

**Railroad Commission, Jurisdiction Over Navigation.**

The railroad commission may make and enforce reasonable rules and regulations to be observed by boats carrying passengers and freight for hire, but this does not confer upon the commission authority to clear the channel, or erect and maintain lighthouses.

September 25, 1912.

State Board of Railroad Commissioners,  
Helena, Montana.

Gentlemen:

I am in receipt of your letter of the 16th inst., stating that complaint has been made to your board that the Somers Lumber Company is maintaining a boom in the outlet of Whitefish Lake, and that the logs caught by this boom project into and interfere with the outlet of the lake, and thus endanger boats plying upon the lake in this vicinity, and requesting my opinion as to whether or not it is within the power of your commission to compel the Somers Lumber Company to maintain electric lights at such point to provide against accidents to boats navigating the lake.

The jurisdiction which the Railroad Commission has over navigation in this state is conferred by Chap. 105, Session Laws of 1911. This Chapter provides only for the inspection of boats carrying passengers or freight for hire on the navigable waters of the state and making and enforcing sailing rules to be observed by all such boats. It is true that Sec. 4 of said Chapter provides, in part, as follows:

“and said commission shall issue all rules and regulations, that may be in its judgment, necessary for the safe navigation of all steam boats and all boats propelled by machinery, sailing boats and ferry boats navigating on any of the navigable waters of this state and carrying passengers or freight for hire;”

but this section has reference only to rules and regulations to be observed by boats carrying passengers or freight for hire, and does not confer upon the Commission authority to clear the channel or erect and maintain lighthouses, etc.

Sec. 19 also provides, in part:

“said railroad commissioners shall have the jurisdiction to make all needful rules providing for the safety of all passengers and freight traveling upon navigable waters of this state, provided that such rules are within the provisions of this Act.”

As heretofore stated, the provisions of the act apply only to boats carrying passengers or freight for hire.

You are therefore advised that you have no authority to compel the Somers Lumber Company to maintain lights to protect boats against accident, which are navigating the waters of Whitefish Lake.

Yours very truly,

ALBERT J. GALEN,  
Attorney General.