code Section 58‑1201; 1952 Code Section 58‑1201; 1942 Code Section 8359; 1932 Code Section 8359; Civ. C. '22 Section 4907; 1914 (28) 103.

**SECTION 58‑17‑3400.** Removal of hand or lever cars from track and leaving it near crossing shall be unlawful.

It shall be unlawful for any railroad section master or any person in charge of or connected with any hand car or lever car to remove it from any railroad track and continue it stationary within fifty yards of any public crossing other than at any regular railroad section house except when necessary to avoid an approaching train or when in charge of employees engaged in actual work upon such crossing, and then only for such a period as is necessary to avoid such train or to perform such work. Any person violating the provisions of this section shall, upon conviction, be fined not exceeding fifty dollars or be imprisoned not exceeding thirty days. Any railroad company shall be liable for damages for any horse frightened as a result of the violation of the provisions of this section by any of its employees.

HISTORY: 1962 Code Section 58‑1202; 1952 Code Section 58‑1202; 1942 Code Section 8360; 1932 Code Sections 1692, 8360; Civ. C. '22 Section 4908; Cr. C. '22 Section 638; Civ. C. '12 Section 3224; Cr. C. '12 Section 663; 1902 (23) 1055.

**SECTION 58‑17‑3410.** Shelter for employees in railroad shops or yards.

All railway companies having railroad shops in this State at division points, where cars are regularly taken out of trains for repairs or construction work or where other railroad equipment is regularly made, repaired, or constructed, must furnish or construct a building or shed in the shops or yards, with a suitable and sufficient roof over the repair and construction track or tracks so as to provide that all men or employees employed in the construction and repair of locomotives, cars, trucks, or other railroad equipment, except when slight or minor repairs or repairs are done in an emergency, must be under shelter and protected during snow, rain, sleet, hot sunshine, and other inclement weather. The Office of Regulatory Staff may direct the points at which sheds shall be erected and the character of the sheds after a hearing before the Public Service Commission of which public notice has been given. Any railroad found guilty of violating the provisions of this section is subject to a fine of fifty dollars per day for every day of the violation.

HISTORY: 1962 Code Section 58‑1203; 1952 Code Section 58‑1203; 1942 Code Sections 8364, 8365; 1932 Code Sections 8364, 8365; Civ. C. '22 Sections 4912, 4913; 1914 (28) 706; 1935 (39) 25; 2006 Act No. 318, Section 134, eff May 24, 2006.

**SECTION 58‑17‑3420.** Construction and maintenance of bridges.

Every railroad corporation shall, at its own expense, construct, and afterwards maintain and keep in repair, all bridges, with their approaches or abutments, which it is authorized or required to construct over or under any turnpike road, canal, highway or other way and any city or town may recover of the railroad corporation whose road crosses a highway or town way therein all damages, charges and expenses incurred by such city or town by reason of the neglect or refusal of the corporation to erect or keep in repair all structures required or necessary at such crossing. But if, after the laying out and making of a railroad, the governing body of a county has authorized a turnpike, highway or other way to be laid out across the railroad, all expenses of and incident to constructing and maintaining the turnpike or way at such crossing shall be borne by the turnpike corporation or the county, city, town or other owner of it.

HISTORY: 1962 Code Section 58‑1204; 1952 Code Section 58‑1204; 1942 Code Section 8387; 1932 Code Section 8387; Civ. C. '22 Section 4935; Civ. C. '12 Section 3240; Civ. C. '02 Section 2149; G. S. 1498; R. S. 1702; 1881 (17) 826.

**SECTION 58‑17‑3430.** Railroads shall keep grade at stations level with track.

Every railroad company operating a railroad within this State shall keep the grade of its right of way at all stations level with the ties and four feet wide on the station side for a distance of one hundred and fifty feet on each side of such station or stopping place. But in the case of a terminal station the provisions aforesaid shall be operative only as to so much of the territory as is opposite to those portions of such terminal station used for passenger service and the approaches thereto on one side. Any railroad company violating the provisions of this section shall be liable to a penalty of not more than one hundred dollars, on complaint of any person aggrieved thereby, one half of the penalty shall go to complainant and the other half thereof to the use of the public school in the county in which the complaint is made.

HISTORY: 1962 Code Section 58‑1205; 1952 Code Section 58‑1205; 1942 Code Section 8416; 1932 Code Section 8416; Civ. C. '22 Section 4964; Civ. C. '12 Section 3269; 1910 (26) 680.

**SECTION 58‑17‑3440.** Notice of accidents.

Every railroad corporation must cause immediate notice of each accident, in cases of an accident occurring on its road attended with injury to any person as the Public Service Commission may, by rules and regulations adopted by it, require, to be given to a physician most accessible to the place of accident, the Office of Regulatory Staff, and the commission by telegraph, telephone, or such other means as may be the quickest under the circumstances at the same time that notice is given officials of the road on which the accident occurred. A railroad corporation shall also give notice in like manner of any accident falling within any description of accidents of which the commission may by general regulation require notice to be given. For each omission to give notice, a corporation shall forfeit a sum not exceeding five hundred dollars.

HISTORY: 1962 Code Section 58‑1206; 1952 Code Section 58‑1206; 1942 Code Section 8375; 1932 Code Section 8375; Civ. C. '22 Section 4923; Civ. C. '12 Section 3228; Civ. C. '02 Section 2137; G. S. 1525; R. S. 1690; 1881 (17) 824; 1905 (24) 844; 1935 (39) 25; 2006 Act No. 318, Section 135, eff May 24, 2006.

**SECTION 58‑17‑3450.** Investigation of causes of accidents.

The Office of Regulatory Staff shall investigate the cause of any accident on a railroad resulting in loss of life and of any accident not so resulting which, in its judgment, requires investigation.

HISTORY: 1962 Code Section 58‑1207; 1952 Code Section 58‑1207; 1942 Code Section 8292‑16; 1932 Code Section 8275; Civ. C. '22 Section 4823; Civ. C. '12 Section 3149; Civ. C. '02 Section 2071; G. S. 1459; R. S. 1634; 1881 (17) 819; 1935 (39) 25; 2006 Act No. 318, Section 136, eff May 24, 2006.

**SECTION 58‑17‑3460.** Transportation to accident site.

Every railroad corporation must furnish immediate transportation for the Office of Regulatory Staff over its line to the place of accident occurring on its road and attended with any injury to any person of which it is required to give notice under the provisions of Section 58‑17‑3440, free of expense to the Office of Regulatory Staff and, if the Office of Regulatory Staff uses another railroad to reach the place of accident, the corporation on whose line the accident occurred must pay the expense of transportation thereon.

HISTORY: 1962 Code Section 58‑1208; 1952 Code Section 58‑1208; 1942 Code Section 8375; 1932 Code Section 8375; Civ. C. '22 Section 4923; Civ. C. '12 Section 3228; Civ. C. '02 Section 2137; G. S. 1525; R. S. 1690; 1881 (17) 824; 1905 (24) 844; 1935 (39) 25; 2006 Act No. 318, Section 137, eff May 24, 2006.

ARTICLE 29

Police Powers of Agents

**SECTION 58‑17‑3610.** Police powers of conductors and station agents.

Conductors of railroad trains and station or depot agents are hereby declared to be conservators of the peace and they shall have the common‑law power of constables to make arrests, except that the conductors shall only have such power on board of their respective trains and the agents at their respective places of business. Such conductors and agents may cause any person so arrested by them to be detained and delivered to the proper authorities for trial as soon as practicable.

HISTORY: 1962 Code Section 58‑1221; 1952 Code Section 58‑1221; 1942 Code Section 8420; 1932 Code Sections 1701, 8420; Civ. C. '22 Section 4968; Cr. C. '22 Section 647; Civ. C. '12 Section 3273; Cr. C. '12 Section 672; Civ. C. '02 Section 2173; Cr. C. '02 Section 482; G. S. 1516; R. S. 1717; 1898 (22) 776; 1905 (24) 954.

**SECTION 58‑17‑3620.** Ejection of disorderly passenger from train.

When any passenger shall be guilty of disorderly conduct, use any obscene or grossly profane language to the annoyance and vexation of passengers or play any game of cards or other game of chance for money or other valuable thing upon any railroad train, the conductor of such train may stop his train at any place where such offense has been committed and eject such passenger from the train, using only such force as may be necessary to accomplish such removal, and may command the assistance of the employees of the railroad company or any of the passengers to assist in such removal.

HISTORY: 1962 Code Section 58‑1222; 1952 Code Section 58‑1222; 1942 Code Section 8421; 1932 Code Section 8421; Civ. C. '22 Section 4969; Civ. C. '12 Section 3274; Civ. C. '02 Section 2174; G. S. 1516a; R. S. 1718; 1882 (18) 17.

**SECTION 58‑17‑3630.** Badges shall be worn by employees.

Every conductor, baggagemaster, engineer, brakeman or other servant of any railroad corporation employed on a passenger train, or at stations for passengers, shall wear on his hat or cap a badge which shall indicate his office and the initial letters of the style of the corporation by which he is employed. No conductor or collector without such badge shall have any authority to meddle or interfere with any passenger, his baggage or his property. Each railroad corporation shall see that such badges are worn.

HISTORY: 1962 Code Section 58‑1223; 1952 Code Section 58‑1223; 1942 Code Section 8419; 1932 Code Section 8419; Civ. C. '22 Section 4967; Civ. C. '12 Section 3272; Civ. C. '02 Section 2172; G. S. 1485; R. S. 1716.

ARTICLE 31

Liability for Injuries to Employees

**SECTION 58‑17‑3710.** "Common carrier" defined.

The term "common carrier" as used in this article shall include the receiver or receivers or other persons or corporations charged with the duty of the management and operation of the business of a common carrier.

HISTORY: 1962 Code Section 58‑1239; 1952 Code Section 58‑1239; 1942 Code Section 8372; 1932 Code Section 8372; Civ. C. '22 Section 4920; 1916 (29) 970.

**SECTION 58‑17‑3720.** Liability of railroads for negligence resulting in injuries to or death of employees; amount and disposition of damages in case of death of employee.

Every common carrier by railroad while engaging in commerce within this State shall be liable in damages to any person suffering injury while he is employed by such carrier in such commerce or, in case of the death of such employee, to his personal representative for the benefit (a) of the surviving widow or husband and children of such employee, (b) if none, of such employee's parents and (c) if none, then of the next of kin, for such injury or death resulting in whole or in part from the negligence of any of the officers, agents or employees of such carrier or by reason of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves or other equipment. And in every such action the jury may give such damages as they may think proportioned to the injury or injuries resulting from such death to the parties, respectively, for whom and for whose benefit such action shall be brought and the amount so recovered shall be divided among the before‑mentioned parties in such shares as they would have been entitled to if the deceased had died intestate and the amount recovered had been personal assets of his estate.

HISTORY: 1962 Code Section 58‑1231; 1952 Code Section 58‑1231; 1942 Code Section 8366; 1932 Code Section 8366; Civ. C. '22 Section 4914; 1916 (29) 970.

**SECTION 58‑17‑3730.** Effect of contributory negligence.

In all actions hereafter brought against any such common carrier by railroad under or by virtue of any of the provisions of this article to recover damages for personal injuries to any employee or when 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. But no such employee who may be injured or killed shall be held to have been guilty of contributory negligence when the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee.

HISTORY: 1962 Code Section 58‑1232; 1952 Code Section 58‑1232; 1942 Code Section 8367; 1932 Code Section 8367; Civ. C. '22 Section 4915; 1916 (29) 970.

**SECTION 58‑17‑3740.** Assumption of risk.

In any action brought against any common carrier under or by virtue of any of the provisions of this article to recover damages for injuries to, or the death of, any of its employees, such employee shall not be held to have assumed the risks of his employment when the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee.

HISTORY: 1962 Code Section 58‑1233; 1952 Code Section 58‑1233; 1942 Code Section 8368; 1932 Code Section 8368; Civ. C. '22 Section 4916; 1916 (29) 970.

**SECTION 58‑17‑3750.** Any exemption from liability under article shall be void.

Any contract, rule, regulation or device whatsoever the purpose or intent of which shall be to enable any common carrier to exempt itself from any liability created by this article shall to that extent be void.

HISTORY: 1962 Code Section 58‑1234; 1952 Code Section 58‑1234; 1942 Code Section 8369; 1932 Code Section 8369; Civ. C. '22 Section 4917; 1916 (29) 970.

**SECTION 58‑17‑3760.** Survival of right of action.

Any right of action given by this article to a person suffering injury shall survive to his personal representatives, for the benefit of (a) the surviving widow or husband and children of such employee, (b) if none, such employee's parents and (c) if none, then of the next of kin of such employee. But in such case there shall be only one recovery for the same injury.

HISTORY: 1962 Code Section 58‑1235; 1952 Code Section 58‑1235; 1942 Code Section 8371; 1932 Code Section 8371; Civ. C. '22 Section 4919; 1916 (29) 970.

**SECTION 58‑17‑3770.** Limitation of actions.

No action shall be maintained under this article unless commenced within two years from the day the cause of action accrued.

HISTORY: 1962 Code Section 58‑1236; 1952 Code Section 58‑1236; 1942 Code Section 8370; 1932 Code Section 8370; Civ. C. '22 Section 4918; 1916 (29) 970.

**SECTION 58‑17‑3780.** Setoffs.

In any action brought against any such common carrier under or by virtue of any of the provisions of this article such common carrier may set off therein any sum it has contributed or paid to any insurance, relief, benefit or indemnity that may have been paid to the injured employee or the person entitled thereto on account of the injury or death for which such action was brought.

HISTORY: 1962 Code Section 58‑1237; 1952 Code Section 58‑1237; 1942 Code Section 8369; 1932 Code Section 8369; Civ. C. '22 Section 4917; 1916 (29) 970.

**SECTION 58‑17‑3790.** Punitive damages.

Punitive damages shall not be recoverable in cases arising under this article except under circumstances under which exemplary damages are recoverable in cases arising under Section 58‑17‑3950.

HISTORY: 1962 Code Section 58‑1238; 1952 Code Section 58‑1238; 1942 Code Section 8374; 1932 Code Section 8374; Civ. C. '22 Section 4922; 1916 (29) 970; 1951 (47) 782.

**SECTION 58‑17‑3800.** Article shall be cumulative.

Nothing in this article shall be held to limit the duty or liability of common carriers or to impair the rights of their employees under any other law not inconsistent with the provisions of this article but the remedies and provisions herein shall be held to be in addition to, and cumulative of, existing remedies.

HISTORY: 1962 Code Section 58‑1240; 1952 Code Section 58‑1240; 1942 Code Section 8373; 1932 Code Section 8373; Civ. C. '22 Section 4921; 1916 (29) 970.

ARTICLE 33

Penalties and Liabilities Generally

**SECTION 58‑17‑3910.** Liability to landowners for damages for wrongful obstruction of watercourses.

Railroad corporations shall be liable to landowners for all damages resulting from the wrongful obstruction of watercourses by such corporations and it shall not be necessary to allege and prove that such damages resulted from the negligent construction of the road or other works of such corporations, but any person who is damaged shall be entitled to recover as in actions against individuals upon showing the wrongful obstruction of such watercourses.

HISTORY: 1962 Code Section 58‑967; 1952 Code Section 58‑967; 1942 Code Section 8275; 1932 Code Section 8220; Civ. C. '22 Section 4784; Civ. C. '12 Section 3115; Civ. C. '02 Section 2041; 1897 (22) 489.

**SECTION 58‑17‑3920.** Liability for damage caused by fire.

Every railroad corporation shall be responsible in damages to any person whose buildings or other property may be injured by fire communicated by its locomotive engines or originating within the limits of the right of way of such road in consequence of the act of any of its authorized agents or employees, except when property shall have been placed on the right of way of such corporation unlawfully or without its consent, and each such corporation shall have an insurable interest in the property upon its route for which it may be so held responsible and may procure insurance thereon in its own behalf.

HISTORY: 1962 Code Section 58‑1198; 1952 Code Section 58‑1198; 1942 Code Section 8362; 1932 Code Section 8362; Civ. C. '22 Section 4910; Civ. C. '12 Section 3226; Civ. C. '02 Section 2135; G. S. 1511; R. S. 1688; 1881 (17) 824.

**SECTION 58‑17‑3930.** Penalty for failure to obey orders of Commission.

Any railroad in this State refusing to obey any order of the Public Service Commission made under this chapter must forfeit not less than the sum of five hundred dollars nor more than two thousand dollars, to be recovered by the suit of the Office of Regulatory Staff in a suit in the court of common pleas. Any sum recovered must go to the general fund of this State.

HISTORY: 1962 Code Section 58‑1251; 1952 Code Section 58‑1251; 1942 Code Section 8406; 1932 Code Section 8406; Civ. C. '22 Section 4954; Civ. C. '12 Section 3259; Civ. C. '02 Section 2164; 1935 (39) 25; 2006 Act No. 318, Section 138, eff May 24, 2006.

**SECTION 58‑17‑3940.** Penalty for failure to pay recompense for violation of rule or regulation of Commission; action for recovery.

If any railroad company doing business in this State, by its agents or employees, is guilty of a violation of the rules and regulations provided and prescribed by the commission and if, after due notice of a violation given by the Office of Regulatory Staff to the principal officer thereof, ample and full recompense for the wrong or injury done to any person as may be directed by the Office of Regulatory Staff, is not made within thirty days from the time of the notice, the company shall incur a penalty for each offense of not less than one thousand dollars nor more than five thousand dollars, to be fixed by the presiding judge. An action for recovery of any penalty shall lie in any county in the State in which the violation has occurred or the wrong has been perpetrated and shall be in the name of the State. The Office of Regulatory Staff must institute any action.

HISTORY: 1962 Code Section 58‑1252; 1952 Code Section 58‑1252; 1942 Code Section 8338; 1932 Code Section 8338; Civ. C. '22 Section 4885; Civ. C. '12 Section 3205; Civ. C. '02 Section 2116; R. S. 1666; 1892 (21) 14; 2006 Act No. 318, Section 139, eff May 24, 2006.

**SECTION 58‑17‑3950.** Actions for injuries to persons through violation of rules or regulations of Commission.

If any railroad company doing business in this State shall, in violation of any rule or regulation provided by the Commission, inflict wrong or injury on any person, such person shall have a right of action and recovery for such wrong or injury in the county in which such wrong or injury was inflicted in any court having jurisdiction thereof and the damages to be recovered shall be the same as in an action between individuals, except that in cases of wilful violation of law such railroad companies shall be liable to exemplary damages.

HISTORY: 1962 Code Section 58‑1253; 1952 Code Section 58‑1253; 1942 Code Section 8339; 1932 Code Section 8339; Civ. C. '22 Section 4886; Civ. C. '12 Section 3206; Civ. C. '02 Section 2117; R. S. 1667; 1892 (21) 14.

**SECTION 58‑17‑3960.** Suits under foregoing section shall be brought within twelve months.

All suits under Section 58‑17‑3950 shall be brought within twelve months of the commission of the alleged wrong or injury.

HISTORY: 1962 Code Section 58‑1253.1; 1955 (49) 262.

**SECTION 58‑17‑3970.** Acts declared unlawful shall be prohibited.

Each and every act, matter or thing in this chapter declared to be unlawful is hereby prohibited.

HISTORY: 1962 Code Section 58‑1253.2; 1952 Code Section 58‑1253.1; 1942 Code Section 8453; 1932 Code Section 8470; Civ. C. '22 Section 5006; Civ. C. '12 Section 3308; Civ. C. '02 Section 2202; G. S. 1539; R. S. 1735; 1882 (17) 18.

**SECTION 58‑17‑3980.** Damages and penalty for unlawful acts where no specific penalty provided.

If any person commits or allows to be committed any act, matter, or thing in this chapter declared to be unlawful, omits to do any act, matter, or thing in this chapter required to be done, or is guilty of any violation of any of the provisions of this chapter, that person must, when no specific penalty is herein provided for the violation, forfeit and pay to the person who may sustain damage thereby a sum equal to three times the amount of the damages so sustained, to be recovered by the person so damaged by suit in the circuit court of any county in this State in which the person causing the damage can be found or may have an agent, office, or place of business. But in the case of recovery, the damage shall not be assessed at a less sum than two hundred and fifty dollars. And the person so offending shall, for each offense, forfeit and pay a penalty of not less than one thousand dollars, to be recovered by the State by action in any such circuit court to be brought by the Office of Regulatory Staff upon the request of the Public Service Commission.

HISTORY: 1962 Code Section 58‑1254; 1952 Code Section 58‑1254; 1942 Code Section 8453; 1932 Code Section 8470; Civ. C. '22 Section 5006; Civ. C. '12 Section 3308; Civ. C. '02 Section 2202; G. S. 1539; R. S. 1735; 1882 (18) 18; 2006 Act No. 318, Section 140, eff May 24, 2006.

**SECTION 58‑17‑3990.** Action under foregoing section shall be subject of equity jurisdiction.

Any action brought as provided in Section 58‑17‑3980 to recover any penalty or damages shall be regarded as a subject of equity jurisdiction and discovery and affirmative relief may be sought and obtained therein. In any such action so brought as a case of equitable cognizance, preliminary or final injunction may, without allegation or proof of damage to the complainant, be granted upon proper application, restraining, forbidding and prohibiting the commission or continuance of any act, matter or thing by this chapter prohibited or forbidden.

HISTORY: 1962 Code Section 58‑1255; 1952 Code Section 58‑1255; 1942 Code Section 8454; 1932 Code Section 8471; Civ. C. '22 Section 5007; Civ. C. '12 Section 3309; Civ. C. '02 Section 2203; G. S. 1539; R. S. 1736; 1882 (18) 18.

**SECTION 58‑17‑4000.** Limitation of action.

No action provided for in Sections 58‑17‑3980 and 58‑17‑3990 shall be sustained unless brought within two years after the cause of action shall accrue.

HISTORY: 1962 Code Section 58‑1256; 1952 Code Section 58‑1256; 1942 Code Section 8456; 1932 Code Section 8473; Civ. C. '22 Section 5009; Civ. C. '12 Section 3311; Civ. C. '02 Section 2205; G. S. 1539; R. S. 1738; 1882 (18) 18.

**SECTION 58‑17‑4010.** Testimony may be compelled; immunity from prosecution; production of books and papers.

In any action under Section 58‑17‑3980 and upon any application for any injunction under Section 58‑17‑3990 any director, officer, receiver or trustee of any railroad corporation or company or any receiver, trustee or person operating any railroad company or any agent of any such corporation or company, receiver, trustee or person aforesaid, or of any of them alone or with any other person may be compelled to attend, appear and testify and give evidence. No claim that any such testimony or evidence might tend to incriminate the person testifying or giving evidence shall be of any avail; but such evidence shall not be used against such person on the trial of any indictment against him. The attendance and appearance of any such person who may be compelled to appear or testify, and the giving of testimony or evidence by such person and the production of books and papers by him may be compelled as in the case of any other witness and if such deposition or evidence or the production of any books or papers may be desired or required for the purpose of applying for or sustaining any injunction it and the production of books and papers may be had, taken and compelled by or before the clerk of the court in which such action is pending or in any manner provided by the laws of this State as to the taking of other depositions or evidence or the attendance of witnesses or the production of other books or papers.

HISTORY: 1962 Code Section 58‑1257; 1952 Code Section 58‑1257; 1942 Code Section 8455; 1932 Code Section 8472; Civ. C. '22 Section 5008; Civ. C. '12 Section 3310; Civ. C. '02 Section 2204; G. S. 1539; R. S. 1737; 1882 (17) 18.

**SECTION 58‑17‑4020.** Penalty for violation of chapter by individuals.

Any director or officer of any railroad corporation or company or any receiver, trustee, lessee or person acting or engaged as a railroad or any agent of any such corporation or company, receiver, trustee, lessee or person, or of one of them alone or with any other corporation, person or party, who shall (a) directly or indirectly do, or cause or willingly suffer or permit to be done, any act, matter or thing in this chapter prohibited or forbidden, (b) directly or indirectly aid or abet therein, (c) directly or indirectly omit or fail to do any act, matter or thing in this chapter required to be done, (d) cause or willingly suffer or permit any act, matter or thing, so directed or required to be done, not to be so done, (e) directly or indirectly aid or abet any such omission or failure, (f) directly or indirectly be guilty of any infraction of this chapter or (g) directly or indirectly aid or abet therein shall, unless otherwise herein specially provided, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than two hundred dollars.

HISTORY: 1962 Code Section 58‑1258; 1952 Code Section 58‑1258; 1942 Code Section 8457; 1932 Code Section 8474; Civ. C. '22 Section 5010; Civ. C. '12 Section 3312; Civ. C. '02 Section 2206; G. S. 1540; R. S. 1739; 1882 (17) 18.

**SECTION 58‑17‑4030.** Penalty for injury due to negligence or carelessness.

When an engineman, fireman or other agent or officer of a railroad corporation is guilty of negligence or carelessness whereby an injury is done to any person he shall be punished by imprisonment not exceeding twelve months or by a fine not exceeding one thousand dollars.

HISTORY: 1962 Code Section 58‑1259; 1952 Code Section 58‑1259; 1942 Code Section 8374‑1; 1932 Code Section 1689; Cr. C. '22 Section 635; Cr. C. '12 Section 660; Cr. C. '02 Section 472; G. S. 1526; R. S. 369; 1881 (17) 834.

**SECTION 58‑17‑4040.** Penalty for gross carelessness or negligence.

Whoever, having management of, or control over, a railroad train while being used for the common carriage of persons, is guilty of gross carelessness or neglect in, or in relation to, the management or control thereof shall forfeit a sum not exceeding five thousand dollars or be imprisoned not more than three years.

HISTORY: 1962 Code Section 58‑1260; 1952 Code Section 58‑1260; 1942 Code Section 8374‑2; 1932 Code Section 1690; Cr. C. '22 Section 636; Cr. C. '12 Section 661; Cr. C. '02 Section 473; G. S. 1527; R. S. 370; 1881 (17) 835.

**SECTION 58‑17‑4050.** Penalty for injury due to wilful violation.

Any engineer, conductor or other agent or employee of any railroad company in this State who shall wilfully neglect to observe or shall wilfully violate any rule or regulation of the company to which such engineer or conductor may belong, whereby any person shall sustain or be in danger of sustaining any bodily injury shall be liable to be indicted for every such offense and, upon conviction thereof, be fined two hundred dollars and imprisoned for not exceeding one year, at the discretion of the judge before whom such case may be tried. Nothing therein contained shall be so construed as to relieve such engineer or conductor from responsibility under the law when the life of any person is destroyed.

HISTORY: 1962 Code Section 58‑1261; 1952 Code Section 58‑1261; 1942 Code Sections 1127, 1693; 1932 Code Sections 1127, 1691; Cr. C. '22 Sections 24, 637; Cr. C. '12 Sections 169, 662; Cr. C. '02 Sections 138, 474; G. S. 2478; R. S. 136; R. S. 371; 1857 (12) 634.

**SECTION 58‑17‑4060.** Common carriers shall not interfere with contracts of shipment.

If any person shall have contracted to deliver to any other person within this State certain commodities, no common carrier doing business in this State over whose road such commodities would be transported before delivery to the consignee shall interfere with the fulfillment of such contract between such shipper of freight and the proposed consignee, nor undertake to control or direct, or in any wise interfere with, the shipment of such commodities by the person who has contracted so to ship the same. To this end no common carrier doing business in this State over whose road such commodities would pass in transportation before delivery to the consignee in this State, when furnishing cars to the shippers thereof, may designate to what consignees freight loaded in such cars shall be consigned or in any way interfere with or seek to control the use of such cars by the shipper in making shipment to such consignee as he may desire to ship to or be under contract to ship to.

HISTORY: 1962 Code Section 58‑1262; 1952 Code Section 58‑1262; 1942 Code Section 8317; 1932 Code Section 8317; Civ. C. '22 Section 4864; Civ. C. '12 Section 3185; 1906 (25) 107.

**SECTION 58‑17‑4070.** Liability of common carriers interfering with contracts of shipment.

Any common carrier violating the provisions of Section 58‑17‑4060 shall be liable to such damages, including special and punitive damages, as may be found in an action maintained in the courts of this State. Any shipper or proposed consignee bringing suit for violation of the terms of Section 58‑17‑4060 may include in the same action actual damages sustained by him through such act of the common carrier as well as any special damages and may also recover in the same action such punitive damages as may be allowed to him.

HISTORY: 1962 Code Section 58‑1263; 1952 Code Section 58‑1263; 1942 Code Section 8318; 1932 Code Section 8318; Civ. C. '22 Section 4865; Civ. C. '12 Section 3186; 1906 (25) 107.

**SECTION 58‑17‑4080.** Penalty and damages for obstruction of highway by railroad car, locomotive or other object.

If any person, including any conductor of any train of railroad cars or any other agent or servant of any railroad company, shall obstruct unnecessarily any public road or highway by permitting any railroad car or locomotive to be or remain upon or across any street, public road or highway for a longer period than five minutes, after notice to remove such cars has been given to the conductor, engineer, agent or other such person in charge of such train or shall permit any timber, wood or other obstruction to remain upon or across any such street, road or highway to the hindrance or inconvenience of travelers or any person passing along or upon such street, road or highway, every such person so offending shall forfeit and pay for every such offense any sum not exceeding twenty nor less than five dollars and shall be liable for all damages arising to any highway, to be recovered by an action at the suit of the governing body of the county in which such offense shall have been committed or any person suing therefor, before any magistrate within the county in which such offense shall have been committed or by indictment in the court of general sessions or suit in the court of common pleas. All fines so accruing under the provisions of this section, when collected, shall be paid over by the magistrate to the county treasurer for the district in which such offense was committed. Every twenty‑four hours such person, after being notified, shall suffer such obstructions to the hindrance or inconvenience of travelers or any person going along or upon such road or highway to continue shall be deemed an additional offense against the provisions of this section.

HISTORY: 1962 Code Section 58‑1264; 1952 Code Section 58‑1264; 1942 Code Section 1674; 1932 Code Section 1674; Cr. C. '22 Section 621; Cr. C. '12 Section 648; 1902 (23) 1007.

**SECTION 58‑17‑4090.** Penalty for obstruction of railroad.

If any person shall by himself or others place, or cause to be placed, on the track or other part of the passageway of any railroad on which steam engines, diesel engines or any other type engines or handcars are used any timber, stone or other obstruction, with intent to injure or impede the passage of any cars or means of conveyance, or shall in any manner obstruct any engine or car passing upon any railroad on which steam engines, diesel engines or any other type engines or handcars are used or endanger the safety of persons conveyed in or upon such railroads or assist therein, such person shall be guilty of a felony and, on being thereof convicted by due course of law, shall be punished by imprisonment in the Penitentiary for not less than one nor more than thirty years and fined in the discretion of the court, except when the death of some human being results from such impediment and in that case the offender shall be adjudged guilty of murder and shall suffer death.

Nothing in this section shall in any manner take away any right of action for damages for injuries to the person or property of any person or body corporate caused by any injury, obstruction or damage done to any railroad or its buildings, tracks or constructions.

HISTORY: 1962 Code Section 58‑1265; 1952 Code Section 58‑1265; 1942 Code Sections 1104, 1115, 1116; 1932 Code Sections 1104, 1115, 1116; Cr. C. '22 Sections 4, 13, 14; Cr. C. '12 Sections 138, 151, 152; Cr. C. '02 Sections 111, 123, 124; G. S. 1520, 2456, 2467; R. S. 111, 123, 124; 1879 (18) 101; 1882 (18) 109; 1960 (51) 1602; 1961 (52) 496.

**SECTION 58‑17‑4095.** Parking or operating vehicle on railroad right‑of‑way prohibited; exceptions; penalty.

(A) No person may park or operate a vehicle on a railroad right‑of‑way where there are existing tracks unless the person:

(1) is an employee of the railroad which owns the right‑of‑way in the performance of his duties;

(2) has authority from the railroad which owns the right‑of‑way;

(3) is using a public or private roadway which crosses over the railroad at an established grade crossing;

(4) is acting in an official capacity with the military, police force, a fire fighting organization, or some similar public authority and must enter onto the railroad right‑of‑way to carry out his or her responsibilities; or

(5) is an employee of a public utility or telecommunications carrier, or of the forestry industry, and must enter onto the railroad right‑of‑way to carry out his responsibilities.

(B) For the purposes of this section, the term "vehicle" includes all standard vehicles normally operated on roadways, such as automobiles, trucks, vans, and motorcycles, and all off‑road vehicles. Off‑road vehicles include, but are not limited to, four‑wheel drive or low‑pressure tire vehicles, two or three wheel vehicles, amphibious machines, and ground‑effect or air‑cushioned vehicles.

(C) A person violating the provisions of this section, upon conviction, shall pay a fine of not more than two hundred dollars or serve a term of imprisonment for not more than thirty days.

HISTORY: 1988 Act No. 542, eff May 17, 1988.

**SECTION 58‑17‑4096.** Trespassing upon railroad tracks.

(A) It is unlawful, without proper authority, for a person to trespass upon railroad tracks.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days.

HISTORY: 1996 Act No. 458, Part II, Section 87, eff June 19, 1996.

**SECTION 58‑17‑4100.** Penalty for shooting or throwing at trains.

A person who wilfully discharges any kind of firearms or throws any kind of missile at or into the engine or any car of a train is guilty of a felony and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than five years.

HISTORY: 1962 Code Section 58‑1266; 1952 Code Section 58‑1266; 1942 Code Section 1199‑1; 1932 Code Section 1709; Cr. C. '22 Section 655; Cr. C. '12 Section 680; Cr. C. '02 Section 484; R. S. 1734a; 1898 (22) 776; 1993 Act No. 184, Section 86, eff January 1, 1994.

**SECTION 58‑17‑4110.** Penalty for loitering in or about station houses.

Whoever, without right, loiters or remains within any station house of a railroad corporation or upon the platform or grounds adjacent to such station, after being requested to leave the same by any authorized railroad officer or employee, shall be guilty of a misdemeanor and, on conviction thereof, shall pay a fine of not more than fifty dollars or be confined in the county jail or required to work on the chain gang for not more than thirty days.

HISTORY: 1962 Code Section 58‑1267; 1952 Code Section 58‑1267; 1942 Code Section 8413‑1; 1932 Code Section 1704; Cr. C. '22 Section 650; Cr. C. '12 Section 675; Cr. C. '02 Section 481; G. S. 1515; R. S. 1731; 1881 (17) 832; 1898 (22) 776.

**SECTION 58‑17‑4120.** Certain persons shall be deemed agents of railroad corporation.

Any person occupying an office or room in any railway station and attending to and transacting therein the business of any railroad under the charter of such railroad shall be deemed the agent of such corporation, notwithstanding he may claim to be the agent of some other person or corporation claiming to operate such railroad by virtue of any lease, contract or agreement. A bill of lading, receipt, agreement or contract signed or entered into by any such person as agent of any such person or corporation operating such railroad shall be deemed the contract of the corporation under the charter of which the railroad is authorized.

HISTORY: 1962 Code Section 58‑1268; 1952 Code Section 58‑1268; 1942 Code Section 8256; 1932 Code Section 8201; Civ. C. '22 Section 4765; Civ. C. '12 Section 3100; Civ. C. '02 Section 2026; 1883 (18) 437.

**SECTION 58‑17‑4130.** Liabilities of corporation operating road of another and of trustees and receivers.

When a railroad laid out and constructed by one corporation is lawfully maintained and operated by another corporation, the latter shall be subject to the duties, liabilities, restrictions and other provisions as they are set forth in the General Railroad Law respecting or arising from the maintenance and operation of such railroad in the same manner as if it had been laid out and constructed by the latter corporation. When a railroad is lawfully maintained and operated by trustees or receivers they shall in like manner be subject to the duties, liabilities, restrictions and other provisions respecting or arising from the maintenance and operation of such railroad which are attached in the General Railroad Law to the corporation for whose stockholders or creditors, or either, they are trustees or receivers.

HISTORY: 1962 Code Section 58‑1269; 1952 Code Section 58‑1269; 1942 Code Section 8255; 1932 Code Section 8200; Civ. C. '22 Section 4764; Civ. C. '12 Section 3099; Civ. C. '02 Section 2025; G. S. 1415; R. S. 1598.

**SECTION 58‑17‑4140.** Collection of fines and penalties.

All fines or forfeitures provided for or prescribed in the General Railroad Law must, unless otherwise expressly provided, be collected by an action to be brought in the name of the State against the offending person or corporation in any court of competent jurisdiction by the Office of Regulatory Staff or the solicitor of the circuit in which the offense is in whole or in part committed.

HISTORY: 1962 Code Section 58‑1270; 1952 Code Section 58‑1270; 1942 Code Section 8458; 1932 Code Section 8475; Civ. C. '22 Section 5011; Civ. C. '12 Section 3313; Civ. C. '02 Section 2207; G. S. 1542; R. S. 1740; 1881 (17) 839; 2006 Act No. 318, Section 141, eff May 24, 2006.

**SECTION 58‑17‑4150.** Persons against whom judgments shall be rendered.

Any judgment under the provisions of this chapter shall be rendered against the person violating its provisions and against the corporation in whose service or under whose authority he performed such unlawful acts.

HISTORY: 1962 Code Section 58‑1271; 1952 Code Section 58‑1271; 1942 Code Section 8456; 1932 Code Section 8473; Civ. C. '22 Section 5009; Civ. C. '12 Section 3311; Civ. C. '02 Section 2205; G. S. 1539; R. S. 1738; 1882 (18) 18.

**SECTION 58‑17‑4160.** Procedure for attachment of cars and engines which are in use.

Whenever railroad cars and engines are in use on railroads and making regular passage thereon, they shall not be attached upon mesne process in any suit within forty‑eight hours previous to their fixed time of departure unless the officer making such attachment shall have first demanded of the owners or managers of such engines or cars, or any of the agents of such railroad, other property equal in value to the ad damnum in the writ upon which to make such attachment and such owners or managers shall have refused or neglected to comply with such demand. And any officer making such attachment shall, on his return upon the process upon which it is made, certify that he has made such demand for such other property and that such demand has been refused or neglected; otherwise such attachment shall be wholly void.

HISTORY: 1962 Code Section 58‑1272; 1952 Code Section 58‑1272; 1942 Code Section 8428; 1932 Code Section 8428; Civ. C. '22 Section 4976; Civ. C. '12 Section 3278; Civ. C. '02 Section 2178; G. S. 1524; R. S. 1722; 1881 (17) 834.

**SECTION 58‑17‑4170.** Forfeiture of charter for repeated violations of law.

Whenever a railroad corporation of this State has repeatedly and wilfully violated any of the provisions of this chapter, and has been found guilty or judgment had against it within this State of the violation more than once or penalties have been recovered in penal actions for the violations more than once, the commission may, if it thinks it consistent with the public interest, instruct the Office of Regulatory Staff to proceed against the corporation, in any court of competent jurisdiction, by an information in the nature of a quo warranto, alleging such convictions or recoveries as cause of forfeiture of its charter of incorporation and upon proof of such facts there shall be judgment of ouster and final execution as in other cases of proceedings by quo warranto.

HISTORY: 1962 Code Section 58‑1273; 1952 Code Section 58‑1273; 1942 Code Section 8460; 1932 Code Section 8477; Civ. C. '22 Section 5013; Civ. C. '12 Section 3315; Civ. C. '02 Section 2209; G. S. 1546; R. S. 1742; 1881 (17) 841; 2006 Act No. 318, Section 142, eff May 24, 2006.

**SECTION 58‑17‑4180.** Request or advice of Commission shall not impair legal duties of railroad.

No request or advice of the Commission shall impair, in any manner or degree, the legal duties and obligations of any railroad corporation or its liability for the consequence of its acts or of the neglect or mismanagement of any of its agents or servants.

HISTORY: 1962 Code Section 58‑1274; 1952 Code Section 58‑1274; 1942 Code Section 8292‑18; 1932 Code Section 8277; Civ. C. '22 Section 4825; Civ. C. '12 Section 3151; Civ. C. '02 Section 2073; G. S. 1461; R. S. 1636; 1881 (17) 819; 1935 (39) 25.

**SECTION 58‑17‑4190.** Chapter shall not affect rights of persons injured to action for private damages.

This chapter shall not be so construed as to affect the right of any person injured by the violation of any law in regard to railroad corporations from prosecuting or proceeding for his private damages in any manner allowed by law.

HISTORY: 1962 Code Section 58‑1275; 1952 Code Section 58‑1275; 1942 Code Section 8459; 1932 Code Section 8476; Civ. C. '22 Section 5012; Civ. C. '12 Section 3314; Civ. C. '02 Section 2208; G. S. 1543; R. S. 1741; 1881 (17) 839.