

shall first be submitted to the county engineer for his written comments and recommendations. Preliminary plats involving both a trunk highway and a highway under county jurisdiction shall be submitted to the commissioner of transportation and the county highway engineer. Plats shall be submitted for review at least 30 days prior to the home rule charter or statutory city, town or county taking final action on the preliminary plat. The commissioner of transportation ~~or~~ and/or the county highway engineer shall submit ~~such~~ the written comments and recommendations to the city, town, or county within ~~45~~ 30 days after receipt by ~~him~~ them of such a plat. Final action on such plat by the city, town, or county shall not be taken until after these required comments and recommendations have been received or until the ~~45~~ 30 day period has elapsed. A legible preliminary drawing or print of a proposed preliminary plat shall be acceptable for purposes of review by the commissioner of transportation or the county highway engineer. To such drawing or print there shall be attached a written statement describing : (1) the outlet for and means of disposal of surface waters from the proposed platted area, (2) the land use designation or zoning category of the proposed platted area, (3) the locations of ingress and egress to the proposed platted area, and (4) a preliminary site plan for the proposed platted area, if one has been prepared . Failure to obtain the written comments and recommendations of the commissioner of transportation or the county highway engineer shall in no manner affect the title to the lands included in the plat or the platting of said lands. ~~No~~ A certificate or other evidence is shall be required to or upon the plat for filing in the office of the county recorder or registrar of titles as to the submission of or the obtaining of such written comments and recommendations. The home rule charter or statutory city, town or county shall provide the certificate or other evidence to the county recorder or registrar of titles.

Sec. 15. **EFFECTIVE DATE.** This act is effective the day following its final enactment.

Approved April 11, 1980

CHAPTER 534—H.F.No. 1443

An act relating to transportation; providing for a transportation board; providing for transfer of certain duties, powers and functions of the public service commission and the commissioner of transportation to the transportation regulation board; regulating railroads and other common carriers of persons or property for hire; providing penalties; amending Minnesota Statutes 1978, Sections 15A.081, Subdivision 1; 174.02, Subdivision 4; 174.03, Subdivision 2; 174.10, Subdivisions 1, 3, 4; 218.011, Subdivision 7; 218.021; 218.025; 218.031, Subdivisions 1, 6, 8, 10; 218.041; 218.071; 219.03; 219.14; 219.23; 219.24; 219.25; 219.27; 219.28; 219.383; 219.39; 219.40; 219.41; 219.42; 219.43; 219.46, Subdivision 7; 219.47; 219.51; 219.52; 219.54; 219.55; 219.562, Subdivision 3; 219.65; 219.681; 219.70; 219.71; 219.741; 219.85; 219.86; 219.87; 221.011, Subdivisions 2b, 15, 22; 221.021; 221.031, Subdivision 1; 221.041; 221.051; 221.061; 221.071;

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221.081; 221.101; 221.121; 221.131; 221.141, Subdivision 2; 221.151; 221.161; 221.171; 221.181; 221.221; 221.261; 221.271; 221.281; 221.291, Subdivision 1; 221.293; 221.295; 221.296, Subdivisions 2, 3, 4, 8; 221.55; 221.68; repealing Minnesota Statutes 1978, Section 219.742.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [174A.01] ESTABLISHMENT; POWERS; MEMBERSHIP.]
 Subdivision 1. ESTABLISHMENT. A transportation regulation board is established. The board shall have the powers provided by law.

Subd. 2. MEMBERS' TERMS OF OFFICE. The transportation regulation board shall be composed of three members appointed by the governor with the advice and consent of the senate. The terms of the initial members are as follows: one member for a term of two years; one member for a term of four years; and one member for a term of six years. Thereafter all members shall be appointed for a six year term. The members of the board shall serve in the unclassified service. The removal of board members and the filling of vacancies shall be as provided in Minnesota Statutes, Section 15.0575. No more than two members shall belong to the same political party.

Subd. 3. CHAIRPERSON. The governor shall appoint one of the board members chairperson.

Subd. 4. QUORUM. A majority of the board shall constitute a quorum. An act or decision of the majority shall be the act or decision of the board, provided that a vacancy on the board shall not impair the authority of the remaining board members to exercise all of the powers of the board.

Subd. 5. CONFLICT OF INTEREST. No person, during a term of membership on the transportation regulation board, shall receive any portion of personal income directly or indirectly from any individual proprietorship, firm, copartnership, corporation or association subject to the regulation of the board. No person shall be eligible to serve as a member of the transportation regulation board unless the relationship with or interest in the regulated entity which provides a portion of the personal income is terminated.

Sec. 2. [174A.02] SPECIFIC FUNCTIONS AND POWERS. Subdivision 1.
POWERS GENERALLY. The functions of the transportation regulation board shall be legislative and quasi-judicial in nature. It may make such investigations and determinations, hold such hearings, prescribe such rules and issue such orders with respect to the control and conduct of the businesses coming within its jurisdiction as the legislature itself might make but only as it shall from time to time authorize.

Subd. 2. SPECIFIC FUNCTIONS AND POWERS. The board shall further hold hearings and issue orders in cases brought before it by either the commissioner or by a third party in the following areas:

(a) Adequacy of services which all carriers are providing to the public, including the continuation, termination or modification of all services and facilities.

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(b) The reasonableness of tariffs of rates, fares and charges, or any part of classification thereof, and prescribe the form and manner of filing, posting and publication thereof. The board may authorize common carriers by rail and motor carrier for hire to file tariffs of rates, fares and charges individually or by group. All such carriers participating in group rate making shall have the free and unrestrained right to take independent action either before or after any determination arrived at through such procedure.

(c) The issuing of franchises, permits or certificates of convenience and necessity.

Subd. 3. SUBPOENA POWER. The board shall have subpoena power.

Subd. 4. HEARING UPON PETITIONS. With respect to those matters within its jurisdiction the board shall receive, hear and determine within six months all petitions filed with it in accordance with the procedures established by law and may hold hearings and make determinations upon its own motion to the same extent, and in every instance, in which it may do so upon petition.

Subd. 5. OPERATION WITH REGARD TO FEDERAL LAW. The board is authorized:

(a) To cooperate with all federal agencies for the purpose of harmonizing state and federal regulations within the state to the extent and in the manner deemed advisable.

(b) To conduct joint hearings with any federal agency or commission within or without the state and participate in any proceedings before any federal agency or commission when it considers such participation advisable and for that purpose may approve and establish freight rates or charges that depart from the distance principle required by any state law.

(c) To nominate members to any joint board as provided by federal acts.

Sec. 3. [174A.03] ACTIONS. The transportation regulation board may sue or be sued in its own name.

Sec. 4. [174A.04] HEARINGS. All hearings required to be conducted by the transportation regulation board shall be conducted pursuant to sections 15.041 to 15.052.

Sec. 5. [174A.05] APPEALS. An appeal from an order of the board shall be as provided in Minnesota Statutes, Sections 216.24 and 216.25.

Sec. 6. [174A.06] CONTINUATION OF RULES OF PUBLIC SERVICE COMMISSION AND DEPARTMENT OF TRANSPORTATION. All rules, orders and directives heretofore in force, issued or promulgated by the public service commission or the department of transportation under authority of Minnesota Statutes, Chapters 174, 216A, 218, 219, 221 and 222 shall remain and continue in force and effect until repealed, modified or superseded by duly authorized rules, orders or directives of the transportation regulation board. The board shall review the transferred rules, orders and directives and, when appropriate develop and

adopt new rules, orders or directives within 18 months of the effective date of this act.

Sec. 7. [174A.07] EFFECT OF TRANSPORTATION REGULATION BOARD. Any proceeding, court action, prosecution or other business or matter which is pending on the effective date of this section and which was undertaken or commenced by a department or agency whose functions, powers or duties are transferred to the transportation regulation board by this act may be conducted and completed by the transportation regulation board in the same manner, under the same terms and conditions, and with the same effect as though it were undertaken or commenced and conducted or completed by the former department or agency prior to the transfer.

Sec. 8. The chairperson of the transportation regulation board shall receive from the department of public service and the commissioner of transportation all documents, records and paper necessary to perform the functions, duties, and powers of the board.

Sec. 9. All unexpended funds appropriated to the department of public service and department of transportation for the purposes of any function, power or duty transferred by this act to the transportation regulation board are hereby transferred to the transportation regulation board. The department of finance shall determine what funds shall be transferred.

Sec. 10. All persons employed in the classified service in the department of public service and department of transportation to support any of the functions, powers or duties which are transferred to the transportation regulation board are transferred to the transportation regulation board. The commissioners of finance and personnel shall determine the positions to be transferred. Nothing herein shall be construed as abrogating or modifying any rights now enjoyed by affected employees under the terms of an agreement in effect on the effective date of sections 1 to 87 between an exclusive representative of public employees and the state or its appointing authorities.

Sec. 11. COMPLEMENT. The approved complement of the transportation regulation board is established by the number of positions which the commissioners of finance and personnel determine to be transferred under the provisions of section 10 of this act, as well as the three positions for the board members.

Sec. 12. Minnesota Statutes 1978, Section 15A.081, Subdivision 1, is amended to read:

15A.081 SALARIES AND SALARY RANGES FOR CERTAIN EMPLOYEES. Subdivision 1. The following salaries or salary ranges are provided for the below listed employees in the executive branch of government:

	Base Salary or Range
Administration, department of commissioner	\$41,000
Agriculture, department of commissioner	36,000
Attorney general, office of	

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deputy attorney general	23,000 - 42,000
Commerce, department of	
commissioner of banks	32,000
commissioner of insurance	32,000
commissioner of securities	32,000
executive secretary, commerce commission	27,000
Community college system	
chancellor	41,000
Corrections, department of	
commissioner	36,000
ombudsman	32,000
Crime prevention and control, governor's commission on	
executive director	32,000
Economic development, department of	
commissioner	32,000
Economic security, department of	
commissioner	41,000
Education, department of	
commissioner	41,000
Energy agency	
director	36,000
Finance, department of	
commissioner	45,000
Health, department of	
commissioner	41,000
Hearing examiners office	
chief hearing examiner	36,000
Higher education coordinating board	
executive director	36,000
Housing finance agency	
executive director	36,000
Human rights, department of	
commissioner	29,000
Indian affairs board	
executive director	25,000
Investment, board of	
executive secretary	41,000
Iron range resources and rehabilitation board	
commissioner	29,000
Labor and industry, department of	
commissioner	36,000
judge of the workers compensation court of appeals	36,000
director, mediation services	29,000
Natural resources, department of	
commissioner	41,000
Personnel, department of	

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commissioner	41,000
Planning agency	
director	41,000
Pollution control agency	
director	36,000
Public safety, department of	
commissioner	36,000
Public service, department of	
commissioner, public service commission	32,000
director	32,000
Public welfare, department of	
commissioner	41,000
Revenue, department of	
commissioner	41,000
State university system	
chancellor	41,000
Transportation, department of	
commissioner	41,000
<u>Transportation, regulation board,</u>	
<u>board member</u>	<u>32,000</u>
Veterans affairs, department of	
commissioner	29,000

Sec. 13. Minnesota Statutes 1978, Section 174.02, Subdivision 4, is amended to read:

Subd. 4. APPEARANCES ON PUBLIC TRANSPORTATION MATTERS.

The commissioner may appear as a party on behalf of the public in any proceeding or matter before the interstate commerce commission, the civil aeronautics board or any other agency or instrumentality of government which regulates public services or rates relating to transportation or other matters related to the powers and responsibilities of the commissioner as prescribed by law. The commissioner shall appear as a party on behalf of the public in proceedings before the public service commission transportation regulation board as provided in ~~chapters 218, 219, 221, and 222~~ by law on matters which directly relate to the powers and duties of the commissioner or which substantially affect the statewide transportation plan. On all other transportation matters the commissioner may appear before the public service commission transportation regulation board.

Sec. 14. Minnesota Statutes 1978, Section 174.03, Subdivision 2, is amended to read:

Subd. 2. IMPLEMENTATION OF PLAN. After the adoption of the statewide transportation plan, the commissioner and the public service commission transportation regulation board shall take no action inconsistent with that plan. Notwithstanding the foregoing, the commissioner and the commission board shall have authority to promulgate emergency rules pursuant to section 15.0412, subdivision 5, if necessary to respond to transportation emergencies which may require an immediate temporary response inconsistent with the statewide plan.

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Sec. 15. Minnesota Statutes 1978, Section 174.10, Subdivision 1, is amended to read:

174.10 PROCEEDINGS BEFORE TRANSPORTATION REGULATION BOARD. Subdivision 1. The ~~department or the public service commission, as appropriate,~~ commissioner in any contested case before the transportation regulation board shall give reasonable notice to representatives of associations or other interested groups or persons who have registered their names with the ~~department board~~ for that purpose, to all parties and to cities and municipalities which the ~~department or commission board~~ deems to be interested in the proceeding. The ~~commissioner or commission~~ may prescribe an annual fee to be credited to the general fund, which fee shall be a charge to all registered groups or persons. This charge is to cover the out of pocket costs involved in giving such notice.

Sec. 16. Minnesota Statutes 1978, Section 174.10, Subdivision 3, is amended to read:

Subd. 3. In proceedings ~~under chapters 218, 219, 221, and 222~~ which involve a hearing before the ~~public service commission~~ transportation regulation board, the matter shall be investigated and prosecuted before the ~~commission board~~ by the commissioner of transportation representing the interests of the people of this state. ~~Unless otherwise specified by statute, all hearings shall be conducted as a rule-making proceeding or as a contested case, as appropriate, in accordance with chapter 15. Any person aggrieved by a final decision of the commissioner in a contested case may appeal in the manner provided by section 15.0424. An appeal shall be governed by chapter 15.~~

Sec. 17. Minnesota Statutes 1978, Section 174.10, Subdivision 4, is amended to read:

Subd. 4. If, in any proceeding before the ~~commission or the commissioner of transportation~~ regulation board relating to or involving the reasonableness of rates, fares, charges, or classifications, the ~~commission or the commissioner of transportation decide~~ board decides that ~~they do it does~~ not have jurisdiction because the traffic covered by the rates, fares, charges, or classifications is interstate commerce, the ~~commission or the commissioner of transportation - as appropriate,~~ regulation board shall issue an order dismissing the proceeding and stating the ground of the dismissal, which order may be appealed from in like manner as other appealable orders.

Sec. 18. Minnesota Statutes 1978, Section 218.011, Subdivision 7, is amended to read:

Subd. 7. "Commission" means the public service commission "Board" means the transportation regulation board.

Sec. 19. Minnesota Statutes 1978, Section 218.021, is amended to read:

218.021 COMMON CARRIERS, UNLAWFUL ACTS. Subdivision 1. It shall be unlawful for any common carrier:

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(1) To charge, demand, collect or receive for any service a greater or a lesser sum than that fixed in its published schedules.

(2) To change or discontinue any published rate, charge or classification, minimum weight or rule relating to the same, or operation of any regularly scheduled intrastate passenger trains, without approval of the ~~commission~~ board.

(3) To make or give any undue or unreasonable preference or advantage, or any undue or unreasonable prejudice or disadvantage, to any person, company, firm, corporation, transit point or locality or to any particular description of traffic.

(4) By any special rate, rebate, drawback or other device, directly or indirectly, to charge, demand, collect or receive a greater or less compensation for any service rendered in the transportation of any property within this state than the regular established schedule of rates and charges for like and contemporaneous service for any other person, or for the public generally; or, directly or indirectly, to offer or give any shipper, in connection with or as an inducement or reward for receiving any property for transportation, any gift, gratuity or free pass or any rate less than that offered to the public.

(5) Except as expressly permitted, to charge a greater rate per ton or per ton mile for a single carload of freight of any kind or class than for a greater number of carloads of the same kind or class, to and from the same points of origin or destination.

(6) To charge or receive any greater compensation for the transportation of passengers or of like kind or class and a quantity of property for a shorter than for a longer distance over the same line, the shorter being included within the longer; but this shall not be so construed as to authorize any carrier to charge or receive as great compensation for a shorter as for a longer distance; or to charge or receive any greater compensation per ton per mile for the contemporaneous transportation of the same class of freight for a longer than for a shorter distance over the same line in the same general direction, or from the same original point of departure or to the same point of arrival; but this shall not be construed so as to authorize any carrier to charge as high a rate per ton per mile for a longer as for a shorter distance.

(7) To charge or receive for the transportation of freight of any description for any distance within this state a greater amount than is at the same time charged or received for a like quantity of freight of the same class over a greater distance of the same railway; or to charge or receive at any point upon its road a higher rate for receiving, handling or delivering freight of the same class or quantity than it shall at the same time charge or receive to any other point upon the same line; or to charge or receive for freight of any description over its railway a greater amount than at the same time is charged or received for the transportation of a like quantity of freight of the same class being transported over any portion of the same railway of equal distance; or to charge or receive from any person a greater amount than it shall at the same time charge or receive from any other person for the same class and like quantity of freight at the same point

upon its railway; or to charge or receive from any person for the transportation of any freight upon its railway a greater amount than it shall at the same time charge or receive from any other person for the transportation of a like quantity of freight of the same class being transported from the same point over an equal distance of the same railway; or to charge or receive from any person for the use and transportation of any railway car upon its railroad for any distance, a greater amount than is at the same time charged or received from any other person for the use and transportation of any railway car of the same class or number for a like purpose being transported over a greater distance of the same railway; or to charge or receive from any person for the use and transportation of any railway car upon its railroad a greater amount in the aggregate than it shall at the same time charge or receive from any other person for the use and transportation of any railway car of the same class for a like purpose being transported from the same original point of an equal distance of the same railway; provided, however, where two or more railroads serve a common point one having a shorter mileage than the other from a given point, the railroad having the longer mileage may be authorized by the commission board to meet the rate made by the shortest line.

(8) To charge or receive more for transporting a car of freight than is charged or received per car for several cars of a like class of freight over the same railway for the same distance: or to charge or receive more for transporting a ton of freight than is charged or received per ton for more than a ton but less than a carload of like class over the same railway for the same distance; or to charge or receive more for transporting one hundred pounds of freight than is charged or received per hundred pounds above one hundred pounds but less than a ton of like class over the same railway for the same distance.

Subd. 2. Nothing herein shall prohibit carriage, storage or handling of property free or at reduced rates for the United States, the state, or any governmental subdivision thereof, ministers of religion, sisters of charity, missionaries, students of educational institutions or inmates of charitable institutions, or for charitable purposes, or for exhibition at fairs or at expositions, or of stock for breeding purposes, or waste material for reprocessing, or issuance of excursion or commutation passenger tickets at rates equal for all; nor prohibit issuance of free tickets, passes or transportation to any officers, bona fide agents, surgeons, physicians, attorneys or employees of any common carrier or dependent members of their families, or to duly elected representatives of any railroad or motor bus labor organizations, or to children under twelve (12) years of age, ministers of religion, secretaries of Young Men's Associations, persons exclusively engaged in charitable and eleemosynary work, indigent, destitute and homeless persons and such persons, when transported by charitable societies or hospitals or by any public charity and the necessary agents employed in such transportation, inmates of national homes or state homes for disabled soldiers, inmates of soldiers' and sailors' homes including those entering and returning from such homes and transportation of managers of such homes, post office inspectors, custom and immigration inspectors, witnesses of common carriers attending any legal investigation in which the company is interested, officials and linemen of telegraph and telephone companies, ex-employees retired from service on account of age or because of

disability sustained while in the service of the common carrier and dependent members of their families, or the widows or dependent children of employees killed or dying while in the service of such company, necessary caretakers of live-stock, poultry, vegetables and fruit, including transportation to and from the point of delivery, employees on sleeping and express cars, railway or motor bus mail service employees, newsboys on trains or motor buses, baggage agents, persons injured in wrecks and physicians and nurses attending them; nor prohibit the interchange of passes, express and other franks for the officers, bona fide agents, surgeons, physicians, attorneys and employee and dependent members of their families of any person or company with the object of providing relief in cases of general epidemic, pestilence or calamitous visitation; nor prohibit the interchange of passenger and freight transportation and message service between railroad, motor bus and telegraph companies; nor prohibit furnishing free transportation to the commissioner, members of the ~~commission board~~, hearings officers, counsel or employees and agents while engaged in the performance of their duties, provided no such free transportation shall be given to any person when a member of, employed by or in any way connected with any political committee or an incumbent of any office or position under the constitution and laws of this state, except as above provided and except that free passes may be given to employees while occupying office or position other than judicial under a municipality, county or public school district, or while acting under appointment as a notary public, and may further issue free passes to any member of the legislature who has been an employee of such company for a continuous period of five (5) years prior to his election, and, provided, that such member of the legislature does not collect mileage for such travel from the state.

Sec. 20. Minnesota Statutes 1978, Section 218.025, is amended to read:

218.025 TRANSPORTATION RATES FOR SHIPPING ROAD BUILDING MATERIALS. The ~~commission board~~ may make schedules of intrastate rates for railroads for the transportation of sand, gravel, crushed rock, and other materials to be used in the construction or maintenance of public roads and streets by or under the direction of public authorities, which rates may be lower than those charged for transporting the same kind of freight for all other purposes.

Sec. 21. Minnesota Statutes 1978, Section 218.031, Subdivision 1, is amended to read:

218.031 COMMON CARRIERS, DUTIES. Subdivision 1. Except as otherwise directed or authorized, it shall be the duty of every common carrier:

(1) To prescribe in the first instance, and to publish upon not less than ten days' public notice in such manner as may be required by the commissioner and law, all schedules of fares, rates and charges and classifications thereof, together with the rules governing the same, and minimum weights for transportation of freight articles between points or stations in the state, and terminal and switching charges, provided there shall be but one classification applicable to any one commodity which shall be uniform on all railroads in this state and govern in all state commerce.

(2) To comply with every duly authorized rule, regulation or directive of the commissioner or ~~commission~~ board except as the same may be stayed, pending appeal therefrom.

(3) To put into effect and observe all schedules of rates, fares and charges and classifications and any amendments or changes therein duly ordered by the ~~commission~~ board , except as the same may be stayed, pending appeal.

(4) To maintain as may be directed by the commissioner for public inspection at stations and depots all schedules showing all classifications, rates, fares and charges for transportation of freight and passengers currently in force applying from such station. Such schedules shall state the places between which persons and property will be carried and show the classification of freight, the distance tariff, a table of distances between stations, any terminal charges and any rules or regulations in any way affecting the aggregate of such rates, fares and charges.

(5) Upon request of an owner or consignor of freight to the initial company, whenever the initial line does not reach the place of destination, or the distance from the place of origin to destination may be shortened, to transfer such freight to a connecting line without change in cars if in carload lots, except such change be free of charge to the shipper and receiver; and to transfer with or without change in cars of less than carload lots at a reasonable joint through rate agreed upon by the connecting carriers or prescribed by the ~~commission~~ board , not greater than the maximum rates allowed by law, provided any unloading and reloading which is necessary shall be at cost and the charge for such transfer included in the joint rate.

(6) To provide the same switching, transfer and handling facilities for local as for interstate traffic.

(7) Upon written demand of the owner, to construct, maintain and operate side tracks and reasonable facilities connecting with any grain warehouse, dock, wharf, mill, coal yard, quarry, brick or lime kiln, sand or gravel pit, crushed rock or concrete plant or manufactory as may be required by the commission, and on such terms as may be agreed upon, or, on failure of agreement, as may be prescribed by the ~~commission~~ board .

(8) To issue receipts or bills of lading covering all property received for transportation from any point in the state to any other point in the state, and to respond for any loss, damage or injury to such property caused by it or any carrier to whom such property may be delivered or over whose line it may pass, nor shall any contractual provision whatever exempt it from such liability.

(9) To refund all overcharges for freight, baggage or express, and pay for any loss, damage or injury to property while in its possession, within ninety (90) days after the filing of a claim for such over-charge, loss or damage.

(10) To redeem, upon presentation to any authorized ticket agent, any passenger ticket unused in whole or in part, which has not by its terms expired, and pay therefor a pro rata share of the price for which such ticket was sold or, if wholly unused, the entire purchase price.

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(11) To furnish suitable care for the transportation of livestock and transport livestock of different kinds in the same car at the option of the shipper; to deliver all livestock arriving at any terminal, billed to any stockyard within twenty (20) miles thereof, to the chutes of such stockyard within five (5) hours after arrival at the terminal unless prevented by act of God, or to any chutes within ten (10) miles of the terminal within three (3) hours after arrival thereat unless prevented by act of God; to furnish transportation without charge, in connection with livestock shipments in carload lots, for one (1) person for the first car and an additional person for each additional four (4) carloads shipped at the same time, in a caboose or other suitable car while going, and by first class passage when returning.

(12) To keep its accounts so as to show, as far as practicable, the earnings derived from, and the expenses incurred in, handling intrastate business in such form as the commissioner shall prescribe, including the separation of accounts for each operating division, wholly or partly within the state. Such accounts shall show the total cost of operating through trains and the total cost of operating the local or distributing trains of each operating division, wholly or partly within the state, during the fiscal year to be fixed by the commissioner, the total number of tons of revenue and non-revenue freight, the number of tons of each carried one (1) mile on the through trains and on the local trains, respectively, the number of tons and ton miles of revenue and non-revenue freight carried on through or local trains which are exclusively intrastate, and the gross tons and ton miles made by through and local trains on each division. The accounts shall show the total revenue and non-revenue train and engine miles and the total revenue and non-revenue car miles (the non-revenue car miles to be shown loaded and empty separately) produced by such railroad in the state in each operating division, the number of each of the above train, engine and car mileage produced in handling the through trains and in handling the local trains, the total locomotive miles produced in switching on each division and such further information related to the income or cost of intrastate business as the commissioner may require. The commissioner may require such accounts to be kept with reference to the intrastate passenger business of each carrier and the train, car and engine mileage incurred in such business in this state as it may deem necessary.

(13) During pendency of any litigation, when rates prescribed by the ~~commission board~~ have not been put into effect, to keep a correct account of every charge made by it for any services to which such rates apply in excess of the rates prescribed, showing in each case the difference between the amount actually charged and the amount allowed to be charged, the date of the transaction, the stations between which the business was carried and the names and addresses of the consignor and consignee, and to report such information in full to the ~~commission board~~ on ~~his~~ its request.

Sec. 22. Minnesota Statutes 1978, Section 218.031, Subdivision 6, is amended to read:

Subd. 6. An action or proceeding may be instituted, upon verified complaint of the commissioner or board or any interested person in any district

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court of any county wherein a common carrier has a principal office or into which its railroad extends, for the enforcement of any provision of this chapter, or any order, rule or directive of the commissioner or ~~commission board~~, and the court may grant provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, including temporary mandatory or restraining orders. Except when there is a constitutional right to trial by jury not expressly waived, all such proceedings shall be tried summarily by the court and such matters shall take precedence over all other matters except criminal cases.

Sec. 23. Minnesota Statutes 1978, Section 218.031, Subdivision 8, is amended to read:

Subd. 8. In all proceedings under this section, any final and duly promulgated material order, rule or directive of the commissioner or ~~commission board~~ and all schedules of rates, fares or charges fixed by the ~~commission board~~ shall be deemed and taken in all courts as prima facie fair and reasonable.

Sec. 24. Minnesota Statutes 1978, Section 218.031, Subdivision 10, is amended to read:

Subd. 10. Any common carrier which shall do or cause to be done any unlawful act, or fail to perform any duty prescribed, or violate any duly established order, rule or directive of the commissioner or ~~commission board~~, or which shall aid or abet in the performance of any unlawful act or in the failure to perform any such duty, shall be liable in damages to any person injured thereby, and that person, if he recovers, shall be allowed, in addition to damages, reasonable attorneys' fees, together with costs and disbursements.

Sec. 25. Minnesota Statutes 1978, Section 218.041, is amended to read:

218.041 DUTIES OF TRANSPORTATION REGULATION BOARD AND COMMISSIONER. Subdivision 1. With respect to all common carriers including express companies and sleeping car companies, the commissioner shall investigate the management thereof, the manner in which their businesses are conducted, and the adequacy of the services they are affording the public and shall prescribe uniform systems of keeping and rendering accounts and the time within which such systems shall be adopted. The ~~commission board~~ shall make all appropriate orders relating to continuation, termination, modification or extension of services and facilities with a view to properly promoting the security and convenience of the public.

Subd. 2. The ~~public service commission board~~ shall, upon petition after hearing:

(1) Review and ascertain the reasonableness and equalities of all schedules of rates, fares and charges or any part or classification thereof, including joint through rates, and, if found unreasonable or discriminatory, establish new schedules and prescribe the form and manner of filing, posting and publication thereof.

(2) Order the issuance of any franchises, permits or certificates of convenience and necessity.

(3) Prescribe schedules of reasonable maximum rates or charges for the transportation of freight and cars on each railroad, including the classification of such rates and rules governing the same, and revise the same from time to time.

(4) Fix rates or charges for carrying livestock to St. Paul or between St. Paul and South St. Paul, provided that the railroad transporting such livestock to St. Paul shall absorb switching charges from St. Paul to South St. Paul out of its line haul rates or charges for transportation of such livestock to St. Paul, or the common rate point which includes St. Paul.

(5) Prescribe rates for feeding cattle applicable to outmovement from terminal markets. The commission may unite two or more stations or commercial centers into a common rate point and may designate the classes of freight which shall take common rates, and fix the mileage that shall govern between the common rate point and any or all other points in the state. The distance so fixed shall not apply as a measure of the rate for the movement of the same class of freight for similar distances between other points.

(6) Prescribe a schedule of joint through railway rates for freight over two or more connecting lines of railway and revise the same from time to time. In so doing, the ~~commission~~ board shall consider, among other things, rates established for shipments within this state for like distances over single lines, rates charged by the railway companies operating such connecting lines for joint interstate shipments, and the increased cost, if any, of a joint through shipment as compared with a shipment over a single line for like distances. In establishing rates for shipments in less than carload lots, in cases where connecting railways are not required to have common stations or stopping place for loading or unloading freight at connecting points, the ~~commission~~ board shall regulate the transportation of such freight from the usual unloading place of one railway to the usual loading place of the other. The share of any railway company of any joint through rates shall not be construed to fix the charge that it may make for a similar distance over any part of its line for any single rate shipment, or the share of any other joint rate. Where the line of a railway company connects the point of shipment with the point of destination but would require a longer haul than a joint haul for which a joint rate has been established, the commission may authorize charging the joint rate for the single haul without affecting the charge upon any other part of its line except that the charge for a like kind of property must not be greater for a shorter than for a longer distance upon that railroad, all of the shorter hauls being included within the longer.

(7) Define switching and drayage service to apply to the movement of traffic within and between points and fix reasonable maximum rates for the same, which shall be independent of any rates that may be made for line haul transportation. There shall be but one terminal charge for switching or transferring any car within any one municipality and, if it is necessary that any car in such transfer pass over the tracks of more than one railroad within such limits, the company first so transferring such car shall receive the entire charge therefor and be liable

to each company doing subsequent switching for its just share of such charge as may be agreed upon among the companies, or, in the event of disagreement, as prescribed by the commissioner board .

(8) Upon application by a carrier stating that it desires to establish a rate for a temporary period for the protection of the interests of the carriers or its shippers, authorize and establish the temporary rate, and extend the rate as the circumstances of the case may require, and permit the restoration of the rate existing at the time of the application without further proceedings.

(9) Authorize less than full fare rates for transportation of children under 12 years of age.

(10) Approve the establishment, change, or alteration of any rate, charge, or classification, minimum rate, or rule governing the same, to which a common carrier is a party, upon application of such common carrier in writing when such application appears to be noncontroversial.

Subd. 3. The board may, without a hearing:

(a) Upon application by a carrier stating that it desires to establish a rate for a temporary period for the protection of the interest of the carriers or its shippers, authorize and establish the temporary rate, and extend the rate as the circumstances of the case may require, and permit the restoration of the rate existing at the time of the application without further proceedings.

(b) Approve the establishment, change, or alteration of any rate, charge or classification, minimum rate, or rule governing the same, to which a common carrier is a party, upon application of the common carrier in writing, when the application appears to be noncontroversial.

(c) Authorize, on less than ten days' public notice, schedules containing classifications, rates, fares and charges for the transportation of freight and passengers.

Subd. 3 4 . The commissioner board shall, upon petition:

(1) At all points of intersection and crossings of different railroads, or where two railroads are not more than one-half mile apart, and at all terminals, prescribe ample facilities by track connection, joint use of tracks, passenger and freight platforms and depots, warehouses, docks over which general merchandise is handled and forwarded, and other necessary appliances and conveniences for the transfer, forwarding and handling of general merchandise and parcel freight between such railroads and between such railroads and such docks, warehouses and vessels at such docks.

(2) Determine the proportionate share of each company in the cost of providing connecting and transfer facilities in the event the companies fail to agree.

(3) Direct construction, maintenance and operation at any points prescribed by law of all side tracks and reasonable facilities connecting any road

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with any grain warehouse or mill, dock, wharf, coal yard, quarry, brick or lime kiln, sand or gravel pit, crushed rock or concrete plant, or manufactory adjacent thereto, and prescribe the terms therefor.

(4) Direct the discontinuance of any regularly scheduled intrastate passenger trains upon a finding that the public will not be deprived of reasonably adequate service thereby.

(5) Prescribe rules for distribution of cars at stations for use of shippers of livestock and farm products.

(6) Require installation of track scales at terminals, warehouses and at all other points in the state where the same are deemed necessary and prescribe reasonable regulations for the weighing of cars and of freight.

(7) Prescribe the speed at which and the conditions under which cars of livestock shall be moved by any carrier within the state in intrastate shipments.

(8) Prescribe the fees necessary to cover cost of supervision and weighing and the method of assessment and collection thereof.

(9) Prescribe reasonable regulations for handling property, passenger, baggage, express and mail, partly over privately owned rights-of-way and partly over highways, so that reasonable and adequate accommodations and service may be afforded.

(10) Prescribe the extent to which any designated carrier, upon its petition, may be relieved from the operation of the principles established by section 218.021, subdivision 1, clauses (6), (7) and (8).

(11) Direct the repair, reconstruction or replacement of any inadequate or unsafe trackage, structure or facility.

Upon receipt of a petition for action pursuant to this subdivision the ~~commissioner board~~ shall give notice to all persons known to ~~him~~ it to have an interest in the matter and publish notice of the petition in the state register. The ~~commissioner board~~ may grant the petition 30 days after notice has been fully made. If the ~~commissioner board~~ receives a written objection to the petition from any person within 20 days after the notice of filing has been fully made, the exemption shall be granted or denied only after a contested case hearing has been held on the matter. The ~~commissioner board~~ may elect to hold a contested case hearing if no objections to the petition or application are received. If a timely objection is not received and the ~~commissioner board~~ declines to act without hearing, the petitioner may request within 30 days of receiving a notice of denial, and shall be granted, a contested case hearing on the application.

Subd. 4 5 . The commissioner shall:

(1) Supervise and inspect all track scales, and direct any carrier to transport, move and switch to any track scale free of charge any test car used by the state in testing the scales;

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(2) Investigate and determine whether any common carriers are granting rebates or, in any other particular, failing to comply with laws or with orders, rules or directives of the commissioner or the department board ;

(3) Appear and press before the Interstate Commerce Commission any petition, whether filed by a resident of the state or otherwise, charging any common carrier doing business in this state with any violation of the Interstate Commerce Act of the United States, whenever the department deems the matter to be one of public interest;

(4) Appoint at public stockyards weighers as may be necessary for the purpose of weighing livestock; a weigher shall report daily to the supervisor of the stockyards on the weights taken by him; the report shall be in the form prescribed by the commissioner and the supervisor shall furnish to interested parties a certificate setting forth the number of animals weighed, for whose account weighed and the actual weight of the animals; no weigher shall, during his term of service, be in any manner interested in the handling, shipping, purchasing or selling of livestock or in the employ of any person or corporation engaged in that activity, nor shall he be a member of any livestock exchange or organization of like character;

(5) Authorize publication on less than ten days' public notice of schedules containing all classifications, rates, fares and charges for the transportation of freight and passengers;

(6) Collect all fees prescribed by the commissioner to cover the cost of supervision and weighing, depositing the same in the state treasury in a fund known as the livestock weighing fund; and

(7) Institute and prosecute all actions and proceedings in the appropriate courts for the enforcement of the provisions of this chapter, the orders, rules and directives of the commissioner and the commission board issued thereunder and any violations thereof ; and

(8) ~~Direct the repair, reconstruction or replacement of any inadequate or unsafe trackage, structure or facility .~~

Subd. 5 6 . The commissioner may:

(1) Subpoena books, papers or accounts kept by any regulated business within or without the state, or compel production of verified copies;

(2) Prepare all forms or blanks for the purpose of obtaining information which the commissioner may deem necessary or useful for the proper exercise of his or the board's authority and duties in connection with regulated businesses, and prescribe the time and manner within which the blanks and forms shall be completed and filed;

(3) Inspect, at all reasonable times, and copy the books, records, memoranda, correspondence or other documents and records of any business under his jurisdiction; and

(4) Examine, under oath, any officer, agent or employee of a business under his jurisdiction concerning its business and affairs.

Subd. 6 7 . The commissioner may without hearing:

(1) Order any railroad company to furnish water for the use of stock at all stockyards in the state.

(2) Prescribe regulations for the weighing of cars and freight offered for shipment in carload lots, approve sealing devices to be used in sealing scales and require installation of such sealing devices.

(3) Order in and require installation and maintenance of stock scales at all stockyards, and fix the capacity of such scales which shall be for free use of all patrons, shipping livestock from, into or through such stockyards.

Sec. 26. Minnesota Statutes 1978, Section 218.071, is amended to read:

218.071 RULES AND ORDERS OF COMMISSIONER AND BOARD; OFFENSES AND PENALTIES. Subdivision 1. Every duly adopted rule, order or directive of the ~~commissioner~~ board or commissioner shall have the full force and effect of law.

Subd. 2. Unless a different penalty or punishment is specifically prescribed, any person, firm or corporation who performs any unlawful act, or fails to perform any duty imposed upon him by this chapter, or to obey any valid and final order, rule or directive of the commissioner or ~~commissioner~~ board, or who assists and aids therein, shall be guilty of a misdemeanor, and, if the violation be a continuing one, then he shall be guilty of a new offense for each day of such continuance, and for each offense shall be punished by a fine of one hundred dollars (\$100).

Subd. 3. Any common carrier, wilfully granting any special rate, rebate, drawback, or directly or indirectly charging, demanding or collecting a greater or less compensation than provided by its regular established schedule of rates and charges, shall be punished by a fine not exceeding five thousand dollars (\$5,000) for each such offense.

Subd. 4. Any common carrier failing to comply with any order of the commissioner or ~~commissioner~~ board shall be subject to a penalty of fifty dollars (\$50) for each and every day of such failure to comply, to be recovered for the state in a civil action by the ~~department~~ commissioner.

Sec. 27. Minnesota Statutes 1978, Section 219.03, is amended to read:

219.03 INTERLOCKING DEVICES. When, in the judgment of the commissioner it is necessary for the public safety he may require, at all railroad crossings, junctions, and drawbridges in the state, the establishment of interlocking devices or such other safety appliances as are necessary for the protection and safety of the traveling public. Where two or more railroad companies are interested, the division of the expense of installing, maintaining, and operating the interlocking plant or safety device shall be agreed upon by the respective

companies required to install the same + in case they cannot agree such division shall be determined by the commissioner after a hearing .

Sec. 28. Minnesota Statutes 1978, Section 219.14, is amended to read:

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

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

Sec. 29. Minnesota Statutes 1978, Section 219.23, is amended to read:

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

Sec. 30. Minnesota Statutes 1978, Section 219.24, is amended to read:

219.24 **ADDITIONAL SAFEGUARDS.** ~~When.~~ In any investigation instituted upon ~~his~~ the commissioner's own motion or upon complaint and after notice and hearing, ~~the commissioner~~ board finds that conditions exist at any grade crossing which in ~~his~~ its opinion require any additional safeguards for the protection of life and property, such as crossing gates or other suitable devices, ~~the commissioner~~ board shall specify the nature of the devices required and may order the railway company operating the railroad at such crossing to install the same.

Sec. 31. Minnesota Statutes 1978, Section 219.25, is amended to read:

219.25 **CROSSING GATES.** ~~When.~~ In any investigation instituted upon ~~his~~ the commissioner's own motion or upon complaint and after notice and hearing, ~~the commissioner~~ board finds that the protection of life and property requires the constant operation of crossing gates, where the same are now or may be hereafter installed, ~~the commissioner~~ board may order any railway company operating the railroad at such crossing to provide persons to operate such crossing gates for the full 24 hours of each day.

Sec. 32. Minnesota Statutes 1978, Section 219.27, is amended to read:

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219.27 VACATING OR RELOCATING CROSSINGS; HEARINGS. When it is desired, either by the public officials having the necessary authority or by the railway company operating the railroad, to vacate or relocate any crossing of a public highway and a railroad, and an agreement cannot be reached between such public officials and the railway company, either as to such vacation or relocation, or as to the place, manner of construction, or a reasonable division of expense in the case of a relocation, either party may file a petition with the commissioner board, setting forth the facts and submitting the matter to him it for determination; whereupon the commissioner board shall conduct a hearing in accordance with chapter 15; and shall issue his its order determining the matters so submitted; and unless the commissioner board finds that the interests and safety of the public require the continued existence of such crossing, it may order the same to be vacated or relocated, as the case may be.

Sec. 33. Minnesota Statutes 1978, Section 219.28, is amended to read:

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

Sec. 34. Minnesota Statutes 1978, Section 219.383, is amended to read:

219.383 SAFE OPERATION OF TRAINS OVER STREETS AND HIGHWAYS; PENALTY. Subdivision 1. **RATE OF SPEED FOR TRAINS FIXED BY BOARD.** The commissioner board on petition of any city council or any railway corporation may fix and determine after a hearing a reasonable rate of speed for the operation of an engine or train on and over any railroad crossing of a public highway or street in such city.

~~Subd. 2. **PROCEDURE.** The procedure before the commissioner and the right of appeal under this section shall be that provided in chapter 15.~~

Subd. 3 2. **MAXIMUM RATE OF SPEED.** Where the commissioner board has fixed the rate of speed of an engine or train over a public highway or street crossing in a city as provided in this section, such rate of speed so fixed shall be the lawful maximum rate of speed at which an engine or train can be operated on and over such public highway or street crossing, until changed by subsequent order of the commissioner board.

Subd. 4 3. **NOT TO BLOCK PUBLIC ROADS OR STREETS.** No railway corporation shall permit any public road or street crossing a railroad track to be closed for traffic by a standing car, train, or engine or other railroad equipment for a longer period than ten minutes, provided, this section shall not apply to cities of the first class which regulate obstruction of streets by ordinance.

Subd. 5 4. **PENALTY.** Any railway corporation violating any provision of this section shall be guilty of a misdemeanor and upon conviction therefor shall be liable for a fine of not less than \$25 nor more than \$100.

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Sec. 35. Minnesota Statutes 1978, Section 219.39, is amended to read:

219.39 DANGEROUS CROSSINGS; COMPLAINTS; HEARINGS. On his own motion or upon written complaint authorized by the governing body of any city or county, or by the board of supervisors of any town, alleging that any railroad crossing with any street, road or highway in the city, town or county is dangerous to life and property, and giving the reasons therefor, the commissioner shall investigate the matters contained in the complaint, and, where necessary, ~~convene a hearing, at a time and place to be fixed by the commissioner, after such notice to the complainant and the railroad as the commissioner may deem reasonable~~ initiate a hearing before the board .

Sec. 36. Minnesota Statutes 1978, Section 219.40, is amended to read:

219.40 DETERMINATION; ORDER; FLAGMEN OR SAFETY DEVICE. If a complaint is made under section 219.39, the ~~commissioner~~ board shall determine after investigation by the commissioner or after hearing whether the crossing is dangerous and ~~may with or without a hearing~~ may require the railroad company complained of to provide flagmen at such crossing, or to adopt such safety devices as the ~~commissioner~~ board may deem necessary for the proper protection of the crossing, or may require the removal of any structure, embankment or other obstruction to the view, or may require the crossing complained of or other crossing in the vicinity thereof closed, or it may require the railroad company to construct an overhead or maintain an underground crossing and divide the cost thereof between the railroad company, the town, county, municipal corporation, or state transportation department interested, on such terms and conditions as may seem just and equitable. Where the railroad has been constructed or the grade thereof lowered after the laying out of the highway and the railroad tracks are seven feet or more below the natural surface of the ground, the ~~commissioner~~ board may require the maintenance of an overhead bridge with suitable approaches and require the complaining city, town, or county to remove any embankment, structure or other obstruction to the view as may be reasonable and necessary to properly protect the crossing; provided, that no highway shall be laid out over any railroad so as to cross at the same grade until such crossing has been approved by the ~~commissioner~~ board . If the complainant or the railroad files exceptions to an order of the commissioner made under this section without a hearing, the commissioner shall convene a hearing on the original complaint. If the ~~commissioner~~ board or ~~his~~ its designee after notice and hearing orders the installation of a safety device, or the construction, reconstruction, modernization or replacement of major parts, as defined by rule of the ~~commissioner~~ board , of said safety device, gates, or other type of special protection, or the removal of a structure, embankment or other obstruction to the view, or orders the construction, reconstruction or maintenance of an underground or overhead crossing on any public road, street, or highway, he may in the same order direct that the costs thereof be divided between the railroad company and the public authority involved on such basis as the parties may agree, or, if they fail to agree, then the costs thereof shall be as determined by the ~~commissioner or his designee~~ board on the basis of benefit to the users of each; or the ~~commissioner or his designee~~ board may defer determination of the division of costs to a subsequent order to

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be made on the basis of evidence previously taken. Where a state trunk highway is involved, the state's share of the costs shall be paid from any funds available to the department of transportation. In all other cases the public's share of the costs shall be paid from available funds or from the trunk highway fund, if ordered by the ~~commissioner or his designee,~~ board or from any combination of the above or other available funds; provided that any highway, street or road fund shall only be expended for such costs on a highway, street or road within the political subdivision charged with the maintenance and care thereof and only upon the highways, streets or roads for which the fund was allocated, or for which the fund was created. Any crossing safety devices or improvements installed or maintained under provisions of this chapter as approved by the board, whether by order or otherwise, shall be deemed adequate and appropriate protection for such crossing.

Sec. 37. Minnesota Statutes 1978, Section 219.41, is amended to read:

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

Sec. 38. Minnesota Statutes 1978, Section 219.42, is amended to read:

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

Sec. 39. Minnesota Statutes 1978, Section 219.43, is amended to read:

219.43 **TEMPORARY FLAGMAN.** When it shall appear from any cause that an unusual number of trains are being operated in or through any city in this state the ~~commissioner~~ board may, upon complaint made by the city council, compel the installation of a flagman, or flagmen, as the case may be, without a hearing and such order shall be complied with within five days; provided, that such railroad company may remove such flagmen when the movements of trains through such city assumes normal conditions.

Sec. 40. Minnesota Statutes 1978, Section 219.46, Subdivision 7, is amended to read:

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

Sec. 41. Minnesota Statutes 1978, Section 219.47, is amended to read:

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

Sec. 42. Minnesota Statutes 1978, Section 219.51, is amended to read:

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

Sec. 43. Minnesota Statutes 1978, Section 219.52, is amended to read:

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

Sec. 44. Minnesota Statutes 1978, Section 219.54, is amended to read:

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219.54 **FREIGHT PLATFORMS.** Every railroad company shall provide at all stations in statutory cities containing 250 inhabitants or more within 30 days after written notice, served in the same manner as a summons in district court, from the city council of such city requiring such company so to do, and at other stations and sidings when required by the commissioner board, immediately alongside of its tracks or sidetracks, platforms with approaches at each end, suitable and convenient for loading upon and unloading from its cars heavy machinery and other freight. Such platforms shall be at least 12 feet wide, strongly built, and floored with plank at least three inches thick. The platforms, exclusive of approaches, shall be at least 32 feet long and of the height of the floor of an ordinary box car, and the approaches of such grade that heavily loaded teams can be driven up and down the same. Any such company failing to comply with the provisions of this section shall forfeit to the state not less than \$500 nor more than \$1,000 for every 30 days that such failure shall continue.

Sec. 45. Minnesota Statutes 1978, Section 219.55, is amended to read:

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

Sec. 46. Minnesota Statutes 1978, Section 219.562, Subdivision 3, is amended to read:

Subd. 3. Should any dispute arise as to the adequacy of the facilities provided for in subdivision 1, it may be submitted for final determination to the commissioner board after notice of the hearing to affected parties.

Sec. 47. Minnesota Statutes 1978, Section 219.65, is amended to read:

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

Sec. 48. Minnesota Statutes 1978, Section 219.681, is amended to read:

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

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Sec. 49. Minnesota Statutes 1978, Section 219.70, is amended to read:

219.70 APPLICATION TO ABANDON; POWER OF BOARD. Any such company desiring to abandon any shop or terminal or move any shop or change the location of any terminal in this state shall first make application to the commissioner board in writing. Before passing upon such application the commissioner board shall order a public hearing in accordance with chapter 15 .

Sec. 50. Minnesota Statutes 1978, Section 219.71, is amended to read:

219.71 HEARING; ORDER. In the hearing on the abandonment or removal of a shop or terminal, if the commissioner board determines that the abandonment of any shop or terminal or the change of any shop or terminal will result in efficiency in railroad operation and will not substantially injure the public or be detrimental to the public welfare, such petition may be granted, otherwise the same shall be denied.

Sec. 51. Minnesota Statutes 1978, Section 219.741, is amended to read:

219.741 APPLICATION FOR REMOVAL. Any railroad company desiring to abandon, close for traffic, or remove any of its tracks described in section 219.681 shall first make application to the commissioner board in writing. Before passing upon such application the commissioner board shall follow the procedure set out in section 218.041, subdivision 3.

Sec. 52. Minnesota Statutes 1978, Section 219.85, is amended to read:

219.85 RAILROAD STATIONS, AGENCY SERVICE. Agency service at common carrier railroad stations shall be that required by the public convenience and necessity. No such station shall be abandoned nor agency service thereat reduced or discontinued without the consent of the commissioner board after public notice and hearing. The commissioner board may on his its own motion or upon the petition of any interested party order station agency service at any station established, reestablished or expanded after notice and hearing as herein provided. Hearings shall be conducted in the same manner as other hearings before the commissioner board with not less than 30 days' notice to such persons and in such a manner as may be prescribed by rule of the commissioner board .

Sec. 53. Minnesota Statutes 1978, Section 219.86, is amended to read:

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

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Sec. 54. Minnesota Statutes 1978, Section 219.87, is amended to read:

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

Sec. 55. Minnesota Statutes 1978, Section 221.011, Subdivision 2b, is amended to read:

Subd. 2b. "~~Commission~~" "Board" means the ~~public service commission~~ transportation regulation board.

Sec. 56. Minnesota Statutes 1978, Section 221.011, Subdivision 15, is amended to read:

Subd. 15. "Motor carriers" includes all carriers operating under the authority of sections 221.011 to ~~221.291~~ 221.296 and subject to the rules or orders of the commissioner or the ~~commissioner~~ board.

Sec. 57. Minnesota Statutes 1978, Section 221.011, Subdivision 22, is amended to read:

Subd. 22. "Exempt carrier" means any carrier exempt from this chapter, or exempted from any other law or rule by the commissioner or ~~commissioner~~ board. The following are so exempt:

(a) Any person engaged in farming or in transporting agricultural, horticultural, dairy, livestock, or other farm products within an area having a 25 mile radius from his home post office. Such carrier may transport other commodities within such area if the destination of each haul is a farm within the above described area. The owner of any truck operating under this provision shall imprint his name and address in prominent visible letters on the outside of the cab of his truck.

(b) Any occasional accommodation service beyond the 25 mile radius from his home post office by any person engaged in farming as his primary means of livelihood and actually residing on a farm and whose truck or trucks are licensed under provisions of section 168.013, subdivision ~~1~~ 1c ~~paragraph 4a~~. Occasional accommodation service shall mean not in excess of six trips in any calendar year.

(c) Any person engaged in agricultural pursuits, who owns and uses a truck for transporting the products of his farm, or any person while engaged exclusively in the transportation of fresh vegetables from farms to canneries or viner stations, or from viner stations to canneries, or from canneries to canneries during the

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harvesting, canning or packing season, or potatoes, sugar beets, wild rice and rutabagas from the field of production to the first place of delivery or unloading, including but not limited to a processing plant, warehouse or railroad siding. This term shall also apply to a manufacturer, producer, dealer or distributor who, in the pursuit of his own business, owns and uses trucks for the purpose of transporting his own products, and shall apply to any person while engaged exclusively in the transportation of pulpwood, cord wood, mining timber, poles, posts, decorative evergreens, wood chips, sawdust, shavings and bark from the place where the products are produced to the point where they are to be used or shipped.

(d) Any person while exclusively engaged in the transportation of dirt and sod within an area having a 50 mile radius from his home post office.

(e) Any person while exclusively engaged in the transportation of sand, gravel, bituminous asphalt mix or crushed rock to or from the point of loading or a place of gathering within an area having a 50 mile radius from his home post office or a 50 mile radius from the site of construction or maintenance of public roads and streets.

(f) Any person engaged in the transportation of household goods for the federal government or any agency thereof or the transportation of household goods for the state government or any agency thereof, where competitive bids are required by law shall be exempt from the provisions of section 221.161.

(g) Any person engaged in transporting property or freight, excepting household goods and petroleum products in bulk, when the movement is entirely within the corporate limits of a city or between contiguous cities.

(h) Emergency vehicles such as ambulances, tow trucks, and hearses when carrying proper and legal warning devices.

(i) Any person engaged in delivery or spreading of agricultural lime.

(j) Any person engaged in transporting rubbish as defined in section 443.27.

(k) Any person engaged in the transportation of grain samples under such terms and conditions as the commissioner or ~~commission~~ board may prescribe.

(l) A motor vehicle, in this chapter referred to as a "commuter van," having a capacity of seven to 16 persons which is used principally to provide prearranged transportation of persons for a fee to or from their place of employment or to or from a transit stop authorized by a local transit authority which vehicle is to be operated by a person who does not drive the vehicle for his principal occupation but is driving it only to or from his principal place of employment, to or from a transit stop authorized by a local transit authority, or for personal use at other times by an authorized driver; provided, that commuter vans shall not be exempt from any provision of this chapter which by its terms explicitly applies to these vehicles.

Sec. 58. Minnesota Statutes 1978, Section 221.021, is amended to read:

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221.021 OPERATION CERTIFICATE OR PERMIT REQUIRED. No person shall operate as a motor carrier without a certificate or permit in full force and effect with respect to such operation. Any certificate or permit ~~shall~~ may be suspended or revoked upon conviction of violating any provision of sections 221.011 to ~~221.291~~ 221.296 or any order, rule or regulation of the commissioner or ~~commission board~~ governing the operation of motor carriers, and upon a finding by the court that the violation was wilful. The ~~commission board~~ may for good cause, after hearing, suspend or revoke any permit for a violation of the provision of the sections noted herein or any order, rule or regulation of the commissioner or ~~commission board~~ issued pursuant to the provisions of this chapter.

Sec. 59. Minnesota Statutes 1978, Section 221.031, Subdivision 1, is amended to read:

221.031 RULES FOR OPERATION OF MOTOR CARRIERS. Subdivision 1. The commissioner shall prescribe rules and regulations for operation of all motor carriers, including their facilities, accounts, service, safety of operations and equipment, maximum hours of service of drivers, installation of safety devices and proper automatic speed regulators if, in the opinion of the commissioner, there is a necessity therefor. The commissioner shall direct the repair and reconstruction or replacement of any inadequate or unsafe motor carrier vehicle or facility. The commissioner may require the construction and maintenance or furnishing of suitable and proper freight terminals, passenger depots, waiting rooms and accommodations or shelters in any city in this state or at any point on the highway traversed which the commissioner, after investigation by the department, may deem just and proper for the protection of passengers or property. The commissioner shall require the filing of annual and other reports including annual accounts of motor carriers, schedules of rates and charges or other data by such motor carriers, regulate such motor carriers in all matters affecting the relationship between them and the traveling and shipping public and prescribe such other rules as may be necessary to carry out the provisions of this chapter; provided, however, that any motor carrier having gross revenues from all for-hire transportation in any calendar year of less than \$15,000 may, at the discretion of the commissioner, be exempted from the filing of an annual report, if in lieu thereof such motor carrier files an affidavit, in such form as may be prescribed by the commissioner, attesting that said gross revenues have not exceeded \$15,000 in the previous calendar year. Motor carrier gross revenues from for-hire transportation, for the purposes of this subdivision only, shall not include gross revenues received from the operation of school buses as defined in section 169.01, subdivision 6. The commissioner shall make no rules relating to rates or tariffs, or the granting, limiting or modifying of permits or certificates of convenience and necessity, which powers are granted to the ~~commission pursuant to Laws 1976, Chapter 166 board~~ . The ~~commission board~~ may extend the termini of any route or alter or change the route of any regular route common carrier upon petition and after finding that public convenience and necessity require such extension, alteration or change.

Sec. 60. Minnesota Statutes 1978, Section 221.041, is amended to read:

221.041 **RATE-MAKING POWERS.** Subdivision 1. The ~~commission board~~ shall fix and establish just, reasonable and nondiscriminatory rates, fares, charges, and the rules and classifications incident to tariffs for all regular route common carriers and petroleum carriers. In prescribing such rates, fares, charges, classifications and rules for the carrying of freight, persons or property, the ~~commission board~~ shall take into consideration the effect of the proposed rates or fares upon the users of the service and upon competitive carriers by motor vehicle and rail and, insofar as possible, avoid rates and fares which will result in unreasonable and destructive competition. In making its determination, the ~~commission board~~ shall consider, among other things, the cost of the service rendered by the carrier, including an adequate sum for maintenance and depreciation, and an adequate operating ratio under honest, economical and efficient management. No such rate or fares shall be put into effect or changed or altered except upon hearing duly had and an order therefor by the ~~commission board~~, or except as herein otherwise provided. The ~~commission board~~ may authorize such changes ex parte which, in its opinion, are not of sufficient import to require a hearing. In any emergency, the ~~commission board~~ may order a change in existing rates or fares without a hearing. In instances of such ex parte or emergency orders, the ~~commission board~~ shall, within five (5) days, serve a copy of its order granting such change in rates upon all parties which the ~~commission board~~ deems interested in the matter, including all competing carriers. Any interested party shall have 30 days from the date of the issuance of the order to object to the order. If objection is made, the matter shall be set down for hearing with notice to competing carriers.

Subd. 2. No regular route common carrier or petroleum carrier shall charge or receive a greater or less or different compensation for the transportation of passengers or property or for any service in connection therewith than the rates, fares and charges and the rules and classifications governing the same which have been duly approved therefor by order of the ~~commission board~~; nor shall any regular route common carrier or petroleum carrier refund or remit in any manner or by any device any portion of such rates, fares and charges required to be collected under the commission's order; nor extend to any shipper or person any privilege or facilities in connection with the transportation of passengers or property except such as are authorized under the order of the commission. No passenger carrying regular route common carrier shall alter or change its time schedules except upon order of the commission. Such order may be issued ex parte unless the ~~commission board~~ shall decide that public interest requires that a hearing be had thereon.

Sec. 61. Minnesota Statutes 1978, Section 221.051, is amended to read:

221.051 **ABANDONMENT OR DISCONTINUANCE OF SERVICE.** No regular route common carrier shall abandon or discontinue any service required under its certificate without an order of the ~~commission board~~ therefor, except in cases of emergency or conditions beyond its control.

A passenger regular route common carrier may depart from the route over which it is authorized to operate for the purpose of transporting chartered or

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excursion parties to any point in the state of Minnesota on such terms and conditions as the ~~commission~~ board may prescribe.

Sec. 62. Minnesota Statutes 1978, Section 221.061, is amended to read:

221.061 OPERATION CERTIFICATE FOR REGULAR ROUTE COMMON CARRIER OR PETROLEUM CARRIER. Any person desiring a certificate authorizing operation as a regular route common carrier or petroleum carrier, or an extension of or amendment to such certificate, shall file a petition therefor with the ~~commission~~ board which shall contain such information as the ~~commission~~ board, by rule may prescribe.

Upon the filing of a petition for a certificate, the petitioner shall pay into the state treasury as a fee for the issuance thereof the sum of \$75 and for any transfer or lease of such certificate the sum of \$37.50.

The petition shall be processed as any other petition. The ~~commission~~ board shall cause a copy and a notice of hearing thereon to be served upon any competing carrier operating into any city located on the proposed route of the petitioner and to such other persons or bodies politic which the commission deems interested in the petition. Such competing carrier and other persons or bodies politic are hereby declared to be interested parties to the proceedings.

If, during the hearing, an amendment to the petition is proposed which appears to be in the public interest, the ~~commission~~ board may allow the same when the issues and the territory are not unduly broadened by the amendment.

Sec. 63. Minnesota Statutes 1978, Section 221.071, is amended to read:

221.071 ISSUANCE OF CERTIFICATE TO REGULAR ROUTE COMMON CARRIER OR PETROLEUM CARRIER. If the ~~commission~~ board finds from the evidence that the petitioner is fit and able to properly perform the services proposed and that public convenience and necessity requires the granting of the petition or any part thereof, it shall issue a certificate of public convenience and necessity to the petitioner. In determining whether a certificate should be issued, the ~~commission~~ board shall give primary consideration to the interests of the public that might be affected thereby, to the transportation service being furnished by any railroad which may be affected by the granting of the certificate and to the effect which the granting of the certificate will have upon other transportation service essential to the communities which might be affected by the granting of the certificate. The ~~commission~~ board may issue a certificate as applied for or issue it for a part only of the authority sought and may attach to the authority granted such terms and conditions as in its judgment public convenience and necessity may require.

The ~~commission~~ board may grant a temporary certificate, ex parte, valid for a period not exceeding six months, upon a showing that no regular route common carrier is then authorized to serve on the route sought, that there is no other petition on file with the ~~commission~~ board covering said route and that there is need for the proposed service.

A certificate which has been issued to a regular route common carrier may be amended by the commission board on ex parte petition and payment of a fee of \$25 so as to grant an additional or alternate route where there is no other means of transportation over such proposed additional route or between the termini thereon, and such proposed additional route does not exceed ten miles in length.

Sec. 64. Minnesota Statutes 1978, Section 221.081, is amended to read:

221.081 SALE OR LEASE OF CERTIFICATE OF REGULAR ROUTE COMMON CARRIER OR PETROLEUM CARRIER. Certificates authorizing operations as a regular route common carrier or as a petroleum carrier may be sold or leased but only upon order of the commission board approving the same. The proposed seller and buyer or lessor and lessee of a certificate shall file a joint petition with the commission board, setting forth the names and addresses of the parties, the identifying number of the certificate and the description of the authority which the parties seek to sell or lease, a short statement of the reasons for the proposed sale or lease, a short statement of the buyer or lessee's present operating authority, if any, a statement of all outstanding claims of creditors which are directly attributable to the operations conducted under said certificate, a copy of the contract of sale or lease and a financial statement with balance sheet and income statement, if existent, of the buyer. If it appears to the commission board from the contents of the petition and from the department's records, files and investigation of the petition that the approval of the sale or lease of the certificate will not adversely affect the rights of the users of the service and will not have an adverse effect on any other motor carrier, the commission board may make an ex parte order granting the same. When the proposed sale or lease is between persons who are direct competitors to a material degree, the petition shall be set down for hearing with notice to the communities which may be affected by the proposed merger and to any other persons the commission board or department deems to be interested parties.

Sec. 65. Minnesota Statutes 1978, Section 221.101, is amended to read:

221.101 ADDITIONAL AUTHORITY TO PETROLEUM CARRIERS. In addition to the specific authority granted to petroleum carriers, every petroleum carrier holding a certificate as such may transport petroleum products from an origin point he is not authorized to serve when the needs of the shippers he serves because of seasonal failure of supplies require service from such origin point, upon securing permission from the commission board, provided that this provision shall not include the right to enlarge the carrier's destination area.

Sec. 66. Minnesota Statutes 1978, Section 221.121, is amended to read:

221.121 PETITION; HEARING; ISSUANCE; RENEWAL. Subdivision 1. **PERMIT CARRIERS.** Any person desiring to operate hereunder as a permit carrier, except as a livestock carrier, shall file a petition with the commission board specifying the kind of permit desired, the name and address of the petitioner, and the names and addresses of the officers, if a corporation, and such other information as the commission board may require. The commission board,

after notice to interested parties and a hearing, shall issue the permit upon compliance with all laws and regulations relating thereto, if it finds that petitioner is fit and able to conduct the proposed operations, that petitioner's vehicles meet the safety standards established by the department, that the area to be served has a need for the transportation services requested in the petition, and that existing permit and certificated carriers in the area to be served have failed to demonstrate that they offer sufficient transportation services to meet fully and adequately such needs, provided that no person who holds a permit at the time sections 221.011 to 221.291 take effect shall be denied a renewal thereof upon compliance with other provisions of sections 221.011 to 221.291. A permit once granted shall continue in full force and effect until abandoned or unless suspended or revoked, subject to compliance by the permit holder with all applicable provisions of law and the rules of the commissioner or ~~commission~~ board governing permit carriers. No permit shall be issued to any common carrier by rail, whereby said common carrier will be permitted to operate trucks for hire within this state, nor shall any common carrier by rail be permitted to own, lease, operate, control or have any interest in any permit carrier by truck, either by stock ownership or otherwise, directly, indirectly, through any holding company, or by stockholders or directors in common, or in any other manner. Nothing in sections 221.011 to 221.291 shall prevent the ~~commission~~ board from issuing a permit to a common carrier by rail, whereby such carrier will be given authority to operate trucks wholly within the limits of any municipality or within adjacent or contiguous municipalities or a common rate point served by said railroad and which service shall only be a service supplementary to the rail service now established by such carriers.

The ~~commission~~ board may grant a temporary permit, ex parte, valid for a period not exceeding six months upon a showing there is an immediate and urgent need for the proposed service, pending prompt action by the permit holder to follow regular procedure in securing the permit, and that such immediate and urgent authority from the ~~commission~~ board is in the public interest. A copy of the order granting such temporary permit, ex parte, shall be mailed immediately to interested parties.

The ~~commission~~ board may issue a permit as a contract carrier to such cooperative associations as are described in section 221.011, subdivision 9, notwithstanding the number of its hauling contracts, and provided that such contract carrier shall be permitted to haul its own property.

Subd. 2. **EXTENSIONS OF AUTHORITY.** The ~~commission~~ board may grant extensions of authority ex parte after due notice of a petition has been published. Any party desiring to protest the petition must file its protest by mail or in person within 20 days of the date of notice. If a timely filed protest is received, the matter shall be placed on the calendar for hearing. If a timely protest is not received, the ~~commission~~ board may issue its order ex parte.

Subd. 3. **LIVESTOCK CARRIERS.** Any person desiring to operate hereunder as a livestock carrier shall file a petition with the ~~commission~~ board specifying the kind of permit desired, the name and address of the petitioner, and the

names and addresses of the officers, if a corporation, and such other information as the commission board may require.

The commission board shall issue the permit upon compliance with all laws and regulations relating thereto unless it finds that petitioner's vehicles do not meet the safety standards prescribed by the commission board or that petitioner is not fit and able to conduct the proposed operations. All permits issued hereunder shall be renewed upon compliance with the provisions of this act and the rules of the commission board .

Sec. 67. Minnesota Statutes 1978, Section 221.131, is amended to read:

221.131 PERMITS; TERMS, FEES, IDENTIFICATION CARDS. Permits issued pursuant to the provisions of sections 221.011 to 221.291 shall be effective for a 12-month period, commencing on the first day of the month of their issuance and shall continue from year to year thereafter upon payment of the required registration fee and compliance otherwise with law. The permit holder shall pay into the treasury of the state of Minnesota a fee of \$25 for each kind of permit, reinstatement, or extension of authority thereof for which a petition is filed, except on annual renewal, pursuant to section 221.121 and a registration fee of \$20 on each vehicle, including pickup and delivery vehicles, operated by him under authority of such permit during said 12-month period or fraction thereof. Trailers used by petitioner in combination with power units shall not be counted as vehicles in the computation of fees under this section, provided petitioner pays the fees for such power units. The commissioner shall furnish a distinguishing identification card for each vehicle or power unit for which a fee has been paid, which identification card shall at all times be carried in the vehicle or power unit to which it has been assigned. Identification cards may be reassigned to another vehicle or power unit without fee by the commissioner upon petition of the permit holder. Identification cards issued under the provisions of this section shall be good only for the period for which the permit is effective. The name and residence of the permit holder shall be stenciled or otherwise shown on both sides of each registered vehicle operated under his permit. In the event a permit has been suspended or revoked, the commission board may consider a petition for reinstatement thereof, upon the same procedure required for an original petition, and may, in its discretion, grant or deny the same. Regular route common carriers and petroleum carriers, operating under sections 221.011 to 221.291, shall annually on or before January 1 of each calendar year, pay into the treasury of the state of Minnesota an annual registration fee of \$20 for each vehicle, including pickup and delivery vehicles, operated during any calendar year.

A fee of \$3 shall be charged for the replacement of an unexpired identification card which has been lost or damaged by the owner.

The provisions of this section are limited by the provisions of any applicable federal law.

Sec. 68. Minnesota Statutes 1978, Section 221.141, Subdivision 2, is amended to read:

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Subd. 2. Notwithstanding the contrary provisions of subdivision 1, if a permit carrier having grandfather rights transfers the same to another and the transferee defaults on his contract and has had a permit voided subsequent to January 1, 1965, solely by reason of failure to keep in effect insurance or other security as required by this section, the permit carrier, being the transferor in the transaction, shall have his permit fully reinstated by the commission board, together with all operating authority granted theretofore, upon his filing with the commission board, within 15 days after June 5, 1975, public liability and indemnity insurance or bond in the amount and form as the commission board prescribes.

Sec. 69. Minnesota Statutes 1978, Section 221.151, is amended to read:

221.151 **PERMITS ASSIGNABLE OR TRANSFERABLE.** Subdivision 1. Permits, except livestock permits, issued under the provisions of sections 221.011 to 221.291 may be assigned or transferred but only upon the order of the commission board approving same after notice and hearing.

The proposed seller and buyer or lessor and lessee of a permit, except for livestock carrier permits, shall file a joint notarized petition with the commission board setting forth the name and address of the parties, the identifying number of the permit and the description of the authority which the parties seek to sell or lease, a short statement of the reasons for the proposed sale or lease, a statement of all outstanding claims of creditors which are directly attributable to the operation to be conducted under said permit, a copy of the contract of sale or lease and financial statement with balance sheet and income statement, if existent, of the buyer or lessee. If it appears to the commission board, after notice to interested parties and a hearing, from the contents of the petition, from the evidence produced at the hearing, and the department's records, files and investigation that the approval of the sale or lease of the permit will not adversely affect the rights of the users of the service and will not have an adverse effect upon any other competing carriers, the commission board may make an order granting same. Provided, however, that the commission board shall make no order granting the sale or lease of a permit to any person or corporation or association which holds any certificate or permit from the commission board pursuant to this chapter or to any common carrier by rail.

Provided further that the commission board shall make no order approving the sale or lease of a permit if the commission board finds that the price paid for such sale or lease of a permit is disproportionate to the reasonable value of said permit considering all assets and goodwill involved. The commission board shall approve the sale or lease of a permit only after a finding that the transferee is fit and able to conduct the operations authorized under said permit and that the vehicles he proposes to use in conducting such operations meet the safety standards of the commission board. In determining the extent of the operating authority to be conducted by the transferee under the sale or lease of the permit, the past operations of the transferor within the two year period immediately preceding the transfer shall be considered and only such operating authority shall be granted to the transferee as was actually exercised by the transferor under his

authority within the two year period immediately preceding the transfer as evidenced by bills of lading, company records, operation records or other relevant evidence.

If any authority to operate as a permit carrier is held by a corporation, any sale, assignment, pledge or other transfer of such stock interest in the corporation which will accomplish a substantial or material change or transfer of the majority ownership of said corporation, as exercised through its stockholders, shall be reported in the manner prescribed in accordance with the rules and regulations of the ~~commission~~ board within 90 days after said sale, assignment, pledge or other transfer of stock. The ~~commission~~ board shall then make a finding whether or not said stock transfer does, in fact, constitute a sale, lease or other transfer of the permit of said corporation to a new party or parties and, if they so find, then the continuance of the permit issued to said corporation shall only be upon the corporation's complying with the standards and procedures otherwise imposed by this section.

Subd. 2. The ~~commission~~ board shall allow a bona fide transfer of a permit, except a livestock carrier permit, ex parte without hearing where the transferee of said permit is in fact a member or members of the transferor's immediate family. For the purpose of this subdivision immediate family shall consist only of the lawful spouse, adult child or children, brother or sister of the transferor. Provided further that the immediate family as defined in this subdivision shall not include any person under legal disability or any member of the family regardless of relationship who holds any other permit or certificate pursuant to this chapter either as an individual or in partnership or as owner of an interest in a corporation holding a permit or a certificate pursuant to this chapter.

Provided further that the transfer pursuant to this subdivision shall include:

(1) transfer to a corporation the stock of which is wholly owned by the transferor or the members of his immediate family;

(2) transfer to a partnership or partner consisting solely of the immediate family as defined in this subdivision.

Provided further that said transfer of permit, pursuant to this subdivision, shall comply with the standards set forth in this section based upon the contents of the petition of petitioners, all pertinent information available to the ~~commission~~ board and the department and their records and files. No determination of the extent of the operating authority previously exercised shall be required.

If it appears to the ~~commission~~ board that said petition and exhibits do not reasonably comply with the standards set forth in this section, then after notice to interested parties and the petitioners, the ~~commission~~ board shall set the matter down for hearing to determine compliance with this section. Any user of the service, competing carrier or interested party shall have the right to file a protest on such transfer as is provided for in this subdivision by filing a sworn statement with the ~~commission~~ board within six months from the effective date of said transfer whereupon the ~~commission~~ board shall set the matter down for hearing

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and the continuance of the permit shall only be upon the transferee's compliance with the standards and procedures otherwise imposed by this section.

Sec. 70. Minnesota Statutes 1978, Section 221.161, is amended to read:

221.161 **SCHEDULE OF RATES AND CHARGES.** Subdivision 1. Every permit carrier including a livestock carrier shall file and maintain with the commissioner a schedule of rates and charges for the transportation of persons or property. The filing with and acceptance by the commissioner of such tariffs, in accordance with the rules relating to such schedules, shall constitute notice to the public and all interested parties of the contents of such tariffs. All schedules shall be prepared and filed in accordance with the rules and regulations of the commissioner. The commissioner shall not accept for filing schedules which are unjust and unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of the provisions of this section. If such schedules appear to be unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of this section, the commission board after notification and investigation by the department may suspend and postpone the effective date of such schedules and assign said schedules for hearing upon notice to the permit carrier filing such proposed schedules and to other interested parties, including users of the service and competitive carriers by motor vehicle and rail. At any such hearing, the burden of proof shall be upon the permit carrier filing the proposed schedule of rates and charges to sustain the validity of the proposed schedule of rates and charges. Schedules of rates and charges for the transportation of livestock shall not be subject to rejection, suspension, or postponement by the commission board, except as provided in subdivisions 2 and 3. Such tariffs and subsequent supplements thereto or reissues thereof shall state the effective date thereof, which shall be not less than ten days subsequent to the date of filing, unless such period of time be reduced by special permission of the commission board.

Subd. 2. Such tariffs, supplements and reissues shall be prepared and filed in accordance with rules to be promulgated by the commissioner, and any rates or charges including pickup charges named therein shall be subject to complaint to the commission board by any interested party, whereupon the commission board after investigation by the department by order on not less than ten days' notice may set such complaint for hearing, and if at such hearing the complainant submits facts and evidence sufficient to establish proof that such rates or charges complained of are excessive or noncompensatory, the commission board may order such rates or charges canceled, and require the filing of alternative and reasonable rates and charges, the reasonable level of which at such time shall be indicated by the commission board in such order.

Subd. 3. Upon the filing of any tariff or subsequent supplement thereto or reissue thereof, any other carrier shall have the right to petition the commission board to suspend the taking effect of the same until opportunity has been had for a hearing on the reasonableness of the rates or charges named therein, as herein provided, and the commission board may so suspend if in its judgment the rates or charges complained of are so unreasonably low as to create destructive compet-

itive practices among or jeopardize the economic position of competing carriers. In determining whether the rates or charges are excessive or noncompensatory the ~~commission~~ board shall include in its consideration, among other things, the reasonable cost of the services rendered for such transportation, including a reasonable return on the money invested in the business and an adequate sum for maintenance and depreciation of the property used.

Subd. 4. The ~~commission~~ board after a suspension and hearing upon a schedule of rates and charges or upon complaint or upon its own initiative, either in extension of any existing complaint or without any complaint whatever, after department investigation and petition, and upon notice to the permit carrier or permit carriers proposing a schedule of rates and charges on any single group of related commodities and to the users of the service and competitive carriers by motor vehicle and rail may set down for hearing said schedule of rates and charges maintained or charged by any or all permit carriers; and, upon a finding, after a hearing, that such schedule of rates and charges are unjust or unreasonable or unjustly discriminatory or unduly preferential or prejudicial or otherwise in violation of any of the provisions of this section, the ~~commission~~ board may prescribe minimum rates and charges and the rates, rules and practices thereafter to be maintained and applied by such permit carrier or permit carriers. In any such hearing the burden of proof shall be upon the permit carrier or permit carriers whose schedules of rates and charges are under investigation to show that said schedules are not below a minimum reasonable level or are not noncompensatory. Schedules of rates and charges for the transportation of livestock shall not be subject to rejection, suspension, postponement or investigation by the ~~commissioner~~ board except as provided in subdivisions 2 and 3.

Sec. 71. Minnesota Statutes 1978, Section 221.171, is amended to read:

221.171 COMPENSATION OF PERMIT CARRIERS FIXED BY SCHEDULES OF RATES AND CHARGES. No permit carrier shall charge or receive a greater or less or different compensation for the transportation of persons or property or for any service in connection therewith, than the rates and charges named in the carrier's schedule on file and in effect with the commissioner including any rate fixed by the commission under the provisions of section 221.161; nor shall any permit carrier refund or remit in any manner or by any device, directly or indirectly, the rates and charges required to be collected by him under his schedules or under the rates, if any, fixed by the ~~commission~~ board

Sec. 72. Minnesota Statutes 1978, Section 221.181, is amended to read:

221.181 INTERSTATE CARRIERS; PERMITS, REGULATION. The commissioner or ~~commission~~ board, consistent with their respective powers pursuant to this chapter, shall have the power and authority to grant permits to interstate carriers and to supervise and regulate their operations to the extent that such supervision and regulation constitutes a valid exercise of the police powers of the state.

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The issuance, renewal and cancellation of permits to interstate carriers shall follow the same procedure and be based upon the same conditions as herein provided for other permit carriers.

Sec. 73. Minnesota Statutes 1978, Section 221.221, is amended to read:

221.221 **ENFORCEMENT POWERS.** Transportation representatives of the department for the purpose of enforcing the provisions of sections 221.011 to 221.296 and the rules and regulations of the commissioner and commission board issued pursuant hereto, but for no other purpose, shall have all the powers conferred by law upon police officers. The powers shall include the authority to conduct inspections at designated highway weigh stations or under other appropriate circumstances anywhere within the state for the purpose of viewing log books, ~~chauffeur~~ licenses, health certificates and other documents or equipment required to be maintained within commercial motor vehicles operating in Minnesota pursuant to applicable state motor vehicle carrier laws and regulations.

Sec. 74. Minnesota Statutes 1978, Section 221.261, is amended to read:

221.261 **COMPLAINTS, ACTION IN DISTRICT COURT.** An action or proceeding may be instituted, upon verified complaint of the commissioner or any interested person in any district court of any county wherein a motor carrier has a principal office or into which its route extends, for the enforcement of any provision of sections 221.011 to 221.291, or any order, rule or directive of the commissioner or commission board herein authorized, and the court may grant provisional or other relief, ordinary or extraordinary, legal or equitable, which the nature of the case may require, including temporary mandatory or restraining orders. Except when there is a constitutional right to trial by jury not expressly waived, all such proceedings shall be tried summarily by the court and such matters shall take precedent over all other matters except criminal cases.

Sec. 75. Minnesota Statutes 1978, Section 221.271, is amended to read:

221.271 **LIABILITY.** Any ~~motor carrier person~~ person which shall do or cause to be done any unlawful act as herein provided, or fail to perform any duty prescribed, or violate any duly established order, rule or directive of the commissioner or commission board, or which shall aid or abet in the performance of any unlawful act or in the failure to perform any such duty, shall be liable in damages to any person injured thereby, and such person, if he recovers, shall be allowed, in addition to damages, reasonable attorneys' fees, together with costs and disbursements.

Sec. 76. Minnesota Statutes 1978, Section 221.281, is amended to read:

221.281 **VIOLATIONS, PENALTIES.** Any regular route common carrier or petroleum carrier, or any officer, agent or employee of any such carrier, failing to comply with any final order, decision, rule, regulation or directive, or any part or provision thereof, of the commissioner or commission board, or any provision of sections 221.011 to 221.296, shall be subject to a penalty of \$50 for each and every day of such failure, to be recovered for the state in a civil action brought by the commissioner. Any such carrier granting any special rate, rebate, drawback,

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or directly or indirectly charging, demanding, or collecting a greater or less compensation than provided by its regular established schedule of rates and charges, shall be punished by a fine not exceeding \$5,000 for each such offense.

Sec. 77. Minnesota Statutes 1978, Section 221.291, Subdivision 1, is amended to read:

221.291 VIOLATIONS, PENALTIES. Subdivision 1. Any person who commits, procures, aids or abets or conspires to commit, or attempts to commit, aid or abet in the violation of any provision of this chapter or any valid order or rule of the commissioner or ~~commission~~ board issued hereunder, whether individually or in connection with one or other more persons or as principal, agent, or accessory, shall be guilty of a misdemeanor, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this chapter, is likewise guilty of a misdemeanor. Every distinct violation shall be a separate offense.

Sec. 78. Minnesota Statutes 1978, Section 221.293, is amended to read:

221.293 VIOLATIONS; COMPLAINT, HEARING, CEASE AND DESIST ORDERS. Where any provisions of this chapter or any order adopted thereunder or any rule of the commissioner or ~~commission~~ board has been violated, the ~~commissioner~~ board upon complaint being filed with ~~him~~ it or on ~~his~~ its own motion, may issue and serve upon the person engaged in such violation, a complaint stating the charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least ten days after the service of the complaint and notice requiring the person so complained of to appear at the time and place fixed in the notice of hearing and show cause why an order should not be entered by the ~~commissioner~~ board requiring such person to cease and desist from the violation alleged. If upon such hearing the ~~commissioner~~ board shall find that any of the violations alleged in the order to show cause are true, ~~he~~ it shall so find and shall issue and cause to be served upon such person an order requiring such person to cease and desist from such violation. The district court, upon petition, may enforce such cease and desist order by injunction or other appropriate writ or proceedings.

Sec. 79. Minnesota Statutes 1978, Section 221.295, is amended to read:

221.295 NOTICE TO METROPOLITAN TRANSIT COMMISSION. Notwithstanding any provision of any statute to the contrary, the metropolitan transit commission shall be notified by the commissioner of any matter pertaining to or affecting public transit or an existing or proposed transit system within the Twin Cities metropolitan transit area, which matter is formally or informally before the commissioner or ~~commission~~ board for action or which is under study, including the initiation of any request for action or study and prior to any hearings on other proceedings, whether ex parte or otherwise. Further, such notification shall in all cases be given in a manner, at such time, and with such information and data available to the commissioner or ~~commission~~ board so as to enable the metropolitan transit commission to meaningfully evaluate, participate in, and comment upon the matter. The commissioner or ~~commission~~ board shall not

approve, deny, or otherwise attempt to resolve or act upon any such matter until receipt of the comments and advice of the metropolitan transit commission with respect thereto, but if none are received they may act within 30 days after demand therefor upon the metropolitan transit commission, or otherwise by mutual agreement. If the commissioner or ~~commission board~~ takes action in any way contrary to or different from the comments and advice of the metropolitan transit commission, they shall specifically state the reasons and factual data for such action.

Sec. 80. Minnesota Statutes 1978, Section 221.296, Subdivision 2, is amended to read:

Subd. 2. **RULES FOR SAFETY AND SERVICE.** The ~~commission~~ commissioner shall prescribe rules for the operation of all local cartage carriers, including their facilities, accounts, service, safety of operation and equipment, maximum hours of service of drivers, installation of safety devices and proper automatic speed regulators if, in the opinion of the ~~commission commissioner~~ commissioner, there is a necessity therefor. The ~~commission commissioner~~ commissioner may require the filing of annual and other reports and shall regulate such local cartage carriers in all matters affecting the relationship between them and the shipping public, and prescribe such other rules and regulations as may be necessary to carry out the provisions of this section. The commissioner shall investigate the operation of all local cartage carriers, their compliance with all rules of the commissioner or ~~commission board~~ and with the provisions of this section and may institute and prosecute any and all actions and proceedings in the proper district court for enforcement of the same. The provisions of sections 221.161 and 221.171 do not apply to local cartage carriers. The commissioner shall make no rules relating to rates and tariffs, or the granting, limiting or modifying of permits or certificates of convenience and necessity, which powers are granted to the ~~commission pursuant to Laws 1976, Chapter 466~~ board.

Sec. 81. Minnesota Statutes 1978, Section 221.296, Subdivision 3, is amended to read:

Subd. 3. **PERMITS REQUIRED.** No person shall operate a local cartage carrier without a permit in full force and effect with respect to such operation. The ~~commission board~~ may revoke or suspend the permit of any local cartage carrier after notice and hearing for violating any provision of this section or any rule or regulation of the ~~commission board~~ or the department governing local cartage carriers.

Sec. 82. Minnesota Statutes 1978, Section 221.296, Subdivision 4, is amended to read:

Subd. 4. **PETITION FOR PERMITS.** Any person desiring to operate hereunder as a local cartage carrier shall file a petition with the ~~commission board~~ specifying the service offered, the name and address of the petitioner, and the names and addresses of the officers, if a corporation, and such other information as the ~~commission board~~ may require. The ~~commission board~~, after notice to interested parties and a hearing, shall issue the permit upon compliance with all

laws and regulations relating thereto unless it finds that the area to be served has a sufficient number of local cartage carriers to fully and adequately meet the needs of such area or that the petitioners' vehicles do not meet the safety standards set up by the commission board, or that petitioner is not fit and able to conduct the proposed operations. A permit once granted shall continue in full force and effect until abandoned or unless suspended or revoked, subject to compliance by the permit holder with all applicable provisions of law and rules of the commission board governing local cartage carriers.

Sec. 83. Minnesota Statutes 1978. Section 221.296, Subdivision 8, is amended to read:

Subd. 8. **PERMITS TRANSFERABLE.** Permits, issued under the provisions of this section may be transferred but only upon the order of the commission board approving same after notice and hearing.

The proposed seller and buyer of a permit, shall file a joint verified petition with the commission board setting forth the legal name and address of the parties, the permit number and the description of the authority which the parties seek to sell, a verified statement of the reasons for the proposed sale, a verified statement of all outstanding claims of creditors which are attributable to the business conducted under said permit, a copy of the contract of sale and financial statement with balance sheet and income statement, if existent, of the buyer and the seller. After notice to interested parties and a hearing the commission board shall not make an order approving and allowing the sale unless the commission board finds that the buyer is fit and able to conduct the business authorized under said permit, that the vehicles he proposes to use in conducting such business meet the safety standards of the department board, that the price paid for the purchase of the permit is not disproportionate to the reasonable value of the permit considering all assets and good will sold, that the proposed sale is in the best interest of the shipping public, and that the seller has legally engaged in the transportation of property or freight for hire on a meaningful basis as determined by the commission board within the two year period immediately preceding the sale as proven by accurate and complete bills of lading, company records, operation records, or other relevant evidence. For purposes of determining said two year period, any divesting of interest or control shall be deemed the date of the sale and the commission board shall look to the substance of the transaction rather than the form. Any agreement for the transfer or sale of a permit shall be reported and filed with the commission board within 30 days of such agreement.

If any authority to operate as a local cartage carrier, is held by a corporation, any sale, assignment, pledge or other transfer of such stock interest in the corporation which will accomplish a substantial or material change or transfer of the majority ownership of said corporation, as exercised through its stockholders, shall be reported in the manner prescribed by the rules of the commission board within 30 days after said sale, assignment, pledge or other transfer of stock. The commission board shall then make a finding whether or not said stock transfer does, in fact, constitute a sale, or other transfer of the permit of said corporation to a new party or parties and, if they so find, then the continuance of the permit

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issued to said corporation shall only be upon the corporation's complying with the standards and procedures otherwise imposed by this section.

The ~~commission board~~ shall allow a bona fide transfer of a permit, ex parte without hearing where the transferee of said permit is in fact a member or members of the transferor's immediate family. For the purpose of this paragraph immediate family shall consist only of the lawful spouse, adult child or children, brother or sister of the transferor. A transfer pursuant to this paragraph shall include:

(1) transfer to a corporation the stock of which is wholly owned by the transferor or the members of his immediate family.

(2) transfer to a partnership or partner consisting solely of the immediate family as defined in this paragraph.

Sec. 84. Minnesota Statutes 1978, Section 221.55, is amended to read:

221.55 **CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.** No person or corporation shall engage in the transportation described in section 221.54 without a certificate of public convenience and necessity from the ~~commission board~~ authorizing such operation. Such certificate shall be issued by the ~~commission board~~ pursuant to application, notice and hearing as provided in sections 221.061 and 221.071, and the issuance of certificates and the transportation covered thereby shall be governed by the provisions of such sections and by sections 221.031, 221.041, 221.051 and 221.081, applying to ~~auto transportation companies~~ certificated common carriers for hire, insofar as such provisions are not inconsistent with section 221.54 and this section.

Sec. 85. Minnesota Statutes 1978, Section 221.68, is amended to read:

221.68 **VIOLATIONS; PENALTIES.** Any person who violates or procures, aids, or abets violation of, or fails to comply with, the provisions of sections 221.61 to 221.68 or any valid order or rule of the commissioner or ~~commission board~~ issued hereunder shall be guilty of a misdemeanor; and, additionally, shall be subject to a penalty of \$50 for each and every day of such failure to so comply, to be recovered for the state in a civil action. Each distinct violation shall be a separate offense.

Sec. 86. Minnesota Statutes 1978, Section 219.742, is repealed.

Sec. 87. **EFFECTIVE DATE.** This act is effective on July 1, 1981.

Approved April 11, 1980

CHAPTER 535—H.F.No. 1513

An act relating to the environment; regulating activities of drillers of exploratory borings; specifying the powers and duties of public officers and agencies; providing

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