

CHAPTER NO. 713

HOUSE BILL NO. 7

INTRODUCED BY MANUEL

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 4, 1979	Introduced and referred to Committee on Judiciary.
January 6, 1979	On motion, joint rule 6-6 suspended and sponsor's signature allowed to be added to Pre-Filed bill.
January 12, 1979	Committee recommend bill do pass as amended. Report adopted.
January 13, 1979	Printed and placed on members' desks.
January 15, 1979	Second Reading, do pass.
January 16, 1979	Considered correctly engrossed.
January 17, 1979	Third Reading, passed. Transmitted to Second House.

IN THE SENATE

January 18, 1979	Introduced and referred to Committee on Judiciary.
January 30, 1979	Committee recommend bill be concurred in as amended. Report adopted.
February 1, 1979	Second Reading, concurred in.
February 5, 1979	Third Reading, concurred in as amended.

IN THE HOUSE

February 6, 1979

Returned from Second House.
Bill concurred in as amended.

February 7, 1979

Second Reading, amendments
adopted.

February 8, 1979

Third Reading, amendments
adopted.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 7

2 INTRODUCED BY _____

3 BY REQUEST OF THE CODE COMMISSIONER

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND

6 CLARIFY THE LAWS RELATING TO PUBLIC UTILITIES AND COMMON

7 CARRIERS; REPEALING SECTIONS 8-127 AND 72-220, R.C.M. 1947,

8 AND SECTIONS 69-14-136 AND 69-14-403, MCA."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 69-1-102, MCA, is amended to read:

12 "69-1-102. Creation of public service commission. A

13 public service commission is hereby created, whose duty it

14 ~~shall be~~ is to supervise and regulate the operations of ~~the~~

15 ~~public utilities hereinafter named, common carriers,~~

16 ~~railroads, and other regulated industries listed in this~~

17 ~~title.~~ Such supervision and regulation shall be in

18 conformity with ~~chapter 3~~ this title."

19 Section 2. Section 69-1-108, MCA, is amended to read:

20 "69-1-108. Secretary of commission. (1) The commission

21 shall, immediately after its members have qualified, appoint

22 ~~a secretary who shall possess the same qualifications as~~

23 ~~members of said commission~~ to serve during the pleasure of

24 the commission. The secretary shall be a qualified elector

25 of the state.

1 (2) The secretary shall:

2 (a) keep a full and complete record of all proceedings

3 of the commission;

4 (b) be the custodian of its records and file and

5 preserve at the office of the commission all books, maps,

6 documents, and papers entrusted to his care and be

7 responsible to the commission for the same; and

8 (c) perform such other duties as the commission may

9 prescribe."

10 Section 3. Section 69-1-113, MCA, is amended to read:

11 "69-1-113. ~~Suspension~~ Removal or suspension of

12 commissioner. If any commissioner ~~shall fail~~ fails to

13 perform his duties as provided for in ~~Chapter 37, laws of~~

14 ~~1987~~ this title, he may be removed from office as provided

15 for by 45-7-401. Upon complaint made and good cause shown,

16 the governor ~~is authorized to~~ may suspend any commissioner

17 ~~or commissioners~~, and if, in his judgment, the exigencies of

18 the case require, the governor ~~is authorized to~~ may appoint

19 temporarily some competent person ~~or persons~~ to perform the

20 duties of ~~such~~ the suspended commissioner ~~or commissioners~~

21 during the period of ~~such~~ the suspension."

22 Section 4. Section 69-2-202, MCA, is amended to read:

23 "69-2-202. Institution of and intervention in

24 proceedings involving regulated companies. (1) The consumer

25 counsel may institute proceedings before the commission

1 against regulated companies.

2 (2) The consumer counsel may institute, intervene in,
3 or otherwise participate in appropriate proceedings in the
4 state and federal courts and administrative agencies in the
5 name of and on behalf of the utility and transportation
6 consuming public of the state of Montana or substantial
7 elements thereof, including review of decisions rendered by
8 or failure to act by the commission and applications for
9 restraining orders pending the investigation of and decision
10 upon a matter by the commission, pursuant to ~~27-19-202~~ or
11 27-19-203."

12 Section 5. Section 69-3-110, MCA, is amended to read:
13 "69-3-110. Enforcement of public utility law. (1) The
14 commission shall inquire into any neglect or violation of
15 the laws of this state by any ~~such~~ public utility, as
16 hereinbefore defined, doing business ~~therein~~ in this state
17 or by the officers, agents, or employees thereof. The
18 commission shall ~~have the power and it shall be its duty to~~
19 enforce the provisions of this chapter and report all
20 violations thereof to the attorney general.

21 (2) All rates, fares, charges, classifications, and
22 joint rates fixed by the commission shall be enforced and
23 ~~shall be~~ are prima facie lawful from the date of the order
24 until changed or modified by the commission or in pursuance
25 of part 4. All ~~regulations~~ rules, practices, and services

1 prescribed by the commission shall be enforced and ~~action~~
2 ~~enforcement actions~~ shall be brought ~~for that purpose~~
3 pursuant to the provisions of part ~~4~~ or until ~~the rules,~~
4 ~~practices, or services are~~ changed or modified by the
5 commission ~~itself~~ upon a satisfactory showing being made.

6 (3) Upon the request of the commission, it ~~shall be~~ is
7 the duty of the attorney general or the prosecuting attorney
8 of ~~the proper~~ or any county to aid in any ~~investigation,~~
9 ~~prosecutions~~ investigation, prosecution, hearing, or trial
10 had under the provisions of this chapter and to institute
11 and prosecute all necessary actions or proceedings necessary
12 for the enforcement of this chapter.

13 (4) Any forfeiture or penalty herein provided shall be
14 recovered and suit thereon shall be brought in the name of
15 the state of ~~Montana~~ in the district court of any county
16 having jurisdiction of the defendant. The attorney general
17 of ~~Montana~~ shall be the counsel in any proceeding,
18 investigation, hearing, or trial prosecuted or defended by
19 the commission, as also shall any prosecuting attorney
20 selected by ~~said~~ the commission or other special counsel
21 furnished ~~said~~ the commission in any county where such
22 action is pending.

23 (5) In addition to ~~all~~ the other remedies provided by
24 this chapter for the prevention and punishment of any ~~and~~
25 ~~all violations~~ violation of the provisions thereof and all

1 orders of the commission, the commission may compel
2 compliance with the provisions of this chapter and of the
3 orders of the commission by proceedings in mandamus, by
4 injunction, or by other civil remedies."

5 Section 6. Section 69-3-204, MCA, is amended to read:

6 "69-3-204. Fees to be charged by commission. (1) The
7 public service commission shall, except as otherwise
8 provided by law, require and receive fees before filing
9 annual reports, schedules, and supplements of these and
10 shall require and receive fees for copies of orders,
11 documents, classifications, blank forms, and other
12 instruments prepared by it or on file in its office, unless
13 provided by law to be furnished free of charge, under the
14 following schedule:

- 15 (a) filing annual reports, each.....\$ 5.00;
- 16 ~~(b) filing rate schedules, each.....\$ 2.00;~~
- 17 ~~(b)(c) classification for public utilities, each.....~~
- 18 ~~.....\$ 1.50;~~
- 19 ~~(c)(d) for blank forms of annual reports for utilities~~
- 20 ~~..... costs~~

21 (2) This section does not require or authorize the
22 public service commission to collect fees for the filing of
23 annual reports, schedules, and supplements of these which
24 relate solely to interstate commerce."

25 Section 7. Section 69-3-209, MCA, is amended to read:

1 "69-3-209. Violations of public utility laws or
2 orders. If any public utility ~~shall violate~~ violates any
3 provision of this chapter, ~~shall do~~ does any act herein
4 prohibited, or ~~shall fail~~ fails or ~~refuse~~ refuses to perform
5 any duty enjoined upon it, ~~or upon failure of any public~~
6 ~~utility fails~~ to place in operation any rate or joint rate
7 ~~or do any act herein prohibited, for which a penalty has not~~
8 ~~been provided, or shall fail, neglect, or refuse~~ fails,
9 neglects, or refuses to obey any lawful requirement or order
10 made by the commission or any court, ~~then~~ for every such
11 violation, failure, or refusal, ~~such the~~ public utility
12 ~~shall be~~ is subject to the penalty prescribed by 69-3-206."

13 Section 8. Section 69-3-301, MCA, is amended to read:

14 "69-3-301. Schedule of rates, tolls, and charges. (1)
15 Every public utility shall file with the commission, within
16 a time fixed by the commission, schedules which shall be
17 open to public inspection, showing all rates, tolls, and
18 charges which it has established and which are in force at
19 the time for any service performed by it within the state or
20 for any service in connection therewith or performed by any
21 public utility controlled or operated by it. ~~The rates,~~
22 ~~tolls, and charges shown on such schedules shall not exceed~~
23 ~~the rates, tolls, and charges in force on March 4, 1913.~~
24 Every public utility shall file with and as a part of such
25 schedule all rules that in any manner affect the rates

1 charged or to be charged for any service. When a schedule of
2 joint rates or charges is or may be in force between two or
3 more public utilities, such schedule shall in like manner be
4 printed and filed with the commission.

5 (2) A copy of so much of ~~said~~ the schedule as the
6 commission ~~shall deem~~ considers necessary for the use of the
7 public shall be printed in plain type and kept on file in
8 every station or office of ~~such~~ the public utility where
9 payments are made by the consumers or users. Such copy
10 shall be open to the public and in such form and place as to
11 be readily accessible to the public and ~~as can be~~
12 conveniently inspected."

13 Section 9. Section 69-4-202, MCA, is amended to read:

14 "69-4-202. Regulation of construction by rural
15 electrification associations. (1) All electrical
16 construction conducted and to be operated by any rural
17 electrification association and constructed and to be
18 operated in pursuance of the authority of the rural
19 electrification administration of the federal government,
20 within the state of Montana, shall be in conformity with the
21 rules and regulations set forth in the national electrical
22 safety code approved by the American ~~engineering standards~~
23 ~~committee~~ national standards institute, as published by the
24 ~~department of commerce of the United States~~ American
25 institute of electrical and electronic engineers, and any

1 ~~and all revisions~~ revision thereof as the same may exist
2 from time to time; provided, however, that where Y-connected
3 circuits with neutral conductors effectively grounded
4 throughout their length are used, minimum vertical clearance
5 of wires or neutral conductors over ground or rails shall be
6 determined by the voltage between wires and ground, if such
7 voltage does not exceed 15,000 volts.

8 (2) The provisions of the national electrical safety
9 code, as designated in subsection (1), ~~wherever the same may~~
10 ~~be~~ are in conflict with or in any manner contravene the
11 provisions of this part, shall be deemed ~~and~~ construed as
12 superseding, amending, and modifying the provisions of this
13 part ~~insofar as the provisions thereof conflict with the~~
14 ~~provisions of the national electrical safety code to the~~
15 extent of such conflict; provided, that the provisions of
16 this section ~~shall~~ apply only to electrical construction
17 conducted and operated in pursuance of the authority of the
18 rural electrification administration of the federal
19 government.

20 (3) Every person, firm, or corporation which ~~shall~~
21 ~~violate~~ violates any provisions provision of this section
22 ~~shall be~~ is guilty of a misdemeanor."

23 Section 10. Section 69-4-204, MCA, is amended to read:

24 "69-4-204. ~~Repeating clause~~ Regulation by local
25 government. ~~All acts or parts of acts and all ordinances or~~

1 ~~parts of ordinances of cities and towns in the state in~~
 2 ~~conflict with Chapter 171v Laws of 1917 are hereby~~
 3 ~~repealed and hereafter no ordinance in conflict with any~~
 4 ~~provisions of Chapter 171v Laws of 1917 shall be enacted or~~
 5 ~~passed in any city or town in the state~~ No ordinance in
 6 conflict with any provision of this part may be enacted by a
 7 municipality, and any such ordinance is void."

8 Section 11. Section 69-4-305, MCA, is amended to read:

9 "69-4-305. Effect on authority of public service
 10 commission. Nothing contained in this part shall vest any
 11 jurisdiction over any public utility in the governing body.
 12 The public service commission shall retain all jurisdiction
 13 now or hereafter conferred upon it by law."

14 Section 12. Section 69-5-106, MCA, is amended to read:

15 "69-5-106. Service to industrial or commercial
 16 premises. (1) An electric utility ~~shall have~~ has the right
 17 to furnish electric service to any industrial or commercial
 18 premises if the estimated connected load for full plant
 19 operation at such industrial or commercial premises will be
 20 400 kilowatts or larger within 2 years from the date of
 21 initial service; ~~provided, however,~~ such electric utility
 22 can extend its lines to such industrial or commercial
 23 premises at less cost to the electric utility or the
 24 industrial or commercial customer than the electric
 25 cooperative cost. The estimated connected load shall be

1 determined from the plans and specifications prepared for
 2 construction of the premises or, if such estimate is not
 3 available, shall be determined by agreement of the electric
 4 supplier and the customer. The fact that actual connected
 5 load after 2 years from the date of initial service exceeds
 6 ~~or fails to equal~~ is less than 400 kilowatts ~~shall does~~ not
 7 affect the right of the electric supplier initially
 8 providing service to continue service to such premises.

9 (2) An independent consultant engineer agreeable to
 10 both electric suppliers or, in the event of failure of the
 11 electric suppliers to agree on a consultant engineer, then
 12 by an independent consultant engineer selected by the
 13 district court having jurisdiction, as provided in 69-5-110,
 14 shall determine which electric supplier can extend its lines
 15 to the consumer at the least ~~costs~~ cost. The ~~costs~~ cost of
 16 such engineering services shall be paid equally by the
 17 electric suppliers involved.

18 (3) No premises other than another such commercial or
 19 industrial premises shall be served from a line constructed
 20 under this section."

21 Section 13. Section 69-5-109, MCA, is amended to read:

22 "69-5-109. Special provisions for annexed areas. With
 23 respect to service in areas which are annexed to
 24 incorporated municipalities having a population in excess of
 25 3,500 persons ~~on or after March 17, 1939,~~ electric suppliers

1 ~~shall~~ have rights and be ~~are~~ subject to restrictions as
2 follows:

3 (1) Every electric supplier ~~shall have~~ ~~has~~ the right
4 to serve all premises being served by it on the date of
5 annexation.

6 (2) An electric cooperative ~~shall does~~ not have the
7 right to serve any premises initially requiring service on
8 or after the date of annexation. The restriction stated in
9 this subsection does not apply to incorporated
10 municipalities in which 95% or more of the premises are ~~was~~
11 served by an electric cooperative on February 1, 1971."

12 Section 14. Section 69-11-109, MCA, is amended to
13 read:

14 "69-11-109. Provision for transportation of passengers
15 and property for free or reduced rates. (1) No provisions of
16 the laws of this state ~~shall~~ prevent any person,
17 association, company, or corporation engaged as a common
18 carrier of persons or property in this state from carrying,
19 storing, or handling property free or at reduced rates for
20 the United States, ~~for~~ state or municipal governments, or
21 for charitable institutions; or property which is being
22 transported to or from fairs and expositions for exhibit
23 thereat; or cars used by the government of the United States
24 or the state for the transportation of fish ~~for and from~~
25 carrying free or at reduced rates agents and employees

1 employed in such transportation; and nothing therein
2 contained ~~shall prevent prevents~~ such person, association,
3 company, or corporation from issuing free transportation or
4 selling tickets at reduced rates to the following classes of
5 persons listed in ~~69-11-208~~.

6 ~~(a) employees of the issuing road and the members of~~
7 ~~their families.~~

8 ~~(b) officers and employees of other railroads and the~~
9 ~~members of their families upon the exchange of passes or~~
10 ~~tickets.~~

11 ~~(c) doctors, nurses, and helpers being carried to~~
12 ~~wrecked~~

13 ~~(d) soldiers or sailors going to or coming from~~
14 ~~institutions for their keeping.~~

15 ~~(e) ministers of religion and persons engaged in~~
16 ~~charitable or religious work and destitute or homeless~~
17 ~~persons being transported by charitable societies or at~~
18 ~~public expense.~~

19 ~~(f) executive, judicial, or legislative officers of~~
20 ~~this state, including the members of the faculty of the~~
21 ~~different educational institutions of the state.~~

22 (2) When free transportation or a ticket at a reduced
23 rate is issued to any such officer or any president or
24 member of the faculty of any educational institution
25 referred to in subsection ~~(1)(f)~~ 69-11-208(1)(r), it shall

1 only be issued upon the application of the secretary of
 2 state and the transportation or ticket shall be delivered
 3 to the secretary of state for delivery to the person or
 4 persons applying therefor. The secretary of state shall keep
 5 record of all transportation and tickets at reduced rates so
 6 received and delivered by him. The state officer and the
 7 president and faculty of the state educational institutions,
 8 when traveling upon any free transportation, may not charge
 9 any mileage against the state, or if traveling upon a ticket
 10 sold at reduced fare, they may not charge mileage in excess
 11 of the cost of the ticket.

12 (3) The carrying free or at reduced rates of property
 13 or persons in any of the classes above specified shall be
 14 held to be a reasonable classification by ~~retired-companies~~
 15 common carriers for such purposes and not to be unjust
 16 discrimination. The carriage and transportation by any
 17 ~~retired-company, common carrier~~ at free or reduced rates
 18 in any of the cases above specified ~~shall-be-held-not-to-be~~
 19 is not a violation of any of the provisions of the laws of
 20 Montana or and does not subject ~~said-retired-company the~~
 21 common carrier to any penalty therefor."

22 Section 15. Section 69-11-121, MCA, is amended to
 23 read:

24 "69-11-121. Detriment caused by carrier. (1) The
 25 detriment caused by the breach of a carrier's obligation to

1 accept freight, messages, or passengers is deemed to be the
 2 difference between the amount which he had a right to charge
 3 for the carriage and the amount which it would be necessary
 4 to pay for the same service when it ought to be performed.

5 (2) The detriment caused by the breach of a carrier's
 6 obligation to deliver freight, where he has not converted it
 7 to his own use is deemed to be the value thereof at the
 8 place and on the day at which it should have been delivered,
 9 deducting the freightage to which he would have been
 10 entitled if he had completed the delivery.

11 (3) The detriment caused by a carrier's delay in the
 12 delivery of freight is deemed to be the depreciation in the
 13 intrinsic value of the freight during the delay and also the
 14 depreciation, if any, in the market value thereof, otherwise
 15 than by reason of a depreciation in its intrinsic value, at
 16 the place where it ought to have been delivered and between
 17 the day at which it ought to have been delivered and the day
 18 of its actual delivery.

19 (4) The damages prescribed by this section are
 20 exclusive of exemplary damages and interest, except where
 21 those are expressly mentioned. Notwithstanding the
 22 provisions of this section, no person can recover a greater
 23 amount in damages for the breach of an obligation than he
 24 could have gained by the full performance thereof on both
 25 sides, except ~~in-the-cases-specified-in-27-1-221-through~~

1 ~~27-1-223, 27-1-322, 70-16-108, 70-27-207, and 70-27-208~~ as
2 ~~provided in 27-1-303.~~"

3 Section 16. Section 69-11-208, MCA, is amended to
4 read:

5 "69-11-208. Classes of persons who may receive free
6 transportation. (1) The persons to whom free tickets, free
7 passes, free transportation, and discriminating reduced
8 rates may be issued, furnished, or given are the following:

9 (a) the officers, agents, employees, attorneys,
10 physicians, and surgeons of such common carriers of
11 passengers and the officers and employees of other common
12 carriers upon the exchange of passes or tickets;

13 (b) the families of the persons included in subsection
14 (1)(a);

15 (c) the general officers of any such common carriers;

16 (d) employees of sleeping car and express car
17 companies and linemen of telegraph and telephone companies,
18 railway mail service employees, post-office inspectors,
19 customs inspectors, and immigration inspectors, newsboys and
20 newsgirls on trains, and baggage agents;

21 (e) persons injured in wrecks and physicians and
22 nurses attending such persons;

23 (f) passengers traveling with the object of providing
24 relief in cases of railroad accident, general epidemic,
25 pestilence, or other calamitous visitation;

1 (g) necessary caretakers of livestock, vegetables, and
2 fruit, including return transportation to forwarding
3 stations;

4 (h) the officers, agents, or regularly accredited
5 representatives of labor organizations composed wholly of
6 employees of railway companies;

7 (i) inmates of homes for the reform or rescue of the
8 ~~vicious-or-unfortunate~~ disadvantaged, including those about
9 to enter and those returning home after discharge, and
10 boards of managers, including officers and superintendents,
11 of such homes;

12 (j) superannuated and pensioned employees and members
13 of their families and surviving spouses of such members;

14 (k) employees, crippled and disabled in the service of
15 the common carrier of passengers;

16 (l) policemen and firefighters of any city, wearing
17 the insignia of their office, within the limits of such
18 city;

19 (m) ministers of religion, newspaper employees in
20 exchange for advertising, traveling secretaries of Young
21 Men's Christian Associations and Young Women's Christian
22 Associations, inmates of hospitals and charitable and
23 eleemosynary institutions, and persons exclusively engaged
24 in charitable and eleemosynary work;

25 (n) indigent, destitute, and homeless persons, while

1 being transported by charitable societies or hospitals, and
2 necessary agents and employees in such transportation;

3 (o) school children, to and from public or parochial
4 schools;

5 ~~(p) the public-service-commission-of-Montana soldiers~~
6 ~~or sailors going to or coming from institutions for their~~
7 ~~keeping;~~

8 ~~(q) the state fire marshal;~~

9 ~~(r) the state seal expert and his necessary~~
10 ~~employees while traveling on official duty executives,~~
11 ~~judicial, or legislative officers of this state, including~~
12 ~~the members of the faculty of the different educational~~
13 ~~institutions of this state;~~

14 ~~(s) the furloughed employees of common carriers~~
15 ~~authorized by 69-11-207 to issue free transportation and~~
16 ~~members of their families;~~

17 ~~(t) persons who have become disabled or infirm in~~
18 ~~the service of a common carrier or members of families of~~
19 ~~persons who have become disabled or infirm in the service of~~
20 ~~any such common carrier;~~

21 ~~(u) families of persons killed and surviving~~
22 ~~spouses who have not remarried and minor children during~~
23 ~~minority of persons who died while in the service of any~~
24 ~~such common carrier;~~

25 ~~(v) witnesses attending any legal investigation in~~

1 which such carrier is interested;

2 ~~(w) the remains of persons who died while in the~~
3 ~~employment of a common carrier; and~~

4 ~~(x) ex-employees traveling for the purpose of~~
5 ~~entering the service of any such common carrier.~~

6 (?) The provisions of this section and 69-11-207 shall
7 not be construed to prohibit the interchange of passes for
8 the persons to whom free tickets, free passes, or free
9 transportation may be furnished or given under the
10 provisions of this section. Nothing in this section or
11 69-11-207 shall be construed to invalidate any existing
12 contract between a street railway company and a city where
13 a condition of a franchise grant requires the furnishing of
14 transportation to policemen, firefighters, and officers
15 while in the performance of official duties."

16 Section 17. Section 69-11-421, MCA, is amended to
17 read:

18 "69-11-421. Liability of inland carriers for loss. (1)
19 Any common carrier, railroad, or transportation company
20 subject to the provisions of 69-11-421 through 69-11-427,
21 receiving property for transportation from a point in
22 Montana to any other point in Montana, shall issue a receipt
23 or bill of lading therefor and shall be liable to the lawful
24 holder thereof for any loss, damage, or injury to such
25 property caused by it or by any common carrier, railroad, or

1 transportation company to which such property may be
 2 delivered or over whose line or lines such property may pass
 3 within the state when transported on a through bill of
 4 lading. No contract, receipt, rule, or other limitation of
 5 any character whatsoever shall exempt such common carrier,
 6 railroad, or transportation company from the liability
 7 hereby imposed.

8 (2) Except as provided in 69-11-422, any such common
 9 carrier, railroad, or transportation company so receiving
 10 property for transportation from a point in Montana to a
 11 point in Montana or any common carrier, railroad, or
 12 transportation company delivering said property so received
 13 and transported ~~shall be~~ is liable to the lawful holder of
 14 said receipt or bill of lading or to any party entitled to
 15 recover thereon, whether such receipt or bill of lading has
 16 been issued or not, for the full actual loss, damage, or
 17 injury to such property caused by it or by any common
 18 carrier, railroad, or transportation company to which such
 19 property may be delivered or over whose line or lines such
 20 property may pass within the state of ~~Montana~~ when
 21 transported on a through bill of lading, notwithstanding any
 22 limitation of liability or limitation of the amount of
 23 recovery or representation or agreement as to value in any
 24 such receipt or bill of lading, or in any contract or rule
 25 or in any tariff filed with the public service commission.

1 Any such limitation, without respect to the manner or form
 2 in which it is sought to be made, is ~~hereby declared to be~~
 3 unlawful and void, except:

- 4 (a) an inherent defect, vice, or weakness, or a
- 5 spontaneous action of the property itself;
- 6 (b) the act of a public enemy of the United States or
- 7 of this state;
- 8 (c) the act of the law;
- 9 (d) an irresistible superhuman cause; or
- 10 (e) the act or default of the shipper or owner; or
- 11 ~~if~~ for natural shrinkage.

12 (3) Nothing in 69-11-421 through 69-11-426 ~~shall~~
 13 ~~deprive~~ deprives any holder of such receipt or bill of
 14 lading of any remedy or right of action.

15 (4) The liability imposed by this section ~~shall~~ also
 16 ~~apply~~ applies in the case of property reconsigned or
 17 diverted in accordance with the applicable tariffs filed as
 18 provided in this part.

19 (5) A common carrier is liable, even in the cases
 20 excepted by ~~[the last section]~~ subsection (2), if his
 21 ordinary negligence exposes the property to the cause of the
 22 loss."

23 Section 18. Section 69-12-101, MCA, is amended to
 24 read:

25 "69-12-101. Definitions. Unless the context requires

1 otherwise, in this chapter the following definitions apply:

2 (1) "Between fixed termini" or "over a regular route"
3 means the termini or route between or over which a motor
4 carrier usually or ordinarily operates motor vehicles, even
5 though there may be periodical or irregular departures from
6 the termini or route.

7 (2) "Certificate" means the certificate of public
8 convenience and necessity issued under this chapter.

9 (3) "Compensation" means the charge imposed on motor
10 carriers for the use of the highways in this state by motor
11 carriers under 69-12-421.

12 (4) "Corporation" means a corporation, company,
13 association, or joint-stock association.

14 (5) "For hire" means for remuneration of any kind,
15 paid or promised, either directly or indirectly, or received
16 or obtained through leasing, brokering, or buy-and-sell
17 arrangements from which a remuneration is obtained or
18 derived for transportation service.

19 (6) "Motor carrier" means a person or corporation, or
20 its lessees, trustees, or receivers appointed by any court,
21 operating motor vehicles upon any public highway in this
22 state for the transportation of persons or property for hire
23 on a commercial basis, either as a common carrier or under
24 private contract, agreement, charter, or undertaking. The
25 term includes any motor carrier serving the public in the

1 business of transportation of ashes, trash, waste, refuse,
2 rubbish, garbage, and organic and inorganic matter.

3 (7) "Motor vehicle" includes vehicles or machines,
4 motor trucks, tractors, or other self-propelled vehicles
5 used for the transportation of property or persons over the
6 public highways of the state ~~and any trailers, semitrailers,~~
7 ~~dollies or other vehicle drawn thereby.~~

8 (8) "Person" means an individual, firm, or
9 partnership.

10 (9) "Public highway" means a public street, road,
11 highway, or way in this state.

12 (10) "Railroad" means the movement of cars on rails,
13 regardless of the motive power used."

14 Section 19. Section 69-12-108, MCA, is amended to
15 read:

16 "69-12-108. Violations. Any motor carrier subject to
17 the provisions of ~~Chapter 104, laws of 1931~~ this chapter, as
18 amended, or, whenever any such motor carrier is a
19 corporation, any director or officer thereof; any receiver,
20 trustee, lessee, agent, or persons person acting for or
21 employed by such corporation; any person, corporation, or
22 association or officer, agent, or employee thereof; or any
23 broker of property or officer, agent, or employee thereof
24 who violates or fails to comply with or who procures, aids,
25 or abets in the violation of any provision of ~~Chapter 104~~

1 ~~laws of 1931 this chapter~~, as amended, or who fails to obey,
2 observe, or comply with any lawful order, decision, rule,
3 direction, demand, or requirement of the commission or any
4 part of ~~the~~ provisions thereof shall ~~is~~:

5 (1) be subject to a civil penalty, to be collected and
6 deposited to the general fund by the commission after notice
7 and hearing, in an amount not less than \$25 or more than
8 \$500 for the first offense and not less than \$100 or more
9 than \$1,000 for each subsequent offense; or

10 (2) be subject, upon conviction in a justice's court,
11 to a fine of not less than \$25 or more than \$500 for the
12 first offense and not less than \$100 or more than \$1,000 for
13 each subsequent offense."

14 Section 20. Section 69-12-203, MCA, is amended to
15 read:

16 "69-12-203. Supervisor of motor carriers. (1) The
17 commission shall appoint a supervisor of motor carriers who
18 shall have general responsibility to ~~it~~ ~~the commission~~ for
19 enforcement of the provisions of this chapter. The
20 supervisor shall be either an attorney admitted to practice
21 law in Montana or a person qualified by at least 5 years of
22 suitable experience and training in appropriate phases of
23 the motor carrier industry. He shall serve at the pleasure
24 of the commission and at an annual salary to be set by the
25 commission.

1 (2) The supervisor shall direct all enforcement
2 activities in behalf of the commission, including the
3 investigation and prosecution of violations of ~~Chapter--104~~
4 ~~laws of 1931 this chapter~~, as amended, or the rules or
5 orders prescribed thereunder by the commission.

6 (3) The supervisor and whatever field inspectors may
7 be employed by the commission to assist him shall be deemed
8 peace officers for the purpose of making arrests in
9 connection with violations of ~~Chapter-104-laws-of-1931 this~~
10 ~~chapter~~, as amended, and issuing summonses, accepting bail,
11 and serving warrants of arrest. The supervisor and field
12 inspectors are empowered to make reasonable inspections of
13 cargoes carried by commercial motor vehicles and require
14 production of manifests, bills of lading, leases, and other
15 documents relating to the cargo, routing, or ownership of
16 such vehicles."

17 Section 21. Section 69-14-101, MCA, is amended to
18 read:

19 "69-14-101. Definitions. Unless the context requires
20 otherwise, in this chapter the following definitions apply:

21 (1) "Paralleling" ~~shall be held to mean~~ ~~means the~~
22 ~~situation~~ where the main tracks of parallel lines of
23 railroad or railway are not more than 2,000 feet apart when
24 measured from center to center.

25 (2) ~~for~~ "Railroad" means a corporation, company, or

1 individual owning or operating a railroad in whole or in
2 part in this state. The term also includes express companies
3 and sleeping-car companies.

4 ~~(b) "Railroad" shall be held to mean and include~~
5 ~~railroad companies, express companies, car companies,~~
6 ~~sleeping-car companies, freight and freight-line companies,~~
7 ~~and all common carriers.~~

8 (3) "Transportation" includes instrumentalities of
9 shipment or carriage."

10 Section 22. Section 69-14-102, MCA, is amended to
11 read:

12 "69-14-102. Application. ~~(1) Chapter 37, Laws of 1987~~
13 ~~applies to the transportation of passengers and property~~
14 ~~between points in this state and to the receiving~~
15 ~~switching, delivering, storing, and handling of property and~~
16 ~~to charges connected therewith and applies to railroad~~
17 ~~companies, express companies, car companies, sleeping-car~~
18 ~~companies, freight and freight-line companies and to any~~
19 ~~shipments of property made from one point in this state to~~
20 ~~another point in this state, whether the transportation of~~
21 ~~it is wholly in this state or partly in this state and~~
22 ~~partly in an adjoining state or states.~~

23 ~~(2) Chapter 37, Laws of 1987. This chapter~~ applies to
24 all persons, firms, or companies, incorporated or otherwise,
25 that do business as common carriers on any of the lines of

1 railroad in this state."

2 Section 23. Section 69-14-103, MCA, is amended to
3 read:

4 "69-14-103. Interpretation. ~~Chapter 37, Laws of 1987.~~
5 This chapter shall not have the effect ~~to release or waive~~
6 ~~of releasing or waiving~~ any right of action by the state or
7 any person for any right, penalty, or forfeiture which may
8 arise under any law of this state. All penalties accruing
9 under this part ~~shall be~~ is cumulative to each other, and a
10 suit for or recovery of one ~~shall is~~ not be a bar to the
11 recovery of any other penalty."

12 Section 24. Section 69-14-112, MCA, is amended to
13 read:

14 "69-14-112. Investigatory authority. (1) The
15 commission shall investigate any alleged neglect or
16 violation of the laws of the state by any railroad or other
17 company above specified doing business therein or by the
18 officers, agents, or employees thereof. The commission
19 ~~shall also have the power and authority and it shall be its~~
20 ~~duty to~~ examine and inspect or cause to be examined and
21 ~~inspected under its authority,~~ all books, records, files,
22 and papers of the persons and companies specified above,
23 insofar as the same may be pertinent to any matter under
24 investigation before ~~said~~ the commission, and to ~~shall~~ shall hear
25 and take testimony in the progress of any inquiry or

1 investigation authorized by ~~Chapter 37, Laws of 1987~~ this
2 chapter.

3 (2) The commission or some members thereof to be
4 deputed by it shall investigate and make inquiry into every
5 accident occurring in the operation of any railroad in this
6 state resulting in death, injury to any person of such
7 gravity as to require the attention of a physician or
8 surgeon, or the destruction of property greater in value
9 than \$2,000. The testimony taken on any such hearing shall
10 be transcribed and filed in the office of the commission."

11 Section 25. Section 69-14-113, MCA, is amended to
12 read:

13 "69-14-113. Attendance and examination of witnesses.

14 (1) The commission in making any examination or
15 investigation provided for in ~~Chapter 37, Laws of 1987~~
16 ~~shall have the power to~~ this chapter may issue subpoenas for
17 the attendance of witnesses by such rules as it may
18 prescribe. Each witness shall receive the sum of \$3 per day,
19 together with the sum of 5 cents per mile traveled by the
20 nearest practicable route in going to and returning from the
21 place of meeting of ~~said the~~ the commission. No witness
22 furnished with free transportation ~~shall~~ may receive mileage
23 for the distance he may have traveled on such free
24 transportation. No person ~~shall~~ may be excused from
25 attending or testifying or producing any books, papers,

1 documents, or any thing or things, before any court or
2 magistrate or commissioner or board, upon any investigation,
3 proceeding, or trial under the provisions of ~~Chapter 37,~~
4 ~~Laws 1987,~~ this chapter or for any violation of any of them,
5 upon the ground or for the reason that the testimony or
6 evidence, documentary or otherwise, required of him may
7 tend to convict him of a crime or subject him to a penalty
8 or forfeiture. No person shall be prosecuted or subjected to
9 any penalty or forfeiture for or on account of any
10 transaction, matter, or thing concerning which he may so
11 testify or produce evidence, and no testimony or evidence so
12 given or produced shall be received against him upon any
13 civil or criminal proceeding, action, or investigation.

14 (2) (a) The process issued by ~~said the~~ the commission
15 shall be under seal and extend to all parts of the state.
16 ~~Said the~~ the commission shall have power to issue process in
17 like manner as courts of record. Such process may be served
18 by any person authorized to serve process of courts of
19 record or by any person appointed by the commission for such
20 purpose.

21 (b) In the event the process issued by the commission
22 is a subpoena for the attendance of a witness and he ~~shall~~
23 ~~have failed, neglected, or refused~~ fails, neglects, or
24 refuses to obey the same, the commission is hereby
25 authorized to file a petition with any district court in the

1 state, setting up the facts and the necessity of having such
 2 ~~the~~ witness appear in such ~~the~~ trial. The court shall
 3 thereupon summarily direct that a subpoena be issued out of
 4 the court requiring the attendance of any person or ~~persons~~
 5 as a witness before the court. The commission shall ~~may~~
 6 thereupon ~~have the power and authority to~~ examine such
 7 witness before ~~said the~~ court, under oath, respecting any
 8 inquiry or investigation being made by ~~said the~~ commission
 9 under ~~and~~ pursuant to the provisions of ~~Chapter 37, laws of~~
 10 ~~1987~~ this chapter. The court shall likewise, when any
 11 petition is filed stating the necessity therefor, order the
 12 production by any person or corporation, for examination in
 13 ~~said the~~ court, of any books, papers, records, or files
 14 necessary or pertinent to any inquiry or investigation then
 15 being made by ~~said the~~ commission."

16 Section 26. Section 69-14-115, MCA, is amended to
 17 read:

18 "69-14-115. Investigation, enforcement, and report
 19 concerning railroad safety laws. (1) ~~it is hereby made the~~
 20 duty of the the commission to shall:

21 (a) make inquiry into the observance by all railroads
 22 within this state of the laws of the United States and of
 23 Montana intended to safeguard the lives of the employees of
 24 persons or corporations engaged in operating the same;

25 (b) lay complaint before the proper ~~officers~~ state or

1 federal officer, of any infraction of any of such laws; and

2 (c) prosecute before the proper court or tribunal any
 3 person guilty of violation of the penal provisions thereof.

4 (2) ~~Said the~~ commission shall in ~~its the~~ annual report
 5 required by 2-7-102 set out what effort it has made to carry
 6 out the provisions of this section, with the result thereof,
 7 and in detail what steps it has taken to ~~procure to be~~
 8 ~~prosecuted~~ prosecute any violations of any such acts of
 9 which it has secured information. A copy of this annual
 10 report shall be mailed to the secretary of the department of
 11 transportation."

12 Section 27. Section 69-14-131, MCA, is amended to
 13 read:

14 "69-14-131. Enforcement duties of commission. ~~it is~~
 15 ~~hereby made the duty of such the~~ commission to shall see
 16 that the provisions of ~~Chapter 37, laws of 1987, this~~
 17 chapter and all laws of this state concerning railroads are
 18 enforced and obeyed and that violations thereof are promptly
 19 prosecuted and penalties due the state therefor recovered
 20 and collected. ~~Said the~~ commission shall report all such
 21 violations, with the facts in its possession, to the
 22 attorney general or other officer charged with the
 23 enforcement of the laws and request him to institute the
 24 proper proceedings. All suits between the state and any
 25 railroad shall have precedence in all courts over all civil

1 causes, criminal business and original proceedings in the
2 supreme court excepted."

3 Section 28. Section 69-14-132, MCA, is amended to
4 read:

5 "69-14-132. Legal assistance for commission. The
6 attorney general is the attorney of the commission, and the
7 county attorney of every county in the state shall, on the
8 request and at the direction of the attorney general, assist
9 in all cases, proceedings, and investigations undertaken by
10 the commission under this ~~law chapter~~ in his own county.
11 However, the commission may employ special counsel, with the
12 approval of the attorney general, to assist in any case,
13 matter, proceeding, or investigation instituted under this
14 ~~law chapter~~. The attorney general, upon direction of the
15 commission, and the county attorney of each county in this
16 state, upon direction of the attorney general, shall
17 institute and prosecute and appear and defend any action or
18 proceeding arising under this ~~law chapter~~. All suits and
19 proceedings filed in any court of this state, under this
20 ~~law chapter~~ shall have precedence over all other business
21 in the courts except criminal business and original
22 proceedings in the supreme court."

23 Section 29. Section 69-14-133, MCA, is amended to
24 read:

25 "69-14-133. Collection and disposition of penalties

1 and forfeitures. ~~At~~ unless otherwise provided, all
2 penalties and forfeitures incurred, levied, and made under
3 the provisions of ~~Chapter--37, laws of 1987, this chapter~~
4 shall be collected by ~~said the~~ commission and paid over to
5 the state treasurer and credited to the general fund. Should
6 the commission fail or refuse to institute appropriate
7 action for the recovery of any penalty or forfeiture
8 provided for herein, for the space of 60 days after notice
9 of the cause of complaint by ~~such an~~ aggrieved person or
10 shipper, such person or shipper may institute and prosecute
11 such action in the name of the state against such railroad,
12 in the same manner as could the commission."

13 Section 30. Section 69-14-134, MCA, is amended to
14 read:

15 "69-14-134. Court enforcement of commission actions.
16 (1) The district court ~~shall have~~ has jurisdiction to
17 enforce, by proper decree, injunction, or order, the rates,
18 classifications, rulings, orders, and regulations made or
19 established by the commission under the provisions of
20 ~~Chapter--37, Laws--of--1987; Chapter-136, Laws-of-1989; and~~
21 ~~Chapter-105, Laws--of--1983~~ this chapter. The proceeding
22 therefor shall be by equitable action in the name of the
23 state and shall be instituted by the attorney general or
24 county attorney, whenever advised by the commission that any
25 railroad, railway, or common carrier is violating or

1 refusing to comply with any such rule, order, rate,
 2 classification, or regulation made by the commission and
 3 applicable to such railroad, railway, or common carrier.
 4 Such proceedings shall have precedence over all other
 5 business in such courts, except criminal business.

6 (2) In any action the burden of proof shall rest upon
 7 the defendant, who must show by clear and satisfactory
 8 evidence that the rule, order, regulation, rate, or
 9 classification involved is unreasonable and unjust as to
 10 them ~~it~~. If, in such action, it is the decision of the court
 11 that the rule, regulation, order, rate, or classification is
 12 not ~~so~~ unreasonable or unjust and that in refusing
 13 compliance therewith the railroad, railway, or common
 14 carrier is thereby failing or omitting the performance of
 15 any duty, debt, or obligation, the court shall decree a
 16 mandatory and perpetual injunction compelling obedience to
 17 and compliance with the rule, regulation, order, rate, or
 18 classification by the defendant and its officers, agents,
 19 servants, and employees and may grant such other relief as
 20 ~~may be deemed is~~ just and proper. Any violation of such
 21 decree ~~shall--render renders~~ the defendant and any officer,
 22 agent, servant, or employee of the defendant, who is in any
 23 manner instrumental in such violation, guilty of contempt,
 24 punishable by a fine not exceeding \$1,000 for each offense
 25 or by imprisonment of the person guilty of contempt until he

1 ~~shall~~ sufficiently purge ~~purges~~ himself therefrom. Such
 2 decree ~~shall--continue--and--remain~~ remains in effect ~~and--be--in~~
 3 force until the rule, regulation, order, rate, or
 4 classification shall be modified or vacated by the
 5 commission. Nothing contained herein shall be construed to
 6 deprive either party to such proceedings of the right to
 7 trial by jury as provided by the seventh amendment to the
 8 constitution of the United States or as provided by the
 9 constitution of this state.

10 (3) An appeal shall lie to the supreme court from the
 11 decree in such action, and the cause shall have precedence
 12 over all other civil actions of a different nature pending
 13 in the supreme court except original proceedings in the
 14 supreme court."

15 Section 31. Section 69-14-135, MCA, is amended to
 16 read:

17 "69-14-135. General right to supreme court review.
 18 Appeals may be taken to the supreme court from the judgment
 19 of any district court in any action brought under the
 20 provisions of ~~Chapter-37--Laws-of-1987; Chapter-136--Laws-of~~
 21 ~~1989; and Chapter-105--Laws--of--1913~~ this chapter. Such
 22 appeals ~~shall~~ have precedence over all other business
 23 except criminal business and original proceedings in such
 24 courts and shall be heard and determined as are appeals in
 25 civil actions."

1 Section 32. Section 69-14-137, MCA, is amended to
2 read:

3 "69-14-137. Violations. If any railroad ~~or other~~
4 ~~common carrier shall~~ willfully ~~violate~~ violates any
5 provision of ~~Chapter 37, Laws of 1967 this chapter, shall do~~
6 does any other act herein prohibited, or ~~shall refuse~~
7 refuses to perform any ~~and all~~ lawful orders emanating from
8 ~~and the~~ commission relating to rates and charges or any
9 other duty enjoined upon it, for which a penalty has not
10 herein been provided, ~~then~~ for every such act of ~~or~~
11 violation it shall pay to the state a penalty of not more
12 than \$500."

13 Section 33. Section 69-14-202, MCA, is amended to
14 read:

15 "69-14-202. Duty to furnish shipping and passenger
16 facilities. (1) ~~It is hereby made the duty of every~~ Every
17 person, corporation, and ~~or~~ association operating a railroad
18 in the state ~~to shall~~ maintain and staff facilities for
19 shipment and delivery of freight and ~~to shall~~ ship and
20 deliver freight and accommodate passengers in at least one
21 location, preferably the county seat, in each county through
22 which the line of the railway passes and at any point upon
23 the line of such railway where there is a city or town
24 having a population, according to the last federal decennial
25 census, of not less than 1,000; provided, however, that this

1 section shall not require the maintenance and staffing of
2 such facilities in any county or at any city or town in
3 which such facilities were not maintained and staffed on
4 July 1, 1969.

5 (2) Nothing in this section ~~shall be construed to~~
6 ~~authorize~~ authorizes the discontinuance of any facility
7 presently established in any city, town, or other location
8 having a population of less than 1,000 without a hearing
9 before the public service commission, as provided by law.

10 ~~(3) Any person, corporation, or association which~~
11 ~~shall, for 60 days after written request of not less than 50~~
12 ~~inhabitants of such platted towns, fail to comply with~~
13 ~~the provisions of Chapter 26, Laws of 1985, shall, upon~~
14 ~~conviction, be fined not less than \$10 or more than \$100 for~~
15 ~~each day thereafter so long as the provisions of that~~
16 ~~chapter are not complied with."~~

17 Section 34. Section 69-14-209, MCA, is amended to
18 read:

19 "69-14-209. Issuance of passenger tickets. (1) Every
20 railroad corporation must provide and, on being tendered the
21 regular rates of fare, furnish a ticket to every person
22 desiring a passage on its passenger cars, which entitles the
23 purchaser to a ride and to the accommodations provided on
24 ~~their~~ its cars from the depot or station where the same is
25 purchased to any other depot or station on the line of its

1 road. Every such ticket entitles the holder thereof to ride
 2 on its passenger cars to the station or depot of destination
 3 or any intermediate station and from any intermediate
 4 station to the depot of destination designated in the ticket
 5 at any time within 6 months thereafter.

6 (2) Any corporation failing so to provide and furnish
 7 tickets or refusing the passage which the same calls for
 8 when sold must pay to the person so refused the sum of
 9 \$200."

10 Section 35. Section 69-14-215, MCA, is amended to
 11 read:

12 "69-14-215. Issuance of bills of lading by railroad
 13 station agents ~~== penalty.~~ (1) All railway companies
 14 operating in the state which do not permit bills of lading
 15 to be issued by other employees ~~other~~ than agents shall be
 16 required to have ~~said~~ bills of lading issued by the station
 17 agent at the nearest station where a station agent is
 18 regularly maintained in the direction toward which the
 19 shipment is destined. The conductor of the train which
 20 receives the shipment at its point of origin shall deliver
 21 to the agent at the nearest station at which an agent is
 22 maintained through which ~~said the~~ shipment moves,
 23 immediately upon the arrival of the train carrying ~~said the~~
 24 shipment at ~~said the~~ agency station, all data necessary for
 25 the issuance of a bill of lading for ~~said the~~ shipment. The

1 agent shall immediately issue ~~and the~~ bill of lading and
 2 shall deliver the same to the shipper or his agent or shall,
 3 within 24 hours after the receipt of ~~and the~~ data from the
 4 conductor, for shipment of 20,000 pounds or over, deposit
 5 the bill of lading in a United States post office, addressed
 6 and registered or certified to the consignor of ~~and the~~
 7 shipment or his agent or attorney to his proper post-office
 8 address. A bill of lading for shipments of less than 20,000
 9 pounds to may be mailed without registering the use of
 10 registered or certified mail.

11 (2) Any railway company operating in Montana violating
 12 any provisions of this section ~~shall~~ is guilty of a
 13 misdemeanor and liable to a fine of not less than \$50 or
 14 more than \$1,000."

15 Section 36. Section 69-14-232, MCA, is amended to
 16 read:

17 "69-14-232. Size and equipment of caboose. (1)
 18 Caboose shall be at least 24 feet in length, exclusive of
 19 platforms, and shall be provided with a door in each end and
 20 with cupolas or bay windows, platforms, ~~guard~~ ~~rails~~
 21 guardrails, grabirons, and steps for the safety of persons
 22 in alighting or getting on cabooses. Cabooses shall be of
 23 metal frame construction and be sufficiently insulated to
 24 eliminate track and other related noise above 85 decibels in
 25 any octave in the speech range. Other requirements for

1 cabooses are as follows:

2 (a) The trucks shall provide riding qualities at least
3 equal to those of freight type trucks modified with
4 elliptical or additional coil springs or other means of
5 equal or greater efficiency and shall have at least two
6 four-wheel trucks with standard steel wheels or their
7 equivalent. Draft gears shall have a minimum travel of 2 1/2
8 inches and a minimum capacity of 18,000 foot-pounds and
9 shall comply with Association of American Railroad ~~Railroads~~
10 Standard M-901 or its equivalent.

11 (b) Electric lighting of at least 40 foot-candles
12 shall be provided for direct illumination of the caboose
13 desk, reading areas, and lavatory facilities.

14 (c) A spotlight shall be provided on the rear of the
15 caboose with sufficient candlepower to illuminate the track
16 for a distance of at least 300 feet to the rear of the
17 caboose during the hours of darkness.

18 (d) The caboose marker or markers shall be either
19 reflectorized or capable of illumination when required.

20 (e) Only glass of the ~~safety-glass~~ safety-glass type
21 shall be used in partitions, doors, windows, or wind
22 deflectors.

23 (f) All seats and seat backs shall conform to the
24 safety standards ~~designed~~ designated by the United States
25 department of transportation in its "Federal Motor Vehicle

1 Safety Standards", Motor Vehicle Safety Standard No. 201.
2 All edges and protrusions on seats and seat backs shall be
3 rounded to prevent injury to employees.

4 (2) Any person, corporation, or company, operating any
5 railroad or railway in this state, violating any of the
6 provisions of ~~[the preceding section]~~ ~~shall be deemed this~~
7 ~~section and 69-14-233~~ is guilty of a misdemeanor and upon
8 conviction thereof shall be fined not less than \$500 or more
9 than \$1,000 for each offense."

10 Section 37. Section 69-14-252, MCA, is amended to
11 read:

12 "69-14-252. Accident reports. ~~It is hereby made the~~
13 ~~duty of every~~ Every railroad company operating any line of
14 railroad within this state shall promptly upon the
15 occurrence ~~or in connection with the operation of its line~~
16 ~~within the state~~ of any accident ~~such as is~~ mentioned in
17 69-14-112(2) ~~to~~ report the same to the commission. In the
18 report shall be stated the time and place of the accident,
19 the names of the persons killed or injured, and the value of
20 any property destroyed."

21 Section 38. Section 69-14-301, MCA, is amended to
22 read:

23 "69-14-301. Commission powers related to ratemaking.
24 (1) The commission shall adopt all necessary rates, charges,
25 and regulations to govern and regulate freight and passenger

1 tariffs, to correct abuses, and to prevent unjust
2 discrimination and intimidation in the rates of freight and
3 passenger tariffs on the different railroads in this state
4 and to make the same effective by enforcing the penalties
5 prescribed in ~~Chapter 37, Laws of 1907~~ this chapter.

6 (2) The commission shall fairly and justly classify
7 and subdivide all freight and merchandise of whatever
8 character that may be transported over railroads of this
9 state into such general and special classes or subdivisions
10 as may be considered necessary or expedient.

11 (3) The commission may fix different rates for
12 different railroads and for different lines under the same
13 management or for different parts of the same lines if found
14 necessary to do justice and may make rates for express
15 companies different from the rates fixed for railroads. The
16 commission shall also fix and establish for all or any
17 connecting lines of railroad in this state reasonable joint
18 rates of freight charges for the various classes of freight
19 and cars that may pass over two or more lines of such
20 railroads.

21 (4) The commission shall make and establish reasonable
22 rates for the transportation of freight within the state and
23 shall prescribe rates, tolls, and charges for all other
24 ~~service services~~ performed by any railroad subject hereto.*

25 Section 39. Section 69-14-303, MCA, is amended to

1 read:

2 "69-14-303. Prohibition on rate discrimination. (1) If
3 any railroad subject hereto, directly or indirectly or by
4 any special rate, rebate, drawback, or other device,
5 charges, demands, or receives from any person, firm, or
6 corporation a greater or ~~less lesser~~ compensation for any
7 service rendered or to be rendered in the transportation of
8 property subject to the provisions of ~~Chapter 37, Laws of~~
9 ~~1907, this chapter~~ than that fixed by the commission for
10 such service, such railroad ~~is guilty of intimidation~~ and
11 shall forfeit and pay to the state not less than \$500 or
12 more than \$2,000 for each offense. Nothing in this
13 subsection prevents any railroad or railroad corporation
14 from giving excursion rates to or from any point within or
15 without the state.

16 (2) If any railroad subject to ~~Chapter 37, Laws of~~
17 ~~1907, this chapter~~ or its agents or officers hereafter
18 collects, charges, demands, or receives from any person,
19 company, firm, or corporation a greater rate, charge, or
20 compensation than that fixed and established by the
21 commission for the transportation of freight, passengers, or
22 cars or for the use of any car on the line of its railroad
23 or any line operated by it or for receiving, forwarding,
24 handling, or storing any such freight car or for any other
25 service performed or to be performed by it, such railroad

1 and its agents and officers ~~are guilty of intimidation and~~
 2 shall forfeit and pay to the state a sum not less than \$500
 3 or more than \$2,000.

4 ~~(3) It is hereby declared to be unlawful for any~~
 5 ~~ticket-selling agent, so authorized and licensed as provided~~
 6 ~~in 69-14-211, or for any common carrier subject to the~~
 7 ~~provisions of 69-14-211 through 69-14-214 to charge, demand,~~
 8 ~~collect, or receive from or to sell, barter, transfer, or~~
 9 ~~assign to any person, firm, company, corporation, or~~
 10 ~~association any ticket of any class whatever entitling the~~
 11 ~~purchaser or holder thereof to transportation by the common~~
 12 ~~carrier issuing such ticket for a greater or less sum or~~
 13 ~~price than is charged, demanded, collected, or received by~~
 14 ~~such ticket-selling agent or common carrier subject to the~~
 15 ~~provisions of 69-14-211 through 69-14-214 for a similar~~
 16 ~~ticket of the same class. Any person, ticket-selling agent,~~
 17 ~~or common carrier subject to the provisions of 69-14-211~~
 18 ~~through 69-14-214 who shall violate the provisions of this~~
 19 ~~subsection shall be guilty of a misdemeanor and upon~~
 20 ~~conviction thereof shall be fined in the sum not exceeding~~
 21 ~~\$1,000 for each offense.~~

22 (4)(3) (a) It is unlawful for any railroad subject to
 23 this title to charge or receive any greater compensation in
 24 the aggregate for the transportation of passengers or of
 25 like kind ~~kinds~~ of property for a shorter distance than for

1 a longer distance over the same line or route in the same
 2 direction, the shorter being included within the longer
 3 distance, or to charge any greater compensation as through
 4 rate than the aggregate of the intermediate rates; provided
 5 that upon application to the commission and after
 6 investigation, such carrier, in special cases, may be
 7 authorized by the commission to charge less for longer than
 8 for shorter distances for the transportation of passengers
 9 or property, and the commission may from time to time
 10 prescribe the extent to which such designated carriers may
 11 be relieved from the operation of the foregoing provisions
 12 of this subsection, but in exercising the authority
 13 conferred upon it in this proviso, the commission shall not
 14 permit the establishment of any charge to or from the more
 15 distant point that is not reasonably compensatory for the
 16 service performed.

17 (b) Violations of this subsection ~~(3)~~ shall be
 18 punished in accordance with 69-14-805.*

19 Section 40. Section 69-14-309, MCA, is amended to
 20 read:

21 "69-14-309. Posting of rate schedule. Each railroad
 22 affected by the provisions of ~~Chapter 37, Laws of 1987, this~~
 23 ~~chapter~~ shall display, in a conspicuous place in each of its
 24 stations in this state, a schedule printed in plain,
 25 legible, English type showing all classifications and rates

1 fixed and established by the commission."

2 Section 41. Section 69-14-322, MCA, is amended to
3 read:

4 "69-14-322. Actions to recover excess charges. (1) Any
5 sum or amount of money paid to any railroad by any person or
6 shipper in excess of the rates, tolls, or charges fixed and
7 established by the commission for such service may be
8 recovered from such railroad by the person or shipper in any
9 action instituted and maintained in the district court of
10 the county in which such payment was made. No contract or
11 agreement, written or otherwise, between such person or
12 shipper and the railroad shall be admissible in evidence for
13 the purpose of showing a waiver of the right given by this
14 section. No voluntary payment by any person or shipper of
15 any such excess or overcharge to any railroad shall be or be
16 held to be a waiver on the part of such person or ~~shippers~~
17 ~~shipper~~ of the right to sue and recover for such excess or
18 overcharge as provided for in this section. If, upon the
19 trial of such action, it shall satisfactorily appear to the
20 court or jury that such overcharge was willfully made, the
21 person or shipper bringing the action shall be awarded
22 damages in treble the amount of such excess or overcharge,
23 together with the costs and expenses of such action,
24 including a reasonable attorney's fee, to be taxed and
25 collected as other costs in the action.

1 (2) ~~(a)~~ Such an action shall under this section must
2 be brought within 3 years from the date of such payment.

3 ~~(b) All actions at law by carriers subject to this~~
4 ~~section for recovery of their charges or any part thereof~~
5 ~~shall be begun within 3 years from the time the cause of~~
6 ~~action accrues and not after."~~

7 Section 42. Section 69-14-402, MCA, is amended to
8 read:

9 "69-14-402. Lawsuit to determine reasonableness of
10 commission actions. (1) Any railroad, shipper, or other
11 interested person may bring an action in the district court
12 of the county where the principal office or place of
13 business of such railroad, ~~shipper, or other interested~~
14 ~~person~~ is situated, or in any county where any
15 classification, rate, toll, charge, ~~regulation rule~~, or
16 order of the commission is applicable, against the
17 commission as defendant, to determine whether or not any
18 such classification, rate, toll, charge, ~~regulation rule~~, or
19 order made, fixed, or established by the commission under
20 the provisions of ~~Chapter 37, Laws of 1907, this chapter~~ is
21 just and reasonable.

22 (2) Until the final decision in any such action, the
23 classification, rate, toll, charge, ~~regulation rule~~, or
24 order of the commission affecting rates or charges shall be
25 deemed considered to be final and conclusive except as

1 herein otherwise provided. In any action, hearing, or
 2 proceeding in any court, the classifications, rates, tolls,
 3 charges, ~~regulations~~ rules, and orders made, fixed, and
 4 established by ~~said the~~ the commission shall prima facie be
 5 ~~deemed-to-be~~ considered just, reasonable, and proper.

6 (3) ~~(c)~~ All costs and expenses incurred in the
 7 hearing, trial, or appeal of any action brought under this
 8 section ~~by--a--railroad~~ shall be fixed and assessed as may
 9 seem just and equitable to the court.

10 ~~(b) Costs shall be awarded in all actions brought~~
 11 ~~under the provisions of this section by a shipper or other~~
 12 ~~interested person as in other civil causes."~~

13 Section 43. Section 69-14-501, MCA, is amended to
 14 read:

15 "69-14-501. Organization of railroad corporation. (1)

16 The persons named in the articles of incorporation or a
 17 majority of them shall be authorized to order books to be
 18 opened for receiving subscriptions to the capital stock of
 19 the railroad corporation, at such times and at such places
 20 as they may deem expedient, after having given at least 30
 21 days' notice in a newspaper of general circulation in this
 22 state of the time and place of opening books.

23 (2) As soon as 5% ~~on~~ of the capital stock ~~shall be~~ is
 24 subscribed, they may give like notice for the stockholders
 25 to meet at such time and place within the state as they may

1 designate for the purpose of electing five or more directors
 2 who shall continue in office until the time fixed for the
 3 annual election, which time shall be within 6 months from
 4 the date when such directors were elected, and until their
 5 successors are elected and qualified. At the time and place
 6 appointed, directors shall be elected in the manner provided
 7 in ~~[15-405]~~ ~~35-1-506~~ The candidates for director
 8 receiving the highest number of votes shall be declared
 9 elected. The persons named in such articles or such of them
 10 as may be present shall be inspectors of such election and
 11 shall certify what persons are elected directors and ~~appoint~~
 12 specify the time and place for holding their first meeting."

13 Section 44. Section 69-14-511, MCA, is amended to
 14 read:

15 "69-14-511. Authorization to consolidate railroad
 16 corporations. ~~(1)~~ Any two or more railroad corporations
 17 whose respective lines, ~~not being parallel or competing~~
 18 ~~lines~~ are wholly or partly within this state, whether
 19 chartered by or organized under the laws of the state or
 20 territory of Montana or of the United States or of any other
 21 state or territory, ~~when their respective lines of road or~~
 22 ~~any branch thereof so connect within this state that they~~
 23 ~~may operate together as one property,~~ may consolidate their
 24 capital stock, franchises, and property and thereby become
 25 one corporation to be known by any name adopted by them,

1 which may be that of one of them, upon such terms and
2 conditions as may be agreed upon by them, in the manner
3 provided in 69-14-512.

4 (2) Before any railroad corporation organized under
5 the laws of any other state or territory or of the United
6 States shall be permitted to avail itself of the benefits of
7 this section and 69-14-512, such corporation shall file with
8 the secretary of state a true copy of its charter or
9 articles of incorporation."

10 Section 45. Section 69-14-512, MCA, is amended to
11 read:

12 "69-14-512. Procedure to consolidate. (1) Articles of
13 agreement shall be entered into by ~~and--between~~ such
14 corporations, under their respective corporate seals and the
15 signatures of their respective presidents and secretaries,
16 containing the terms and conditions of such consolidation
17 and the mode of carrying the same into effect, including:

18 (a) the name of the corporation resulting from such
19 consolidation;

20 (b) the amount of its capital stock and the number and
21 amount of shares thereof;

22 (c) the manner of retiring the shares of the capital
23 stock of the corporations so consolidated or of converting
24 the same into or exchanging ~~it them~~ for the capital stock of
25 such resultant corporation;

1 (d) the number which shall constitute the board of
2 directors of such corporation and what officers it shall
3 have;

4 (e) the persons who shall constitute the first board
5 of directors and officers thereof, their ~~term~~ terms of
6 office, and the manner in which their successors shall be
7 elected, which shall be according to the provisions of
8 ~~[15-105] 69-14-501~~; and

9 (f) such other ~~matters as may be deemed~~ are considered
10 necessary to perfect such consolidation and as may be agreed
11 upon.

12 (2) Such articles of agreement shall, before the same
13 shall be effectual, be assented to, approved, or ratified by
14 the stockholders of the respective corporations so
15 consolidated at a regular meeting of such stockholders or a
16 special meeting thereof, duly called and held, by resolution
17 adopted by a vote in favor thereof, in person or by proxy,
18 of the holders of at least ~~three-fifths~~ a majority in amount
19 of the outstanding capital stock of such corporations,
20 respectively.

21 (3) A duplicate of such articles of agreement,
22 together with a copy of the resolutions ~~so~~ adopted by the
23 stockholders of such corporations assenting to, approving,
24 or ratifying the same, certified under the corporate seal
25 and the signature of the secretary and verified by a sworn

1 statement of the president and secretary of the ~~corporation~~
2 ~~corporations~~ stating that such resolution was duly adopted
3 by the vote in favor thereof of the holders of ~~three-fifths~~
4 ~~a majority~~ in amount of the outstanding capital stock of the
5 ~~corporation corporations~~ at a meeting of the stockholders
6 thereof, duly held, shall be recorded in the office of the
7 secretary of state. It shall be the duty of the secretary
8 to record the same upon presentation for that purpose. Upon
9 the filing thereof for record, as aforesaid, the corporation
10 formed by such consolidation shall be a corporation by the
11 corporate name mentioned in such articles of agreement and
12 as such shall be perpetual and shall succeed to and have,
13 own, possess, exercise, and enjoy all the powers, rights,
14 franchises, privileges, immunities, and property of every
15 name and nature possessed by the corporations so
16 consolidated or to which they were entitled at the time of
17 such consolidation and shall be entitled to have, own, hold,
18 exercise, possess, and enjoy all the powers, rights,
19 franchises, privileges, and immunities which may at any time
20 appertain to railroad corporations under the general laws of
21 this state. All railroads and branches thereof of the
22 consolidated corporation are subject to taxation and to
23 regulation and control by the laws of this state, in all
24 respects the same as if constructed by corporations
25 organized under the laws of this state."

1 Section 46. Section 69-14-513, MCA, is amended to
2 read:
3 "69-14-513. Lease or purchase of other railroads. (1)
4 Any railroad corporation ~~whose line is wholly or partly~~
5 ~~within this state or reaches the boundary line thereof,~~
6 whether chartered by or organized under the laws of the
7 state or territory of Montana, the United States, or any
8 other state or territory, may lease or purchase the whole or
9 any part of the railroad or line of railroad of any railroad
10 corporation, constructed or unconstructed, together with all
11 the rights, powers, immunities, privileges, franchises, and
12 all other property or appurtenances thereto ~~provided the~~
13 ~~railroad or line of railroad so leased or purchased is~~
14 ~~continuous of or connected with its own line and not a~~
15 ~~parallel or competing line any such railroad corporation,~~
16 ~~whether chartered by or organized under the laws of the~~
17 ~~state or territory of Montana, the United States, or any~~
18 ~~other state or territory, may take, purchase, hold, sell,~~
19 ~~and dispose of or guarantee the payment of the capital~~
20 ~~stock, bonds, and securities of any other railroad~~
21 ~~corporation whose line of railroad within this state is~~
22 ~~continuous of or connects with its own line. The railroad~~
23 company of any other state of the United States which
24 purchases or leases a railroad or any part thereof in this
25 state:

1 ~~(a) shall possess and may exercise and enjoy, as to~~
 2 ~~the control, management, and operation of the road, all the~~
 3 ~~rights, powers, privileges, and franchises possessed by~~
 4 ~~railroad corporations organized under the laws of this~~
 5 ~~state, including the exercise of the power of eminent~~
 6 ~~domain; and~~

7 ~~(b) shall establish and maintain an office or offices~~
 8 ~~in this state at some point or points on its line at which~~
 9 ~~legal process and notice may be served, as upon railroad~~
 10 ~~corporations of this state.~~

11 ~~(2) Any railroad company may sell or lease the whole~~
 12 ~~or any part of its railroad or branches within this state,~~
 13 ~~constructed or to be constructed, together with all property~~
 14 ~~and rights, privileges, and franchises pertaining thereto,~~
 15 ~~to any railroad company organized or existing pursuant to~~
 16 ~~the laws of the United States, this state, or any other~~
 17 ~~state or territory of the United States.~~

18 ~~(3) All roads or branches thereof in this state,~~
 19 ~~whether purchased or leased, shall be subject to taxation~~
 20 ~~and to regulation and control by the laws of this state, in~~
 21 ~~all respects the same as if constructed by corporations~~
 22 ~~organized under the laws of this state.~~

23 ~~(4) Before any such lease or purchase shall be~~
 24 ~~effectuat effective, it shall be assented to or approved or~~
 25 ~~ratified by the stockholders of each corporation by a vote~~

1 in favor thereof, at a general or special meeting of such
 2 stockholders, by the holders of ~~three-fifths a majority~~ in
 3 amount of all the outstanding capital stock of the company.*

4 Section 47. Section 69-14-514, MCA, is amended to
 5 read:

6 *69-14-514. Interrailroad agreements--and business
 7 arrangements ~~and out-of-state operations.~~ (1) Any railroad
 8 company ~~now-or-hereafter~~ incorporated pursuant to the laws
 9 of this state, the United States, or any state or territory
 10 of the United States, may at any time, by means of
 11 subscription to the capital stock of any other railroad
 12 company or by the purchase of its stock or bonds or by
 13 guaranteeing its bonds or otherwise, aid such company in the
 14 construction of its railroad within or without this state
 15 ~~and may take, purchase, hold, sell, and dispose of or~~
 16 ~~guarantee the payment of the capital, stock, bonds, and~~
 17 ~~securities of any other railroad corporation whose line of~~
 18 ~~railroad within this state is continuous of or connects with~~
 19 ~~its own line.~~

20 (2) Any company owning or operating a railroad within
 21 this state may:

22 (a) extend the same into any other state or territory;

23 (b) build, buy, lease, or consolidate with any
 24 railroad or railroads in such other state or territory ~~or~~
 25 ~~with any other railroad in this state;~~

(c) operate the same; and

(d) own such real estate and other property in such other state or territory as may be necessary or convenient in the operation of such road.

~~(3) Any railroad company may sell or lease the whole or any part of its railroad or branches within this state constructed or to be constructed together with all property and rights, privileges, and franchises pertaining thereto to any railroad company organized or existing pursuant to the laws of the United States, this state, or any other state or territory of the United States.~~

~~(4) Any railroad company incorporated or existing under the laws of the United States or any state or territory of the United States may extend, construct, maintain, and operate its railroad or any portion or branch thereof into and through this state and may build branches from any point or such extension to any place or places within this state. The railroad company of any other state or territory of the United States which shall so purchase or lease a railroad or any part thereof in this state or shall extend or construct its road or any portion or branch thereof in this state shall possess and may exercise and enjoy, as to the control, management, and operation of the road and as to the location, construction, and operation of any extension or branch thereof, all the rights, powers,~~

~~privileges, and franchises possessed by railroad corporations organized under the laws of this state, including the exercise of the power of eminent domain.~~

~~(5)(3) Such purchase, sale, consolidation with, or lease may be made or such aid furnished upon such terms or conditions as may be agreed upon by the directors or trustees of the respective companies, but the same shall be approved or ratified by persons holding or representing a majority in amount of the capital stock of each of such companies, respectively, at any annual stockholders' meeting or at a special meeting of the stockholders called for that purpose or by approval in writing of a majority in interest of the stockholders of each company respectively.~~

~~(6)(4) Nothing in the foregoing provisions shall be held or construed as curtailing the right of this state or the counties through which any such road or roads may be located to levy and collect taxes upon the same and upon the rolling stock thereof in conformity with the provisions of the laws of this state upon that subject. All roads or branches thereof in this state so consolidated with, purchased, leased, aided, or extended into the state shall be subject to taxation and to regulation and control by the laws of this state in all respects the same as if constructed by corporations organized under the laws of this state. Any corporation of another state or territory or of~~

1 ~~the United States, being the purchaser or lessee of a~~
 2 ~~railroad within this state or extending its railroad or any~~
 3 ~~portion thereof into or through this state, shall establish~~
 4 ~~and maintain an office or offices in this state at some~~
 5 ~~point or points on its line at which legal process and~~
 6 ~~notice may be served, as upon railroad corporations of this~~
 7 ~~state. Before any railroad corporation organized under the~~
 8 ~~laws of any other state or territory or of the United States~~
 9 ~~shall be permitted to avail itself of the benefits of this~~
 10 ~~section, such corporation shall file with the secretary of~~
 11 ~~state a true copy of its charter or articles of~~
 12 ~~incorporation."~~

13 Section 48. Section 69-14-532, MCA, is amended to
 14 read:

15 "69-14-532. Authority to plan, lay out, and construct
 16 rail lines. Every railroad corporation ~~has power to~~ may:

17 (1) cause such examination and surveys to be made as
 18 may be necessary to the selection of the most advantageous
 19 route for the railroad;

20 (2) lay out its road, not exceeding in width 100 feet
 21 on each side of its ~~center line~~ centerline, unless a greater
 22 width ~~be~~ is required for the purpose of excavation or
 23 embankment, and construct and maintain the same, with a
 24 single or double track and with such appendages and adjuncts
 25 as may be necessary for the convenient use of the same;

1 (3) construct ~~their~~ its road across, along, or upon
 2 any stream of water, watercourse, roadstead, bay, navigable
 3 stream, street, avenue, or highway or across any railway,
 4 canal, ditch, or flume which the route of its road
 5 intersects, crosses, or runs along, in such manner as to
 6 afford security for life and property; but the corporation
 7 shall restore the stream or watercourse, road, street,
 8 avenue, highway, railroad, canal, ditch, or flume thus
 9 intersected to its former state of usefulness, as near as
 10 ~~may be possible~~, or so that the railroad shall not
 11 unnecessarily impair its usefulness or injure its franchise;

12 (4) erect and maintain all necessary and convenient
 13 buildings, stations, depots, fixtures, and machinery for the
 14 accommodation and use of ~~their~~ its passengers, freight, and
 15 business;

16 (5) change the line of its road, in whole or in part,
 17 whenever a majority of the directors so determine, as is
 18 provided in 69-14-534; but no such change ~~must~~ may vary the
 19 general route of such road, as contemplated in its articles
 20 of incorporation."

21 Section 49. Section 69-14-536, MCA, is amended to
 22 read:

23 "69-14-536. Extension of rail lines into Montana. (1)
 24 Any railroad corporation chartered by or organized under the
 25 laws of the United States or of any state or territory whose

1 ~~line of railroad shall touch or intersect the boundary line~~
 2 ~~of this state at any point~~ may extend, construct, maintain,
 3 and operate its railroad into and through this state from
 4 any such point or points to any place or places within the
 5 state and may build branches from any point on such
 6 extension or continuation of any such extension or branch.
 7 Before making such extension into the state or building any
 8 such branch road or any such continuation, ~~such the~~
 9 corporation shall, by resolution of its board of directors,
 10 to be entered in the records of its proceedings, designate
 11 the general route of such proposed extension, branch, or
 12 continuation ~~in the manner provided in [15-100 and 15-109],~~
 13 and file a copy of such record, certified by the president
 14 and secretary, in the office of the secretary of state, who
 15 shall record the same when presented for record. Thereupon
 16 such corporations shall have all the rights, powers,
 17 privileges, immunities, and franchises to make, maintain,
 18 and operate such extension and build, maintain, and operate
 19 such branch or continuation, ~~including the right of eminent~~
 20 ~~domain,~~ which it would have had if it had been incorporated
 21 for such purposes under the general laws ~~of the state or~~
 22 ~~territory~~ of Montana. ~~Any corporation of another state or~~
 23 ~~of the United States extending its railroad or any portion~~
 24 ~~thereof into or through this state:~~

25 (a) shall establish and maintain an office or offices

1 in this state at some point or points on its line at which
 2 legal process and notice may be served, as upon railroad
 3 corporations of this state; and

4 (b) is subject to taxation and regulation and control
 5 by the laws of this state, in all respects the same as if
 6 the line were constructed by corporations organized under
 7 the laws of this state.

8 (2) Before any railroad corporation organized under
 9 the laws of any other state or territory or of the United
 10 States shall be permitted to avail itself of the benefits of
 11 this section, such corporation shall file with the secretary
 12 of state a true copy of its charter or articles of
 13 incorporation."

14 Section 50. Section 69-14-606, MCA, is amended to
 15 read:

16 "69-14-606. Role of public service commission with
 17 respect to crossings. (1) The commission ~~is hereby given~~
 18 ~~full power to~~ may enforce the orders of any board of county
 19 commissioners for the construction of railroad crossings and
 20 ~~is likewise given full power to~~ may pass upon the
 21 reasonableness of any such order to and modify, change, or
 22 annul the same.

23 (2) Whenever any railroad crossing has been ordered by
 24 the county commissioners, as herein provided, the railroad
 25 company may, within 30 days after the service of such order,

1 serve upon the commission a notice stating why such the
 2 order is considered unreasonable or unjust and request
 3 requesting that the commission hold a hearing for the
 4 purpose of determining whether or not the construction of
 5 such crossing should reasonably be required. The commission
 6 shall thereupon institute a hearing for said this purpose,
 7 and all interested parties shall be given reasonable notice
 8 and an opportunity to be heard. Said the commission may,
 9 after such hearing, either affirm, modify, or annul such
 10 order."

11 Section 51. Section 69-14-713, MCA, is amended to
 12 read:

13 "69-14-713. Violation of provisions dealing with
 14 injury to livestock. (1) Except as otherwise provided, every
 15 person who violates any of the provisions of 69-14-701
 16 through 69-14-712 relating to livestock killed or injured by
 17 railroads is guilty of a misdemeanor.

18 (2) Any person violating any of the provisions of
 19 ~~69-14-709~~ 69-14-711 or 69-14-712 shall, upon conviction
 20 thereof, be punished by a fine of not less than \$10 or more
 21 than \$300 or by imprisonment in the county jail for a period
 22 of not less than 10 days or more than 60 days or by both
 23 such fine and imprisonment."

24 Section 52. Section 69-14-802, MCA, is amended to
 25 read:

1 "69-14-802. Structural details of platform. Each
 2 platform shall be not less than 12 feet wide and 32 feet
 3 long, extending 4 feet and 6 inches, or such height as shall
 4 be determined by the commission, above the rails of the
 5 track, with suitable approaches to and from such platform to
 6 admit of the driving of loaded-teams vehicles thereon."

7 Section 53. Section 69-14-1001, MCA, is amended to
 8 read:

9 "69-14-1001. Protection of employees affected by
 10 closure of station or other facility. (1) Whenever any
 11 railroad, as defined in ~~69-14-101(2)(b)~~ 69-14-101, is
 12 granted the authority to close a railroad station or
 13 facility by order of the commission, ~~it shall be incumbent~~
 14 on the commission to shall require employee protection.
 15 Before the commission may approve closure of a station or
 16 facility, it shall require from the railroad an agreement to
 17 protect employees affected by the closure by providing jobs
 18 equal in nature and pay to the job held by the employee for
 19 the 6 months prior to such the closure. The equal job and
 20 pay agreement must be in effect for a period of 4 years or,
 21 in the alternative, the number of years the employee has
 22 been employed prior to closure, whichever is shorter.

23 (2) Notwithstanding any other provisions of this
 24 section, an agreement pertaining to protection of the
 25 interests of affected employees may be entered into between

1 the railroad and duly authorized representatives of the
2 employees."

3 Section 54. Section 69-14-1003, MCA, is amended to
4 read:

5 "69-14-1003. Railroad personnel as law officers. Every
6 conductor, engineer, or other person in charge of the
7 operation of cars, trains, or locomotives upon any railroad
8 is, while so engaged or employed, hereby constituted a
9 public executive officer of the class of peace officers and
10 of the grade of a constable in each county wherein his
11 train, cars, or locomotives may from time to time happen to
12 be and ~~is hereby given~~ has the same authority as other peace
13 officers to, with or without a warrant, arrest and prosecute
14 persons ~~violation of any provision of sections 1 and 2, page~~
15 ~~150, Laws of 1899~~ trespassing or illegally obtaining passage
16 on the railroad. The persons railroad personnel mentioned
17 herein shall not be entitled to receive fees for any arrest
18 or prosecution which may be made or prosecuted under
19 ~~sections 1 and 2, page 150, Laws of 1899~~ this section. None
20 of the persons railroad personnel herein named shall be
21 authorized to hold said office or exercise its functions
22 unless at the time ~~he shall be a citizen~~ they are citizens
23 of the United States and ~~shall~~ have been ~~a citizen~~ citizens
24 of this state for at least 1 year next preceding his their
25 exercising the functions thereof."

1 Section 55. Repealer. (1) Sections 8-127 and 72-220,
2 A.C.M. 1947, are repealed.

3 (2) Sections 69-14-136 and 69-14-403, MCA, are
4 repealed.

5 Section 56. Severability. If a part of this act is
6 invalid, all valid parts that are severable from the invalid
7 part remain in effect. If a part of this act is invalid in
8 one or more of its applications, the part remains in effect
9 in all valid applications that are severable from the
10 invalid applications.

-End-

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LC 0019

1979 Legislature
Code Commissioner Bill - Summary

House Bill No. 7

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO PUBLIC UTILITIES AND COMMON CARRIERS; REPEALING SECTION 8-127.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 69-1-102. The phrase "the public utilities hereinafter named" is changed to "public utilities, common carriers, railroads, and other regulated industries listed in this title" to reflect the fact that the various laws related to commission control of regulated industries are collected in one title. For a similar reason "chapter 3" is changed to "this title".

Section 2. 69-1-108. Subsection (1) is rewritten to make clear the qualifications to be secretary to the commission. Reference to the qualifications of commission members is unsatisfactory since each commission member must satisfy a district residency requirement.

Section 3. 69-1-113. "Chapter 37, Laws of 1907" is changed to "this title" to reflect the fact that a commissioner must perform all duties imposed upon him or face the possibility of a charge of official misconduct.

Section 4. 69-2-202. A reference to 27-19-202 is deleted as not applicable. The appropriate reference is 27-19-203.

Section 5. 69-3-110. This section is rewritten for clarity.

Section 6. 69-3-204. A fee for filing rate schedules for utilities is added to provide consistency with 69-12-423. Section 8-126, R.C.M. 1947, from which 69-3-204 is derived, referred to both utilities and common carriers.

Section 7. 69-3-209. This section is rewritten for clarity.

Section 8. 69-3-301. A reference to rates in effect in 1913 is deleted as obsolete.

Section 9. 69-4-202. "American engineering standards committee" is changed to "American National Standards Institute" and "department of commerce of the United States" is changed to "American Institute of Electrical and Electronic Engineers" to correct obsolete references.

Section 10. 69-4-204. This section is rewritten for clarity, and the reference to "Chapter 171, Laws of 1917", is updated to "part" (part 2 of chapter 4 of Title 69).

Section 11. 69-4-305. The word "any" is added for grammar.

Section 12. 69-5-106. "Exceeds or fails to equal 400 kilowatts" is changed to "is less than 400 kilowatts" to correct what appears to be a logical error in subsection (1).

Section 13. 69-5-109. A reference to "on or after March 17, 1939" is deleted as obsolete.

Section 14. 69-11-109. A list of individuals in subsections (1)(a) through (1)(f) is replaced by a reference to 69-11-208 which contains the listed individuals within an even longer list. In subsection (3) reference to "railroad company" is changed to "common carrier" for consistency with 69-11-208.

Section 15. 69-11-121. In subsection (4), a reference to "27-1-221 through 27-1-223, 27-1-322, 70-16-108, 70-27-207, and 70-27-208" is changed to "27-1-303" for simplicity and to insure consistency with possible future amendments to 27-1-303 because sections 27-1-303 and 69-11-121(4) both derive from 17-606, R.C.M. 1947. Section 27-1-303 contains the long reference being deleted.

Section 16. 69-11-208. The added language in subsections (1)(a), (p), and (q) comes from language deleted in 69-11-109. In subsection (1)(i), "vicious or unfortunate" is changed to "disadvantaged" to provide a more contemporary usage. The deleted language in subsections (1)(p) and (q) is redundant with the language in subsection (1)(g).

Section 17. 69-11-421. In subsection (5), "[the last section]" is changed to "subsection (2)" to correct an erroneous reference. The "last section" referred to was repealed and replaced by the material in subsection (2) of 69-11-421.

Section 18. 69-12-101. In the introductory phrase, "the following definitions apply" is added for uniform style. In subsection (7), reference to "any trailer, semi-trailer, dollie, or other vehicle drawn thereby" is deleted to conform to the decision of the Montana Supreme Court in *State ex rel Sammons Trucking, Inc. v. Bollinger* (544 P. 2d 1235).

Sections 19 and 20. 69-12-108 and 69-12-203. References to "Chapter 184, Laws of 1931" are changed to "this chapter" to update an obsolete reference to what appears to be the appropriate reference. In 69-12-203(1), "it" is changed to "the commission" for clarity. It should be noted that the highway patrol, under 44-1-1005, and the department of highways, under 61-10-141, are granted the same enforcement powers as are given to the commission by 69-12-203, hence any change in 69-12-203 affects the authority of the highway patrol and the department of highways.

Section 21. 69-14-101. In subsection (1), "shall be held to mean" is changed to "means the situation" for uniformity. The definition of railroad in subsection (2)(b) is deleted as superseded by the definition appearing in subsection (2)(a). General regulation of common carriers is found in chapters 11, 12, and 13. Chapter 14 contains the material related to railroads.

Section 22. 69-14-102. The first subsection is deleted as redundant with the second subsection. A reference to "Chapter 37, Laws of 1907" is changed to "this chapter" to update an obsolete reference.

Sections 23 through 25. 69-14-103, 69-14-112, and 69-14-113. "Chapter 37, Laws of 1907" is changed to "this chapter" to update an obsolete reference with what appears to be an appropriate reference.

Section 26. 69-14-115. In subsection (2), "its annual report" is changed to "the annual report required by 2-7-102". The annual report referred to originally was contained in 72-138, R.C.M. 1947, which was repealed. The new reference is to the report required of all state agencies.

Section 27. 69-14-131. "Chapter 37, Laws of 1907" is changed to "this chapter" to update an obsolete reference. The language of the last sentence is amended for consistency with 69-14-132.

Section 28. 69-14-132. "This law" is changed to "this chapter". "This law" referred to "Chapter 37, Laws of 1907", and this outdated reference is replaced.

Section 29. 69-14-133. "Chapter 37, Laws of 1907" is changed to "this chapter" to update an obsolete reference; and because of this change the phrase "Unless otherwise provided" is added.

Section 30. 69-14-134. In subsection (1), "Chapter 37, Laws of 1907; Chapter 136, Laws of 1909; and Chapter 105, Laws of 1913" is changed to "this chapter" to update obsolete references. In subsection (3) an exception for original proceedings in the supreme court is added for consistency with 69-14-131, 69-14-132, and 69-14-135.

Section 31. 69-14-135. "Chapter 37, Laws of 1907; Chapter 136, Laws of 1909; and Chapter 105, Laws of 1913" is changed to "this chapter" to update an obsolete reference. The term "or common carrier" is added because this term was used in a definition of railroad which is proposed for amendment (see section 21) and this section is a penalty section.

Section 32. 69-14-137. "Chapter 37, Laws of 1907" is changed to "this chapter" to update an obsolete reference. "Of" is changed to "or" to correct what appears to be a typographical error.

Section 33. 69-14-202. In subsection (1), the reference to "decennial" in connection with the federal census is dropped because the federal census will be taken every 5 years in the future. Subsection (3) is deleted as obsolete. The reference to platted township was amended out of 72-627, R.C.M. 1947, which appears as subsections (1) and (2).

Section 34. 69-14-209. "Their" is changed to "its" for grammar.

Section 35. 69-14-215. In subsection (1), "registered" is changed to "registered or certified" pursuant to 1-1-202 and the subsection is rewritten for clarity.

Section 36. 69-14-232. In subsection (1)(f), "designed" is changed to "designated" for better word usage. In subsection (2), "[the preceding section]" is changed to "this section and 69-14-233" to make clear what the reference should be. The "preceding section" was extensively amended.

Section 37. 69-14-252. This section is rewritten for clarity.

Section 38. 69-14-301. In subsection (1), "Chapter 37, Laws of 1907" is changed to "this chapter" to update obsolete reference.

Section 39. 69-14-303. In subsections (1) and (2), changed "Chapter 37, Laws of 1907" to "this chapter" to update obsolete references and deleted references to "intimidation" as obsolete under the new criminal code. Subsection (3) is deleted as redundant with 69-14-303(1). It should be noted that the provision left provides a greater penalty than the provision stricken.

Section 40. 69-14-309. "Chapter 37, Laws of 1907" is changed to "this chapter" to update obsolete reference.

Section 41. 69-14-322. In subsection (2)(a), the material was rewritten for clarity, and subsection (2)(b) was deleted as redundant with subsection (2)(a).

Section 42. 69-14-402. In subsection (1), the words "shipper, or other interested person" are added to reflect that 72-132 and 72-133, R.C.M. 1947, are being combined into this section, and "Chapter 37, Laws of 1907" is changed to "this chapter" to update obsolete reference. In subsections (1) and (2), "regulations" is changed to "rules" for uniform terminology. In subsection (3)(a), "by a railroad" is deleted because of combination of 72-132 and 72-133, R.C.M. 1947. In subsection (3)(b), the material is deleted for consistency with subsection (3)(a).

Section 43. 69-14-501. In subsection (2), "on" is changed to "of" to correct a typographical error and "[15-405]" is changed to "35-1-506" to replace the reference to 15-405, which was repealed by the MCA section which replaces the repealed section. The sentence "The candidate for director receiving the highest number of votes shall be declared elected." is added as it was contained in 15-405, R.C.M. 1947, and is not found in 35-1-506. "Appoint" is changed to "specify" for better word usage.

Sections 44 through 47. 69-14-511 through 69-14-514. These sections are extensively rewritten and parts of each have been interchanged and combined for consistency and clarity. A requirement of 3/5 approval of action is changed to majority approval to be consistent with 69-11-514. In 69-14-511(1), "to be known" is added for clarity. In 69-14-512(1)(e), "[15-405]" is changed to "69-14-501" to correct an internal reference to a repealed section.

Section 48. 69-14-532. "Their" is changed to "its" for grammar.

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Section 49. 69-14-536. This section is rewritten for consistency with 69-14-511 through 69-14-514 (sections 44 through 47 of the bill). The added language at the end of the section comes from 69-14-514.

Section 50. 69-14-600. This section is rewritten for clarity.

Section 51. 69-14-713. A reference to "69-14-709" is deleted as meaningless. The section referred to relates to attorneys' fees and is not subject to violation.

Section 52. 69-14-802. "Loaded teams" is changed to "vehicles" to update an obsolete term.

Section 53. 69-14-1001. The internal reference to 69-14-101(2)(b) is changed to 69-14-101 because a proposed amendment to 69-14-101 deletes subsection (2)(b).

Section 54. 69-14-1003. The phrase "violating any provision of sections 1 and 2, page 150, Laws of 1899" is changed to "trespassing or illegally obtaining passage on the railroad" to provide a correct reference for repealed session laws. "Persons" is changed to "railroad personnel" for clarity. This section is also rewritten for clarity.

Section 55. Repealer. Section 8-127, R.C.M. 1947, was held unconstitutional in Garrett Freightlines, Inc. v. Montana Railroad and Public Service Commission (507 P. 2d 1070). Section 72-220, R.C.M. 1947, is recommended for repeal as obsolete and superseded by 72-137, R.C.M. 1947, (codified as 69-14-251). Section 69-14-136 is recommended for repeal as redundant with part 4 of chapter 14 of Title 69, as amended. Section 69-14-403 is recommended for repeal as redundant with 69-14-402 as amended.

Approved by Committee
on Judiciary

1 HOUSE BILL NO. 7
2 INTRODUCED BY MANUEL
3 BY REQUEST OF THE CODE COMMISSIONER
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAWS RELATING TO PUBLIC UTILITIES AND COMMON
7 CARRIERS; REPEALING SECTIONS 8-127 AND 72-220, R.C.M. 1947,
8 AND SECTIONS 69-14-136 AND 69-14-403, MCA."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 69-1-102, MCA, is amended to read:
12 "69-1-102. Creation of public service commission. A
13 public service commission is hereby created, whose duty it
14 ~~shall be~~ is to supervise and regulate the operations of the
15 public utilities hereinafter ~~named~~ common carriers,
16 railroads, and other regulated industries listed in this
17 title. Such supervision and regulation shall be in
18 conformity with chapter ~~3~~ this title."

19 Section 2. Section 69-1-108, MCA, is amended to read:
20 "69-1-108. Secretary of commission. (1) The commission
21 shall, immediately after its members have qualified, appoint
22 a secretary ~~who shall possess the same qualifications as~~
23 ~~members of said commission~~ to serve during the pleasure of
24 the commission. The secretary shall be a qualified elector
25 of the state.

The changes in HB 7, are on pages 17, 62.
Please refer to white copy for entire content.

1 (2) The secretary shall:
2 (a) keep a full and complete record of all proceedings
3 of the commission;
4 (b) be the custodian of its records and file and
5 preserve at the office of the commission all books, maps,
6 documents, and papers entrusted to his care and be
7 responsible to the commission for the same; and
8 (c) perform such other duties as the commission may
9 prescribe."

10 Section 3. Section 69-1-113, MCA, is amended to read:
11 "69-1-113. ~~Suspension~~ Removal or suspension of
12 commissioner. If any commissioner ~~shall fail~~ fails to
13 perform his duties as provided for in ~~Chapter 37, laws of~~
14 ~~1987~~ this title, he may be removed from office as provided
15 for by 45-7-401. Upon complaint made and good cause shown,
16 the governor ~~is authorized to~~ may suspend any commissioner
17 or ~~commissioners~~, and if, in his judgment, the exigencies of
18 the case require, the governor ~~is authorized to~~ may appoint
19 temporarily some competent person or persons to perform the
20 duties of ~~such the~~ suspended commissioner ~~or commissioners~~
21 during the period of ~~such the~~ suspension."

22 Section 4. Section 69-2-202, MCA, is amended to read:
23 "69-2-202. Institution of and intervention in
24 proceedings involving regulated companies. (1) The consumer
25 counsel may institute proceedings before the commission

1 being transported by charitable societies or hospitals, and
2 necessary agents and employees in such transportation;

3 (o) school children, to and from public or parochial
4 schools;

5 ~~(p) the public service commission of Montana soldiers~~
6 ~~or sailors~~ MILITARY PERSONNEL going to or coming from
7 institutions for their keeping;

8 ~~(q) the state fire marshal;~~

9 ~~(r) the state state expert and his necessary~~
10 ~~employees while traveling on official duty~~ executive,
11 judicial, or legislative officers of this state, including
12 the members of the faculty of the different educational
13 institutions of this state;

14 ~~(s) the~~ furloughed employees of common carriers
15 authorized by 69-11-207 to issue free transportation and
16 members of their families;

17 ~~(t) the~~ persons who have become disabled or infirm in
18 the service of a common carrier or members of families of
19 persons who have become disabled or infirm in the service of
20 any such common carrier;

21 ~~(u) the~~ families of persons killed and surviving
22 spouses who have not remarried and minor children during
23 minority of persons who died while in the service of any
24 such common carrier;

25 ~~(v) the~~ witnesses attending any legal investigation in

1 "69-14-802. Structural details of platform. Each
2 platform shall be not less than 12 feet wide and 32 feet
3 long, extending 4 feet and 6 inches, or such height as shall
4 be determined by the commission, above the rails of the
5 track, with suitable approaches to and from such platform to
6 admit of the driving of loaded teams vehicles thereon."

7 Section 53. Section 69-14-1001, MCA, is amended to
8 read:

9 "69-14-1001. Protection of employees affected by
10 closure of station or other facility. (1) Whenever any
11 railroad, as defined in 69-14-101(2)(b) 69-14-101, is
12 granted the authority to close a railroad station or
13 facility by order of the commission, it shall be incumbent
14 on the commission to shall require employee protection.
15 before the commission may approve closure of a station or
16 facility, it shall require from the railroad an agreement to
17 protect employees affected by the closure by providing jobs
18 equal in nature and pay to the job held by the employee for
19 the 6 months prior to such the closure. The equal job and
20 pay agreement must be in effect for a period of 4 years or,
21 in the alternative, the number of years the employee has
22 been employed prior to closure, whichever is shorter.

23 (2) Notwithstanding any other provisions of this
24 section, an agreement pertaining to protection of the
25 interests of affected employees may be entered into between

HOUSE BILL NO. 7

INTRODUCED BY MANUEL

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO PUBLIC UTILITIES AND COMMON CARRIERS; REPEALING SECTIONS 8-127 AND 72-220, R.C.M. 1947, AND SECTIONS 69-14-136 AND 69-14-403, MCA."

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

Section 1. Section 69-1-102, MCA, is amended to read:

"69-1-102. Creation of public service commission. A public service commission is hereby created, whose duty it shall be is to supervise and regulate the operations of the public utilities hereinafter named, common carriers, railroads, and other regulated industries listed in this title. Such supervision and regulation shall be in conformity with chapter 3 this title."

Section 2. Section 69-1-108, MCA, is amended to read:

"69-1-108. Secretary of commission. (1) The commission shall, immediately after its members have qualified, appoint a secretary who shall possess the same qualifications as members of said commission to serve during the pleasure of the commission. The secretary shall be a qualified elector of the state.

(2) The secretary shall:

(a) keep a full and complete record of all proceedings of the commission;

(b) be the custodian of its records and file and preserve at the office of the commission all books, maps, documents, and papers entrusted to his care and be responsible to the commission for the same; and

(c) perform such other duties as the commission may prescribe."

Section 3. Section 69-1-113, MCA, is amended to read:

"69-1-113. Suspension ~~Removal~~ or suspension of commissioner. If any commissioner ~~shall~~ fails to perform his duties as provided for in ~~Chapter 37, Laws of 1907~~ this title, he may be removed from office as provided for by 45-7-401. Upon complaint made and good cause shown, the governor is authorized to ~~may~~ suspend any commissioner or commissioners, and if, in his judgment, the exigencies of the case require, the governor is authorized to ~~may~~ appoint temporarily some competent person or persons to perform the duties of such ~~the~~ suspended commissioner or commissioners during the period of such ~~the~~ suspension."

Section 4. Section 69-2-202, MCA, is amended to read:

"69-2-202. Institution of and intervention in proceedings involving regulated companies. (1) The consumer counsel may institute proceedings before the commission

1 against regulated companies.

2 (2) The consumer counsel may institute, intervene in,
3 or otherwise participate in appropriate proceedings in the
4 state and federal courts and administrative agencies in the
5 name of and on behalf of the utility and transportation
6 consuming public of the state of Montana or substantial
7 elements thereof, including review of decisions rendered by
8 or failure to act by the commission and applications for
9 restraining orders pending the investigation of and decision
10 upon a matter by the commission, pursuant to ~~27-19-202--or~~
11 ~~27-19-203."~~

12 Section 5. Section 69-3-110, MCA, is amended to read:

13 *69-3-110. Enforcement of public utility law. (1) The
14 commission shall inquire into any neglect or violation of
15 the laws of this state by any such public utility, as
16 hereinbefore defined, doing business therein in this state
17 or by the officers, agents, or employees thereof. The
18 commission shall ~~have the power and it shall be its duty to~~
19 enforce the provisions of this chapter and report all
20 violations thereof to the attorney general.

21 (2) All rates, fares, charges, classifications, and
22 joint rates fixed by the commission shall be enforced and
23 ~~shall be~~ are prima facie lawful from the date of the order
24 until changed or modified by the commission or in pursuance
25 of part 4. All regulations rules, practices, and services

1 prescribed by the commission shall be enforced and ~~action~~
2 ~~enforcement actions~~ shall be brought ~~for that purpose~~
3 pursuant to the provisions of part ~~4--or~~ until the rules,
4 practices, or services are changed or modified by the
5 commission ~~itself~~ upon a satisfactory showing being made.

6 (3) Upon the request of the commission, it ~~shall be~~ is
7 the duty of the attorney general or the prosecuting attorney
8 of the ~~proper~~ or any county to aid in any ~~investigations,~~
9 ~~prosecutions~~ investigations, prosecution, hearing, or trial
10 had under the provisions of this chapter and to institute
11 and prosecute all necessary actions or proceedings necessary
12 for the enforcement of this chapter.

13 (4) Any forfeiture or penalty herein provided shall be
14 recovered and suit thereon shall be brought in the name of
15 the state of Montana in the district court of any county
16 having jurisdiction of the defendant. The attorney general
17 of ~~Montana~~ shall be the counsel in any proceeding,
18 investigation, hearing, or trial prosecuted or defended by
19 the commission, as also shall any prosecuting attorney
20 selected by said the commission or other special counsel
21 furnished said the commission in any county where such
22 action is pending.

23 (5) In addition to ~~all~~ the other remedies provided by
24 this chapter for the prevention and punishment of any ~~and~~
25 ~~all violations~~ violation of the provisions thereof and all

1 orders of the commission, the commission may compel
2 compliance with the provisions of this chapter and of the
3 orders of the commission by proceedings in mandamus, by
4 injunction, or by other civil remedies."

5 Section 6. Section 69-3-204, MCA, is amended to read:

6 "69-3-204. Fees to be charged by commission. (1) The
7 public service commission shall, except as otherwise
8 provided by law, require and receive fees before filing
9 annual reports, schedules, and supplements of these and
10 shall require and receive fees for copies of orders,
11 documents, classifications, blank forms, and other
12 instruments prepared by it or on file in its office, unless
13 provided by law to be furnished free of charge, under the
14 following schedule:

- 15 (a) filing annual reports, each.....\$ 5.00;
- 16 (b) filing rate schedules, each.....\$ 2.00;
- 17 (c) classification for public utilities, each.....
- 18\$ 1.50;
- 19 (d) for blank forms of annual reports for utilities
- 20 cost;

21 (2) This section does not require or authorize the
22 public service commission to collect fees for the filing of
23 annual reports, schedules, and supplements of these which
24 relate solely to interstate commerce."

25 Section 7. Section 69-3-209, MCA, is amended to read:

1 "69-3-209. Violations of public utility laws or
2 orders. If any public utility ~~shall violate~~ violates any
3 provision of this chapter, ~~shall do~~ does any act herein
4 prohibited, or ~~shall fail~~ fails or refuse ~~refuses~~ to perform
5 any duty enjoined upon it, ~~or upon failure of any public~~
6 ~~utility fails~~ to place in operation any rate or joint rate
7 ~~or do any act herein prohibited, for which a penalty has not~~
8 ~~been provided, or shall fail, neglect, or refuse fails,~~
9 ~~neglects, or refuses~~ to obey any lawful requirement or order
10 made by the commission or any court, ~~then~~ for every such
11 violation, failure, or refusal, ~~such~~ the public utility
12 ~~shall be~~ is subject to the penalty prescribed by 69-3-206."

13 Section 8. Section 69-3-301, MCA, is amended to read:

14 "69-3-301. Schedule of rates, tolls, and charges. (1)
15 Every public utility shall file with the commission, within
16 a time fixed by the commission, schedules which shall be
17 open to public inspection, showing all rates, tolls, and
18 charges which it has established and ~~which~~ are in force at
19 the time for any service performed by it within the state or
20 for any service in connection therewith or performed by any
21 public utility controlled or operated by it. ~~The rates,~~
22 ~~tolls, and charges shown on such schedules shall not exceed~~
23 ~~the rates, tolls, and charges in force on March 4, 1913.~~
24 Every public utility shall file with and as a part of such
25 schedule all rules that in any manner affect the rates

1 charged or to be charged for any service. When a schedule of
2 joint rates or charges is or may be in force between two or
3 more public utilities, such schedule shall in like manner be
4 printed and filed with the commission.

5 (2) A copy of so much of ~~said the~~ schedule as the
6 commission ~~shall deem~~ considers necessary for the use of the
7 public shall be printed in plain type and kept on file in
8 every station or office of such ~~the~~ public utility where
9 payments are made by the consumers or users. Such copy
10 shall be open to the public and in such form and place as to
11 be readily accessible to the public and ~~as can be~~
12 conveniently inspected."

13 Section 9. Section 69-4-202, MCA, is amended to read:

14 "69-4-202. Regulation of construction by rural
15 electrification associations. (1) All electrical
16 construction conducted and to be operated by any rural
17 electrification association and constructed and to be
18 operated in pursuance of the authority of the rural
19 electrification administration of the federal government,
20 within the state of Montana, shall be in conformity with the
21 rules and regulations set forth in the national electrical
22 safety code approved by the American engineering standards
23 committee national standards institute, as published by the
24 department ~~of commerce of the United States~~ American
25 institute of electrical and electronic engineers, and any

1 ~~and all revisions~~ revision thereof as the same may exist
2 from time to time; provided, however, that where Y-connected
3 circuits with neutral conductors effectively grounded
4 throughout their length are used, minimum vertical clearance
5 of wires or neutral conductors over ground or rails shall be
6 determined by the voltage between wires and ground, if such
7 voltage does not exceed 15,000 volts.

8 (2) The provisions of the national electrical safety
9 code, as designated in subsection (1), wherever the same ~~may~~
10 be ~~are~~ in conflict with or in any manner contravene the
11 provisions of this part, shall be deemed ~~and~~ construed as
12 superseding, amending, and modifying the provisions of this
13 part ~~insofar as the provisions thereof conflict with the~~
14 ~~provisions of the national electrical safety code to the~~
15 extent of such conflict; provided, that the provisions of
16 this section shall apply only to electrical construction
17 conducted and operated in pursuance of the authority of the
18 rural electrification administration of the federal
19 government.

20 (3) Every person, firm, or corporation which shall
21 ~~violate~~ violates any provisions provision of this section
22 shall be is guilty of a misdemeanor."

23 Section 10. Section 69-4-204, MCA, is amended to read:

24 "69-4-204. Repeating ~~clause~~ Regulation by local
25 government. ~~All acts or parts of acts and all ordinances or~~

1 parts-of-ordinances-of-cities-and--towns--in--the--state--in
 2 conflict---with---Chapter--171v--laws--of--1917v--are--hereby
 3 repeatedv-and-hereafter-no-ordinance-in-conflict-with-any
 4 provisions-of-Chapter-171v-laws-of-1917v-shall-be-enacted-or
 5 passed--in--any--city--or--town-in-the-state No ordinance in
 6 conflict with any provision of this part may be enacted by a
 7 municipality, and any such ordinance is void."

8 Section 11. Section 69-4-305, MCA, is amended to read:

9 "69-4-305. Effect on authority of public service
 10 commission. Nothing contained in this part shall vest any
 11 jurisdiction over any public utility in the governing body.
 12 The public service commission shall retain all jurisdiction
 13 now or hereafter conferred upon it by law."

14 Section 12. Section 69-5-106, MCA, is amended to read:

15 "69-5-106. Service to industrial or commercial
 16 premises. (1) An electric utility shall have has the right
 17 to furnish electric service to any industrial or commercial
 18 premises if the estimated connected load for full plant
 19 operation at such industrial or commercial premises will be
 20 400 kilowatts or larger within 2 years from the date of
 21 initial service, provided, however, such electric utility
 22 can extend its lines to such industrial or commercial
 23 premises at less cost to the electric utility or the
 24 industrial or commercial customer than the electric
 25 cooperative cost. The estimated connected load shall be

1 determined from the plans and specifications prepared for
 2 construction of the premises or, if such estimate is not
 3 available, shall be determined by agreement of the electric
 4 supplier and the customer. The fact that actual connected
 5 load after 2 years from the date of initial service exceeds
 6 or falls to equal is less than 400 kilowatts shall does not
 7 affect the right of the electric supplier initially
 8 providing service to continue service to such premises.

9 (2) An independent consultant engineer agreeable to
 10 both electric suppliers or, in the event of failure of the
 11 electric suppliers to agree on a consultant engineer, then
 12 by an independent consultant engineer selected by the
 13 district court having jurisdiction, as provided in 69-5-110,
 14 shall determine which electric supplier can extend its lines
 15 to the consumer at the least costs cost. The costs cost of
 16 such engineering services shall be paid equally by the
 17 electric suppliers involved.

18 (3) No premises other than another such commercial or
 19 industrial premises shall be served from a line constructed
 20 under this section."

21 Section 13. Section 69-5-109, MCA, is amended to read:

22 "69-5-109. Special provisions for annexed areas. With
 23 respect to service in areas which are annexed to
 24 incorporated municipalities having a population in excess of
 25 3,500 persons on-or-after-March-17v-1939, electric suppliers

1 ~~shall~~ have rights and be ~~are~~ subject to restrictions as
2 follows:

3 (1) Every electric supplier ~~shall have~~ has the right
4 to serve all premises being served by it on the date of
5 annexation.

6 (2) An electric cooperative ~~shall does~~ not have the
7 right to serve any premises initially requiring service on
8 or after the date of annexation. The restriction stated in
9 this subsection does not apply to incorporated
10 municipalities in which 95% or more of the premises are ~~was~~
11 served by an electric cooperative on February 1, 1971."

12 Section 14. Section 69-11-109, MCA, is amended to
13 read:

14 "69-11-109. Provision for transportation of passengers
15 and property for free or reduced rates. (1) No provisions of
16 the laws of this state ~~shall~~ prevent any person,
17 association, company, or corporation engaged as a common
18 carrier of persons or property in this state from carrying,
19 storing, or handling property free or at reduced rates for
20 the United States, for state or municipal governments, or
21 for charitable institutions; or property which is being
22 transported to or from fairs and expositions for exhibit
23 thereat; or cars used by the government of the United States
24 or the state for the transportation of fish, for and from
25 carrying free or at reduced rates agents and employees

1 employed in such transportation; and nothing therein
2 contained ~~shall prevent~~ prevents such person, association,
3 company, or corporation from issuing free transportation or
4 selling tickets at reduced rates to the following classes of
5 persons: listed in 69-11-208.

6 (a) ~~employees of the issuing road and the members of~~
7 ~~their families;~~

8 (b) ~~officers and employees of other railroads and the~~
9 ~~members of their families upon the exchange of passes or~~
10 ~~tickets;~~

11 (c) ~~doctors, nurses, and helpers being carried to~~
12 ~~wrecks;~~

13 (d) ~~soldiers or sailors going to or coming from~~
14 ~~institutions for their keeping;~~

15 (e) ~~ministers of religion and persons engaged in~~
16 ~~charitable or religious work and destitute or homeless~~
17 ~~persons being transported by charitable societies or at~~
18 ~~public expense;~~

19 (f) ~~executive, judicial, or legislative officers of~~
20 ~~this state including the members of the faculty of the~~
21 ~~different educational institutions of the state;~~

22 (2) When free transportation or a ticket at a reduced
23 rate is issued to any such officer or any president or
24 member of the faculty of any educational institution
25 referred to in subsection (a)-(f) 69-11-208(1)(c), it shall

1 only be issued upon the application of the secretary of
 2 state and the transportation or ticket shall be delivered
 3 to the secretary of state for delivery to the person or
 4 persons applying therefor. The secretary of state shall keep
 5 record of all transportation and tickets at reduced rates so
 6 received and delivered by him. The state officer and the
 7 president and faculty of the state educational institutions,
 8 when traveling upon any free transportation, may not charge
 9 any mileage against the state, or if traveling upon a ticket
 10 sold at reduced fare, they may not charge mileage in excess
 11 of the cost of the ticket.

12 (3) The carrying free or at reduced rates of property
 13 or persons in any of the classes above specified shall be
 14 held to be a reasonable classification by ~~railroad-companies~~
 15 common carriers for such purposes and not to be unjust
 16 discrimination. The carriage and transportation by any
 17 ~~railroad-company, common carrier~~ at free or reduced rates
 18 in any of the cases above specified ~~shall-be-held-not-to-be~~
 19 is not a violation of any of the provisions of the laws of
 20 Montana or and does not subject ~~said-railroad-company the~~
 21 common carrier to any penalty therefor."

22 Section 15. Section 69-11-121, MCA, is amended to
 23 read:

24 "69-11-121. Detriment caused by carrier. (1) The
 25 detriment caused by the breach of a carrier's obligation to

1 accept freight, messages, or passengers is deemed to be the
 2 difference between the amount which he had a right to charge
 3 for the carriage and the amount which it would be necessary
 4 to pay for the same service when it ought to be performed.

5 (2) The detriment caused by the breach of a carrier's
 6 obligation to deliver freight, where he has not converted it
 7 to his own use, is deemed to be the value thereof at the
 8 place and on the day at which it should have been delivered,
 9 deducting the freightage to which he would have been
 10 entitled if he had completed the delivery.

11 (3) The detriment caused by a carrier's delay in the
 12 delivery of freight is deemed to be the depreciation in the
 13 intrinsic value of the freight during the delay and also the
 14 depreciation, if any, in the market value thereof, otherwise
 15 than by reason of a depreciation in its intrinsic value, at
 16 the place where it ought to have been delivered and between
 17 the day at which it ought to have been delivered and the day
 18 of its actual delivery.

19 (4) The damages prescribed by this section are
 20 exclusive of exemplary damages and interest, except where
 21 those are expressly mentioned. Notwithstanding the
 22 provisions of this section, no person can recover a greater
 23 amount in damages for the breach of an obligation than he
 24 could have gained by the full performance thereof on both
 25 sides, except ~~in the cases specified in 27-1-221 through~~

1 ~~27-1-223, 27-1-322, 70-16-100, 70-27-207, and 70-27-208~~ as
2 provided in 27-1-303."

3 Section 16. Section 69-11-208, MCA, is amended to
4 read:

5 "69-11-208. Classes of persons who may receive free
6 transportation. (1) The persons to whom free tickets, free
7 passes, free transportation, and discriminating reduced
8 rates may be issued, furnished, or given are the following:

9 (a) the officers, agents, employees, attorneys,
10 physicians, and surgeons of such common carriers of
11 passengers and the officers and employees of other common
12 carriers upon the exchange of passes or tickets;

13 (b) the families of the persons included in subsection
14 (1)(a);

15 (c) the general officers of any such common carriers;

16 (d) employees of sleeping car and express car
17 companies and linemen of telegraph and telephone companies,
18 railway mail service employees, post-office inspectors,
19 customs inspectors, and immigration inspectors, newsboys and
20 newsgirls on trains, and baggage agents;

21 (e) persons injured in wrecks and physicians and
22 nurses attending such persons;

23 (f) passengers traveling with the object of providing
24 relief in cases of railroad accident, general epidemic,
25 pestilence, or other calamitous visitation;

1 (g) necessary caretakers of livestock, vegetables, and
2 fruit, including return transportation to forwarding
3 stations;

4 (h) the officers, agents, or regularly accredited
5 representatives of labor organizations composed wholly of
6 employees of railway companies;

7 (i) inmates of homes for the reform or rescue of the
8 ~~vicious-or-unfortunate~~ disadvantaged, including those about
9 to enter and those returning home after discharge, and
10 boards of managers, including officers and superintendents,
11 of such homes;

12 (j) superannuated and pensioned employees and members
13 of their families and surviving spouses of such members;

14 (k) employees, crippled and disabled in the service of
15 the common carrier of passengers;

16 (l) policemen and firefighters of any city, wearing
17 the insignia of their office, within the limits of such
18 city;

19 (m) ministers of religion, newspaper employees in
20 exchange for advertising, traveling secretaries of Young
21 Men's Christian Associations and Young Women's Christian
22 Associations, inmates of hospitals and charitable and
23 eleemosynary institutions, and persons exclusively engaged
24 in charitable and eleemosynary work;

25 (n) indigent, destitute, and homeless persons, while

1 being transported by charitable societies or hospitals, and
2 necessary agents and employees in such transportation;

3 (o) school children, to and from public or parochial
4 schools;

5 ~~the public service commission of Montana soldiers~~
6 ~~or sailors~~ MILITARY PERSONNEL going to or coming from
7 institutions for their keeping;

8 ~~the state fire marshal;~~

9 ~~the state sealer and his necessary~~
10 ~~employees while traveling on official duty~~ executives,
11 judicial, or legislative officers of this state, including
12 the members of the faculty of the different educational
13 institutions of this state;

14 ~~the furloughed employees of common carriers~~
15 authorized by 69-11-207 to issue free transportation and
16 members of their families;

17 ~~persons who have become disabled or infirm in~~
18 the service of a common carrier or members of families of
19 persons who have become disabled or infirm in the service of
20 any such common carrier;

21 ~~families of persons killed and surviving~~
22 spouses who have not remarried and minor children during
23 minority of persons who died while in the service of any
24 such common carrier;

25 ~~witnesses attending any legal investigation in~~

1 which such carrier is interested;

2 ~~the remains of persons who died while in the~~
3 employment of a common carrier; and

4 ~~ex-employees traveling for the purpose of~~
5 entering the service of any such common carrier.

6 (2) The provisions of this section and 69-11-207 shall
7 not be construed to prohibit the interchange of passes for
8 the persons to whom free tickets, free passes, or free
9 transportation may be furnished or given under the
10 provisions of this section. Nothing in this section or
11 69-11-207 shall be construed to invalidate any existing
12 contract between a street railway company and a city where
13 a condition of a franchise grant requires the furnishing of
14 transportation to policemen, firefighters, and officers
15 while in the performance of official duties."

16 Section 17. Section 69-11-421, NCA, is amended to
17 read:

18 "69-11-421. Liability of inland carriers for loss. (1)
19 Any common carrier, railroad, or transportation company
20 subject to the provisions of 69-11-421 through 69-11-427,
21 receiving property for transportation from a point in
22 Montana to any other point in Montana, shall issue a receipt
23 or bill of lading therefor and shall be liable to the lawful
24 holder thereof for any loss, damage, or injury to such
25 property caused by it or by any common carrier, railroad, or

1 transportation company to which such property may be
 2 delivered or over whose line or lines such property may pass
 3 within the state when transported on a through bill of
 4 lading. No contract, receipt, rule, or other limitation of
 5 any character whatsoever shall exempt such common carrier,
 6 railroad, or transportation company from the liability
 7 hereby imposed.

8 (2) Except as provided in 69-11-422, any such common
 9 carrier, railroad, or transportation company so receiving
 10 property for transportation from a point in Montana to a
 11 point in Montana or any common carrier, railroad, or
 12 transportation company delivering said property so received
 13 and transported shall be liable to the lawful holder of
 14 said receipt or bill of lading or to any party entitled to
 15 recover thereon, whether such receipt or bill of lading has
 16 been issued or not, for the full actual loss, damage, or
 17 injury to such property caused by it or by any common
 18 carrier, railroad, or transportation company to which such
 19 property may be delivered or over whose line or lines such
 20 property may pass within the state of Montana when
 21 transported on a through bill of lading, notwithstanding any
 22 limitation of liability or limitation of the amount of
 23 recovery or representation or agreement as to value in any
 24 such receipt or bill of lading or in any contract or rule
 25 or in any tariff filed with the public service commission.

1 Any such limitation, without respect to the manner or form
 2 in which it is sought to be made, is hereby declared to be
 3 unlawful and void, except:

- 4 (a) an inherent defect, vice, or weakness or a
- 5 spontaneous action of the property itself;
- 6 (b) the act of a public enemy of the United States or
- 7 of this state;
- 8 (c) the act of the law;
- 9 (d) an irresistible superhuman cause; or
- 10 (e) the act or default of the shipper or owner; or
- 11 (f) for natural shrinkage.

12 (3) Nothing in 69-11-421 through 69-11-426 shall
 13 deprive ~~deprives~~ any holder of such receipt or bill of
 14 lading of any remedy or right of action.

15 (4) The liability imposed by this section shall also
 16 apply ~~applies~~ in the case of property reconsigned or
 17 diverted in accordance with the applicable tariffs filed as
 18 provided in this part.

19 (5) A common carrier is liable, even in the cases
 20 excepted by ~~[the last section]~~ subsection (2), if his
 21 ordinary negligence exposes the property to the cause of the
 22 loss."

23 Section 18. Section 69-12-101, MCA, is amended to
 24 read:

25 "69-12-101. Definitions. Unless the context requires

1 otherwise, in this chapter the following definitions apply:

2 (1) "Between fixed termini" or "over a regular route"
3 means the termini or route between or over which a motor
4 carrier usually or ordinarily operates motor vehicles, even
5 though there may be periodical or irregular departures from
6 the termini or route.

7 (2) "Certificate" means the certificate of public
8 convenience and necessity issued under this chapter.

9 (3) "Compensation" means the charge imposed on motor
10 carriers for the use of the highways in this state by motor
11 carriers under 69-12-421.

12 (4) "Corporation" means a corporation, company,
13 association, or joint-stock association.

14 (5) "For hire" means for remuneration of any kind,
15 paid or promised, either directly or indirectly, or received
16 or obtained through leasing, brokering, or buy-and-sell
17 arrangements from which a remuneration is obtained or
18 derived for transportation service.

19 (6) "Motor carrier" means a person or corporation, or
20 its lessees, trustees, or receivers appointed by any court,
21 operating motor vehicles upon any public highway in this
22 state for the transportation of persons or property for hire
23 on a commercial basis, either as a common carrier or under
24 private contract, agreement, charter, or undertaking. The
25 term includes any motor carrier serving the public in the

1 business of transportation of ashes, trash, waste, refuse,
2 rubbish, garbage, and organic and inorganic matter.

3 (7) "Motor vehicle" includes vehicles or machines,
4 motor trucks, tractors, or other self-propelled vehicles
5 used for the transportation of property or persons over the
6 public highways of the state ~~and any trailer, semitrailer,~~
7 ~~dotter, or other vehicle drawn thereby.~~

8 (8) "Person" means an individual, firm, or
9 partnership.

10 (9) "Public highway" means a public street, road,
11 highway, or way in this state.

12 (10) "Railroad" means the movement of cars on rails,
13 regardless of the motive power used."

14 Section 19. Section 69-12-108, MCA, is amended to
15 read:

16 "69-12-108. Violations. Any motor carrier subject to
17 the provisions of ~~Chapter 184, Laws of 1931; this chapter,~~ as
18 amended, or whenever any such motor carrier is a
19 corporation, any director or officer thereof; any receiver,
20 trustee, lessee, agent, or persons ~~person~~ acting for or
21 employed by such corporation; any person, corporation, or
22 association or officer, agent, or employee thereof; or any
23 broker of property or officer, agent, or employee thereof
24 who violates or fails to comply with or who procures, aids,
25 or abets in the violation of any provision of ~~Chapter 184~~

1 ~~laws-of-1931 this chapter~~, as amended, or who fails to obey,
2 observe, or comply with any lawful order, decision, rule,
3 direction, demand, or requirement of the commission or any
4 part of ~~the~~ provisions thereof ~~shall~~ is:

5 (1) be subject to a civil penalty, to be collected and
6 deposited to the general fund by the commission after notice
7 and hearing, in an amount not less than \$25 or more than
8 \$500 for the first offense and not less than \$100 or more
9 than \$1,000 for each subsequent offense; or

10 (2) be subject, upon conviction in a justice's court,
11 to a fine of not less than \$25 or more than \$500 for the
12 first offense and not less than \$100 or more than \$1,000 for
13 each subsequent offense."

14 Section 20. Section 69-12-203, MCA, is amended to
15 read:

16 "69-12-203. Supervisor of motor carriers. (1) The
17 commission shall appoint a supervisor of motor carriers who
18 shall have general responsibility to ~~to~~ the commission for
19 enforcement of the provisions of this chapter. The
20 supervisor shall be either an attorney admitted to practice
21 law in Montana or a person qualified by at least 5 years of
22 suitable experience and training in appropriate phases of
23 the motor carrier industry. He shall serve at the pleasure
24 of the commission and at an annual salary to be set by the
25 commission.

1 (2) The supervisor shall direct all enforcement
2 activities in behalf of the commission, including the
3 investigation and prosecution of violations of ~~Chapter--104~~
4 ~~laws--of--1931 this chapter~~, as amended, or the rules or
5 orders prescribed thereunder by the commission.

6 (3) The supervisor and whatever field inspectors may
7 be employed by the commission to assist him shall be deemed
8 peace officers for the purpose of making arrests in
9 connection with violations of ~~Chapter-104-laws-of-1931 this~~
10 ~~chapter~~, as amended, and issuing summonses, accepting bail,
11 and serving warrants of arrest. The supervisor and field
12 inspectors are empowered to make reasonable inspections of
13 cargoes carried by commercial motor vehicles and require
14 production of manifests, bills of lading, leases, and other
15 documents relating to the cargo, routing, or ownership of
16 such vehicles."

17 Section 21. Section 69-14-101, MCA, is amended to
18 read:

19 "69-14-101. Definitions. Unless the context requires
20 otherwise, in this chapter the following definitions apply:

21 (1) "Paralleling" ~~shall--be--held--to--mean~~ means the
22 situation where the main tracks of parallel lines of
23 railroad or railway are not more than 2,000 feet apart when
24 measured from center to center.

25 (2) ~~(a)~~ "Railroad" means a corporation, company, or

1 individual owning or operating a railroad in whole or in
 2 part in this state. The term also includes express companies
 3 and sleeping-car companies.

4 ~~(b) "Railroad" shall be held to mean and include~~
 5 ~~railroad companies, express companies, car companies,~~
 6 ~~sleeping-car companies, freight and freight-line companies,~~
 7 ~~and all common carriers.~~

8 (3) "Transportation" includes instrumentalities of
 9 shipment or carriage."

10 Section 22. Section 69-14-102, MCA, is amended to
 11 read:

12 "69-14-102. Application. ~~(1) Chapter 37, Laws of 1987~~
 13 ~~applies to the transportation of passengers and property~~
 14 ~~between points in this state and to the receiving~~
 15 ~~switching, delivering, storing, and handling of property and~~
 16 ~~to charges connected therewith and applies to railroad~~
 17 ~~companies, express companies, car companies, sleeping-car~~
 18 ~~companies, freight and freight-line companies, and to any~~
 19 ~~shipments of property made from one point in this state to~~
 20 ~~another point in this state, whether the transportation of~~
 21 ~~it is wholly in this state or partly in this state and~~
 22 ~~partly in an adjoining state or states.~~

23 ~~(2) Chapter 37, Laws of 1987. This chapter~~ applies to
 24 all persons, firms, or companies, incorporated or otherwise,
 25 that do business as common carriers on any of the lines of

1 railroad in this state."

2 Section 23. Section 69-14-103, MCA, is amended to
 3 read:

4 "69-14-103. Interpretation. ~~Chapter 37, Laws of 1987,~~
 5 ~~This chapter~~ shall not have the effect to ~~release or waive~~
 6 ~~of releasing or waiving~~ any right of action by the state or
 7 any person for any right, penalty, or forfeiture which may
 8 arise under any law of this state. All penalties accruing
 9 under this part shall be ~~are~~ cumulative to each other, and a
 10 suit for or recovery of one shall ~~is~~ not be a bar to the
 11 recovery of any other penalty."

12 Section 24. Section 69-14-112, MCA, is amended to
 13 read:

14 "69-14-112. Investigatory authority. (1) The
 15 commission shall investigate any alleged neglect or
 16 violation of the laws of the state by any railroad or other
 17 company above specified doing business therein or by the
 18 officers, agents, or employees thereof. The commission
 19 shall ~~also have the power and authority and it shall be its~~
 20 ~~duty~~ to examine and inspect or cause to be examined and
 21 inspected ~~under its authority,~~ all books, records, files,
 22 and papers of the persons and companies specified above,
 23 insofar as the same may be pertinent to any matter under
 24 investigation before said ~~the~~ commission, and to ~~shall~~ hear
 25 and take testimony in the progress of any inquiry or

1 investigation authorized by ~~Chapter 37, laws of 1907~~ this
 2 chapter.

3 (2) The commission or some members thereof to be
 4 deputed by it shall investigate and make inquiry into every
 5 accident occurring in the operation of any railroad in this
 6 state resulting in death, injury to any person of such
 7 gravity as to require the attention of a physician or
 8 surgeon, or the destruction of property greater in value
 9 than \$2,000. The testimony taken on any such hearing shall
 10 be transcribed and filed in the office of the commission."

11 Section 25. Section 69-14-113, MCA, is amended to
 12 read:

13 "69-14-113. Attendance and examination of witnesses.

14 (1) The commission in making any examination or
 15 investigation provided for in ~~Chapter 37, laws of 1907~~
 16 ~~shall have the power to~~ this chapter may issue subpoenas for
 17 the attendance of witnesses by such rules as it may
 18 prescribe. Each witness shall receive the sum of \$3 per day,
 19 together with the sum of 5 cents per mile traveled by the
 20 nearest practicable route in going to and returning from the
 21 place of meeting of ~~said the~~ commission. No witness
 22 furnished with free transportation ~~shall may~~ receive mileage
 23 for the distance he may have traveled on such free
 24 transportation. No person ~~shall may~~ be excused from
 25 attending or testifying or producing any books, papers,

1 documents, or any thing or things, before any court or
 2 magistrate or commissioner or board, upon any investigation,
 3 proceeding, or trial under the provisions of ~~Chapter 37~~
 4 ~~laws 1907~~ this chapter or for any violation of any of them
 5 upon the ground or for the reason that the testimony or
 6 evidence, documentary or otherwise, required of him, may
 7 tend to convict him of a crime or subject him to a penalty
 8 or forfeiture. No person shall be prosecuted or subjected to
 9 any penalty or forfeiture for or on account of any
 10 transaction, matter, or thing concerning which he may so
 11 testify or produce evidence, and no testimony or evidence so
 12 given or produced shall be received against him upon any
 13 civil or criminal proceeding, action, or investigation.

14 (2) (a) The process issued by ~~said the~~ the commission
 15 shall be under seal and extend to all parts of the state.
 16 ~~Said the~~ the commission shall have power to issue process in
 17 like manner as courts of record. Such process may be served
 18 by any person authorized to serve process of courts of
 19 record or by any person appointed by the commission for such
 20 purpose.

21 (b) In the event the process issued by the commission
 22 is a subpoena for the attendance of a witness and he ~~shall~~
 23 ~~have failed, neglected, or refused~~ fails, neglects, or
 24 refuses to obey the same, the commission is hereby
 25 authorized to file a petition with any district court in the

1 state, setting up the facts and the necessity of having such
 2 ~~the~~ witness appear in such ~~the~~ trial. The court shall
 3 thereupon summarily direct that a subpoena be issued out of
 4 the court requiring the attendance of any person or--persons
 5 as a witness before the court. The commission ~~shall~~ may
 6 thereupon ~~have the power and authority to~~ examine such
 7 witness before said ~~the~~ court, under oath, respecting any
 8 inquiry or investigation being made by said ~~the~~ commission
 9 under--and pursuant to the provisions of ~~Chapter 37, Laws of~~
 10 ~~1907~~ this chapter. The court shall likewise, when any
 11 petition is filed stating the necessity therefor, order the
 12 production by any person or corporation, for examination in
 13 said ~~the~~ court, of any books, papers, records, or files
 14 necessary or pertinent to any inquiry or investigation then
 15 being made by said ~~the~~ commission."

16 Section 26. Section 69-14-115, MCA, is amended to
 17 read:

18 "69-14-115. Investigation, enforcement, and report
 19 concerning railroad safety laws. (1) ~~it is hereby made the~~
 20 duty of the ~~the~~ commission to shall:

21 (a) make inquiry into the observance by all railroads
 22 within this state of the laws of the United States and of
 23 Montana intended to safeguard the lives of the employees of
 24 persons or corporations engaged in operating the same;

25 (b) lay complaint before the proper officers, state or

1 federal officer, of any infraction of any of such laws; and

2 (c) prosecute before the proper court or tribunal any
 3 person guilty of violation of the penal provisions thereof.

4 (2) ~~Said ~~the~~ commission shall in its ~~the~~ annual report~~
 5 required by 2-7-102 set out what effort it has made to carry
 6 out the provisions of this section, with the result thereof,
 7 and in detail what steps it has taken to ~~procure to be~~
 8 prosecuted ~~prosecute~~ any violations of any such acts of
 9 which it has secured information. A copy of this annual
 10 report shall be mailed to the secretary of the department of
 11 transportation."

12 Section 27. Section 69-14-131, MCA, is amended to
 13 read:

14 "69-14-131. Enforcement duties of commission. ~~It is~~
 15 ~~hereby made the duty of such ~~the~~ commission to shall~~ see
 16 that the provisions of ~~Chapter 37, Laws of 1907, this~~
 17 chapter and all laws of this state concerning railroads are
 18 enforced and obeyed and that violations thereof are promptly
 19 prosecuted and penalties due the state therefor recovered
 20 and collected. ~~Said ~~the~~ commission shall report all such~~
 21 violations, with the facts in its possession, to the
 22 attorney general or other officer charged with the
 23 enforcement of the laws and request him to institute the
 24 proper proceedings. All suits between the state and any
 25 railroad shall have precedence in all courts over all civil

1 causes, ~~criminal business and~~ original proceedings in the
 2 supreme court excepted."

3 Section 28. Section 69-14-132, MCA, is amended to
 4 read:

5 "69-14-132. Legal assistance for commission. The
 6 attorney general is the attorney of the commission, and the
 7 county attorney of every county in the state shall, on the
 8 request and at the direction of the attorney general, assist
 9 in all cases, proceedings, and investigations undertaken by
 10 the commission under this ~~law~~ chapter in his own county.
 11 However, the commission may employ special counsel, with the
 12 approval of the attorney general, to assist in any case,
 13 matter, proceeding, or investigation instituted under this
 14 ~~law~~ chapter. The attorney general, upon direction of the
 15 commission, and the county attorney of each county in this
 16 state, upon direction of the attorney general, shall
 17 institute and prosecute and appear and defend any action or
 18 proceeding arising under this ~~law~~ chapter. All suits and
 19 proceedings filed in any court of this state, under this
 20 ~~law~~ chapter shall have precedence over all other business
 21 in the court, except criminal business and original
 22 proceedings in the supreme court."

23 Section 29. Section 69-14-133, MCA, is amended to
 24 read:

25 "69-14-133. Collection and disposition of penalties

1 and forfeitures. ~~At~~ Unless otherwise provided, all
 2 penalties and forfeitures incurred, levied, and made under
 3 the provisions of ~~Chapter--37--laws-of-1987~~ this chapter
 4 shall be collected by ~~said the~~ commission and paid over to
 5 the state treasurer and credited to the general fund. Should
 6 the commission fail or refuse to institute appropriate
 7 action for the recovery of any penalty or forfeiture
 8 provided for herein, for the space of 60 days after notice
 9 of the cause of complaint by ~~such an~~ aggrieved person or
 10 shipper, such person or shipper may institute and prosecute
 11 such action in the name of the state against such railroad,
 12 in the same manner as could the commission."

13 Section 30. Section 69-14-134, MCA, is amended to
 14 read:

15 "69-14-134. Court enforcement of commission actions.
 16 (1) The district court ~~shall~~ has jurisdiction to
 17 enforce, by proper decree, injunction, or order, the rates,
 18 classifications, rulings, orders, and regulations made or
 19 established by the commission under the provisions of
 20 ~~Chapter--37--laws--of--1987; Chapter-136--laws-of-1989; and~~
 21 ~~Chapter-105--laws--of--1913~~ this chapter. The proceeding
 22 therefor shall be by equitable action in the name of the
 23 state and shall be instituted by the attorney general or
 24 county attorney, whenever advised by the commission that any
 25 railroad, railway, or common carrier is violating or

1 refusing to comply with any such rule, order, rate,
 2 classification, or regulation made by the commission and
 3 applicable to such railroad, railway, or common carrier.
 4 Such proceedings shall have precedence over all other
 5 business in such courts, except criminal business.

6 (2) In any action the burden of proof shall rest upon
 7 the defendant, who must show by clear and satisfactory
 8 evidence that the rule, order, regulation, rate, or
 9 classification involved is unreasonable and unjust as to
 10 them ~~it~~. If, in such action, it is the decision of the court
 11 that the rule, regulation, order, rate, or classification is
 12 not so unreasonable or unjust and that in refusing
 13 compliance therewith the railroad, railway, or common
 14 carrier is thereby failing or omitting the performance of
 15 any duty, debt, or obligation, the court shall decree a
 16 mandatory and perpetual injunction compelling obedience to
 17 and compliance with the rule, regulation, order, rate, or
 18 classification by the defendant and its officers, agents,
 19 servants, and employees and may grant such other relief as
 20 may-be-deemed is just and proper. Any violation of such
 21 decree ~~shall--render~~ renders the defendant and ~~any~~ officer,
 22 agent, servant, or employee of the defendant, who is in any
 23 manner instrumental in such violation, guilty of contempt,
 24 punishable by a fine not exceeding \$1,000 for each offense
 25 or by imprisonment of the person guilty of contempt until he

1 ~~shall~~ sufficiently purge ~~purges~~ himself therefrom. Such
 2 decree ~~shall--continue-and-remain~~ remains in effect ~~and-be-in~~
 3 force until the rule, regulation, order, rate, or
 4 classification shall be modified or vacated by the
 5 commission. Nothing contained herein shall be construed to
 6 deprive either party to such proceedings of the right to
 7 trial by jury, as provided by the seventh amendment to the
 8 constitution of the United States or as provided by the
 9 constitution of this state.

10 (3) An appeal shall lie to the supreme court from the
 11 decree in such action, and the cause shall have precedence
 12 over all other civil actions of a different nature pending
 13 in the supreme court ~~except original proceedings in the~~
 14 supreme court."

15 Section 31. Section 69-14-135, MCA, is amended to
 16 read:

17 "69-14-135. General right to supreme court review.
 18 Appeals may be taken to the supreme court from the judgment
 19 of any district court in any action brought under the
 20 provisions of ~~Chapter-37--laws-of-1987--Chapter-136--laws-of~~
 21 ~~1989--and-Chapter-105--laws--of--1913~~ this chapter. Such
 22 appeals ~~shall~~ have precedence over all other business,
 23 except criminal business and original proceedings in such
 24 courts and shall be heard and determined as are appeals in
 25 civil actions."

1 Section 32. Section 69-14-137, MCA, is amended to
2 read:

3 "69-14-137. Violations. If any railroad ~~or other~~
4 ~~common carrier~~ ~~shall~~ willfully ~~violate~~ violates any
5 provision of ~~Chapter 37, Laws of 1987~~ ~~this chapter~~, ~~shall~~ ~~do~~
6 ~~does~~ any other act herein prohibited, or ~~shall~~ ~~refuse~~
7 ~~refuses~~ to perform any ~~and~~ lawful orders emanating from
8 ~~said~~ ~~the~~ commission relating to rates and charges or any
9 other duty enjoined upon it, for which a penalty has not
10 herein been provided, ~~then~~ for every such act of ~~or~~
11 violation it shall pay to the state a penalty of not more
12 than \$500."

13 Section 33. Section 69-14-202, MCA, is amended to
14 read:

15 "69-14-202. Duty to furnish shipping and passenger
16 facilities. (1) ~~It is hereby made the duty of every~~ ~~Every~~
17 person, corporation, and ~~or~~ association operating a railroad
18 in the state to ~~shall~~ maintain and staff facilities for
19 shipment and delivery of freight and to ~~shall~~ ship and
20 deliver freight and accommodate passengers in at least one
21 location, preferably the county seat, in each county through
22 which the line of the railway passes and at any point upon
23 the line of such railway where there is a city or town
24 having a population, according to the last federal decennial
25 census, of not less than 1,000; provided, however, that this

1 section shall not require the maintenance and staffing of
2 such facilities in any county or at any city or town in
3 which such facilities were not maintained and staffed on
4 July 1, 1969.

5 (2) Nothing in this section ~~shall be construed to~~
6 ~~authorize~~ ~~authorizes~~ the discontinuance of any facility
7 presently established in any city, town, or other location
8 having a population of less than 1,000 without a hearing
9 before the public service commission, as provided by law.

10 (3) ~~Any person, corporation, or association which~~
11 ~~shall, for 60 days after written request of not less than 50~~
12 ~~inhabitants of such platted townsite, fail to comply with~~
13 ~~the provisions of Chapter 26, Laws of 1985, shall, upon~~
14 ~~conviction, be fined not less than \$10 or more than \$100 for~~
15 ~~each day thereafter, so long as the provisions of that~~
16 ~~chapter are not complied with."~~

17 Section 34. Section 69-14-209, MCA, is amended to
18 read:

19 "69-14-209. Issuance of passenger tickets. (1) Every
20 railroad corporation must provide and, on being tendered the
21 regular rates of fare, furnish a ticket to every person
22 desiring a passage on its passenger cars, which entitles the
23 purchaser to a ride and to the accommodations provided on
24 their ~~its~~ cars from the depot or station where the same is
25 purchased to any other depot or station on the line of its

1 road. Every such ticket entitles the holder thereof to ride
2 on its passenger cars to the station or depot of destination
3 or any intermediate station and from any intermediate
4 station to the depot of destination designated in the ticket
5 at any time within 6 months thereafter.

6 (2) Any corporation failing ~~to~~ to provide and furnish
7 tickets or refusing the passage which the same calls for
8 when sold must pay to the person so refused the sum of
9 \$200."

10 Section 35. Section 69-14-215, MCA, is amended to
11 read:

12 "69-14-215. Issuance of bills of lading by railroad
13 station agents ~~== penalty.~~ (1) All railway companies
14 operating in the state which do not permit bills of lading
15 to be issued by other employees ~~other~~ than agents shall be
16 required to have ~~said~~ bills of lading issued by the station
17 agent at the nearest station where a station agent is
18 regularly maintained in the direction toward which the
19 shipment is destined. The conductor of the train which
20 receives the shipment at its point of origin shall deliver
21 to the agent at the nearest station at which an agent is
22 maintained through which ~~said the~~ shipment moves,
23 immediately upon the arrival of the train carrying ~~said the~~
24 shipment at ~~said the~~ agency station, all data necessary for
25 the issuance of a bill of lading for ~~said the~~ shipment. The

1 agent shall immediately issue ~~said the~~ bill of lading and
2 shall deliver the same to the shipper or his agent or shall,
3 within 24 hours after the receipt of ~~said the~~ data from the
4 conductor, for shipment of 20,000 pounds or over, deposit
5 the bill of lading in a United States post office, addressed
6 and registered ~~or certified~~ to the consignor of ~~said the~~
7 shipment or his agent or attorney to his proper post-office
8 address. A bill of lading for shipments of less than 20,000
9 pounds to may be mailed without registering the use of
10 registered or certified mail.

11 (2) Any railway company operating in Montana violating
12 any provisions of this section ~~shall--be~~ is guilty of a
13 misdemeanor and liable to a fine of not less than \$50 or
14 more than \$1,000."

15 Section 36. Section 69-14-232, MCA, is amended to
16 read:

17 "69-14-232. Size and equipment of caboose. (1)
18 Caboose shall be at least 24 feet in length, exclusive of
19 platforms, and shall be provided with a door in each end and
20 with cupolas or bay windows, platforms, ~~guard---rails~~
21 guardrails, grabirons, and steps for the safety of persons
22 in alighting or getting on cabooses. Caboose shall be of
23 metal frame construction and be sufficiently insulated to
24 eliminate track and other related noise above 85 decibels in
25 any octave in the speech range. Other requirements for

1 cabooses are as follows:

2 (a) The trucks shall provide riding qualities at least
3 equal to those of freight type trucks modified with
4 elliptical or additional coil springs or other means of
5 equal or greater efficiency and shall have at least two
6 four-wheel trucks with standard steel wheels or their
7 equivalent. Draft gears shall have a minimum travel of 2 1/2
8 inches and a minimum capacity of 18,000 foot-pounds and
9 shall comply with Association of American Retired Railroads
10 Standard M-901 or its equivalent.

11 (b) Electric lighting of at least 40 foot-candles
12 shall be provided for direct illumination of the caboose
13 desk, reading areas, and lavatory facilities.

14 (c) A spotlight shall be provided on the rear of the
15 caboose with sufficient candlepower to illuminate the track
16 for a distance of at least 300 feet to the rear of the
17 caboose during the hours of darkness.

18 (d) The caboose marker or markers shall be either
19 reflectorized or capable of illumination when required.

20 (e) Only glass of the ~~safety-glass~~ safety-glass type
21 shall be used in partitions, doors, windows, or wind
22 deflectors.

23 (f) All seats and seat backs shall conform to the
24 safety standards ~~designed~~ designated by the United States
25 department of transportation in its "Federal Motor Vehicle

1 Safety Standards", Motor Vehicle Safety Standard No. 201.
2 All edges and protrusions on seats and seat backs shall be
3 rounded to prevent injury to employees.

4 (2) Any person, corporation, or company, operating any
5 railroad or railway in this state, violating any of the
6 provisions of ~~[the preceding section]~~ shall be deemed this
7 section and 69-14-233 is guilty of a misdemeanor and upon
8 conviction thereof shall be fined not less than \$500 or more
9 than \$1,000 for each offense."

10 Section 37. Section 69-14-252, MCA, is amended to
11 read:

12 "69-14-252. Accident reports. ~~It is hereby made the~~
13 ~~duty of every~~ Every railroad company operating any line of
14 railroad within this state shall promptly upon the
15 occurrence ~~or in connection with the operation of its line~~
16 ~~within the state~~ of any accident ~~such as is~~ mentioned in
17 69-14-112(2) ~~to~~ report the same to the commission. In the
18 report shall be stated the time and place of the accident,
19 the names of the persons killed or injured, and the value of
20 any property destroyed."

21 Section 38. Section 69-14-301, MCA, is amended to
22 read:

23 "69-14-301. Commission powers related to ratemaking.
24 (1) The commission shall adopt all necessary rates, charges,
25 and regulations to govern and regulate freight and passenger

1 tariffs, to correct abuses, and to prevent unjust
2 discrimination and intimidation in the rates of freight and
3 passenger tariffs on the different railroads in this state
4 and to make the same effective by enforcing the penalties
5 prescribed in ~~Chapter-37, laws-of-1907~~ this chapter.

6 (2) The commission shall fairly and justly classify
7 and subdivide all freight and merchandise of whatever
8 character that may be transported over railroads of this
9 state into such general and special classes or subdivisions
10 as may be considered necessary or expedient.

11 (3) The commission may fix different rates for
12 different railroads and for different lines under the same
13 management or for different parts of the same lines if found
14 necessary to do justice and may make rates for express
15 companies different from the rates fixed for railroads. The
16 commission shall also fix and establish for all or any
17 connecting lines of railroad in this state reasonable joint
18 rates of freight charges for the various classes of freight
19 and cars that may pass over two or more lines of such
20 railroads.

21 (4) The commission shall make and establish reasonable
22 rates for the transportation of freight within the state and
23 shall prescribe rates, tolls, and charges for all other
24 service ~~services~~ performed by any railroad subject hereto."

25 Section 39. Section 69-14-303, MCA, is amended to

1 read:

2 "69-14-303. Prohibition on rate discrimination. (1) If
3 any railroad subject hereto, directly or indirectly or by
4 any special rate, rebate, drawback, or other device,
5 charges, demands, or receives from any person, firm, or
6 corporation a greater or ~~less~~ lesser compensation for any
7 service rendered or to be rendered in the transportation of
8 property subject to the provisions of ~~Chapter-37, laws-of~~
9 ~~1907, this chapter~~ than that fixed by the commission for
10 such service, such railroad ~~is guilty of intimidation~~ and
11 shall forfeit and pay to the state not less than \$500 or
12 more than \$2,000 for each offense. Nothing in this
13 subsection prevents any railroad or railroad corporation
14 from giving excursion rates to or from any point within or
15 without the state.

16 (2) If any railroad subject to ~~Chapter-37, laws-of~~
17 ~~1907, this chapter~~ or its agents or officers hereafter
18 collects, charges, demands, or receives from any person,
19 company, firm, or corporation a greater rate, charge, or
20 compensation than that fixed and established by the
21 commission for the transportation of freight, passengers, or
22 cars or for the use of any car on the line of its railroad
23 or any line operated by it or for receiving, forwarding,
24 handling, or storing any such freight car or for any other
25 service performed or to be performed by it, such railroad

1 and its agents and officers are guilty of intimidation and
2 shall forfeit and pay to the state a sum not less than \$500
3 or more than \$2,000.

4 ~~{3}--it is hereby declared to be unlawful for any~~
5 ~~ticket-selling agent so authorized and licensed as provided~~
6 ~~in 69-14-211 or for any common carrier subject to the~~
7 ~~provisions of 69-14-211 through 69-14-214 to charge, demand,~~
8 ~~collect, or receive from or to sell, barter, transfer, or~~
9 ~~assign to any person, firm, company, corporation, or~~
10 ~~association any ticket of any class whatever entitling the~~
11 ~~purchaser or holder thereof to transportation by the common~~
12 ~~carrier issuing such ticket for a greater or less sum or~~
13 ~~price than is charged, demanded, collected, or received by~~
14 ~~such ticket-selling agent or common carrier subject to the~~
15 ~~provisions of 69-14-211 through 69-14-214 for a similar~~
16 ~~ticket of the same class any person, ticket-selling agent,~~
17 ~~or common carrier subject to the provisions of 69-14-211~~
18 ~~through 69-14-214 who shall violate the provisions of this~~
19 ~~subsection shall be guilty of a misdemeanor and upon~~
20 ~~conviction thereof shall be fined in the sum not exceeding~~
21 ~~\$1,000 for each offense.~~

22 ~~4}{3} (a) It is unlawful for any railroad subject to~~
23 ~~this title to charge or receive any greater compensation in~~
24 ~~the aggregate for the transportation of passengers or of~~
25 ~~like kind kinds of property for a shorter distance than for~~

1 a longer distance over the same line or route in the same
2 direction, the shorter being included within the longer
3 distance, or to charge any greater compensation as through
4 rate than the aggregate of the intermediate rates; provided
5 that upon application to the commission and after
6 investigation, such carrier, in special cases, may be
7 authorized by the commission to charge less for longer than
8 for shorter distances for the transportation of passengers
9 or property, and the commission may from time to time
10 prescribe the extent to which such designated carriers may
11 be relieved from the operation of the foregoing provisions
12 of this subsection, but in exercising the authority
13 conferred upon it in this proviso, the commission shall not
14 permit the establishment of any charge to or from the more
15 distant point that is not reasonably compensatory for the
16 service performed.

17 (b) Violations of this subsection ~~{3}~~ shall be
18 punished in accordance with 69-14-805."

19 Section 40. Section 69-14-309, MCA, is amended to
20 read:

21 "69-14-309. Posting of rate schedule. Each railroad
22 affected by the provisions of Chapter 37, Laws of 1987, this
23 chapter shall display, in a conspicuous place in each of its
24 stations in this state, a schedule printed in plain,
25 legible, English type showing all classifications and rates

1 fixed and established by the commission."
 2 Section 41. Section 69-14-322, MCA, is amended to
 3 read:
 4 "69-14-322. Actions to recover excess charges. (1) Any
 5 sum or amount of money paid to any railroad by any person or
 6 shipper in excess of the rates, tolls, or charges fixed and
 7 established by the commission for such service may be
 8 recovered from such railroad by the person or shipper in any
 9 action instituted and maintained in the district court of
 10 the county in which such payment was made. No contract or
 11 agreement, written or otherwise, between such person or
 12 shipper and the railroad shall be admissible in evidence for
 13 the purpose of showing a waiver of the right given by this
 14 section. No voluntary payment by any person or shipper of
 15 any such excess or overcharge to any railroad shall be or be
 16 held to be a waiver on the part of such person or shippers
 17 shipper of the right to sue and recover for such excess or
 18 overcharge as provided for in this section. If, upon the
 19 trial of such action, it shall satisfactorily appear to the
 20 court or jury that such overcharge was willfully made, the
 21 person or shipper bringing the action shall be awarded
 22 damages in treble the amount of such excess or overcharge,
 23 together with the costs and expenses of such action,
 24 including a reasonable attorney's fee, to be taxed and
 25 collected as other costs in the action.

1 (2) ~~(a) Such~~ An action shall under this section must
 2 be brought within 3 years from the date of such payment.
 3 ~~(b) All actions at law by carriers subject to this~~
 4 ~~section for recovery of their charges or any part thereof~~
 5 ~~shall be begun within 3 years from the time the cause of~~
 6 ~~action accrues and not after."~~
 7 Section 42. Section 69-14-402, MCA, is amended to
 8 read:
 9 "69-14-402. Lawsuit to determine reasonableness of
 10 commission actions. (1) Any railroad, shipper, or other
 11 interested person may bring an action in the district court
 12 of the county where the principal office or place of
 13 business of such railroad, shipper, or other interested
 14 person is situated, or in any county where any
 15 classification, rate, toll, charge, regulation rule, or
 16 order of the commission is applicable, against the
 17 commission as defendant, to determine whether or not any
 18 such classification, rate, toll, charge, regulation rule, or
 19 order made, fixed, or established by the commission under
 20 the provisions of ~~Chapter 37, Laws of 1907~~, this chapter is
 21 just and reasonable.
 22 (2) Until the final decision in any such action, the
 23 classification, rate, toll, charge, regulation rule, or
 24 order of the commission affecting rates or charges shall be
 25 deemed considered to be final and conclusive except as

1 herein otherwise provided. In any action, hearing, or
 2 proceeding in any court, the classifications, rates, tolls,
 3 charges, regulations, rules, and orders made, fixed, and
 4 established by said ~~the~~ commission shall prima facie be
 5 deemed-to-be considered just, reasonable, and proper.

6 (3) ~~that~~ All costs and expenses incurred in the
 7 hearing, trial, or appeal of any action brought under this
 8 section by--a--railroad shall be fixed and assessed as may
 9 seem just and equitable to the court.

10 ~~that--Costs--shall--be--awarded--in--all--actions--brought~~
 11 ~~under--the--provisions--of--this--section--by--a--shipper--or--other~~
 12 ~~interested--person--as--in--other--civil--causes."~~

13 Section 43. Section 69-14-501, MCA, is amended to
 14 read:

15 "69-14-501. Organization of railroad corporation. (1)
 16 The persons named in the articles of incorporation or a
 17 majority of them shall be authorized to order books to be
 18 opened for receiving subscriptions to the capital stock of
 19 the railroad corporation, at such times and at such places
 20 as they may deem expedient, after having given at least 30
 21 days' notice in a newspaper of general circulation in this
 22 state of the time and place of opening books.

23 (2) As soon as 5% ~~on~~ of the capital stock ~~shall~~-be is
 24 subscribed, they may give like notice for the stockholders
 25 to meet at such time and place within the state as they may

1 designate for the purpose of electing five or more directors
 2 who shall continue in office until the time fixed for the
 3 annual election, which time shall be within 6 months from
 4 the date when such directors were elected, and until their
 5 successors are elected and qualified. At the time and place
 6 appointed, directors shall be elected in the manner provided
 7 in ~~[15-405]~~ 35-1-506. The candidates for director
 8 receiving the highest number of votes shall be declared
 9 elected. The persons named in such articles or such of them
 10 as may be present shall be inspectors of such election and
 11 shall certify what persons are elected directors and appoint
 12 specify the time and place for holding their first meeting."

13 Section 44. Section 69-14-511, MCA, is amended to
 14 read:

15 "69-14-511. Authorization to consolidate railroad
 16 corporations. [1] Any two or more railroad corporations
 17 whose respective lines--not--being--parallel--or--competing
 18 ~~lines~~ are wholly or partly within this state, whether
 19 chartered by or organized under the laws of the state or
 20 territory of Montana or of the United States or of any other
 21 state or territory, ~~when their respective lines of road or~~
 22 ~~any branch thereof so connect within this--state--that--they~~
 23 ~~may--operate--together--as--one--property,~~ may consolidate their
 24 capital stock, franchises, and property and thereby become
 25 one corporation to be known by any name adopted by them,

1 which may be that of one of them, upon such terms and
 2 conditions as may be agreed upon by them, in the manner
 3 provided in 69-14-512.

4 (2) Before any railroad corporation organized under
 5 the laws of any other state or territory or of the United
 6 States shall be permitted to avail itself of the benefits of
 7 this section and 69-14-512, such corporation shall file with
 8 the secretary of state a true copy of its charter or
 9 articles of incorporation."

10 Section 45. Section 69-14-512, MCA, is amended to
 11 read:

12 "69-14-512. Procedure to consolidate. (1) Articles of
 13 agreement shall be entered into by and--between such
 14 corporations, under their respective corporate seals and the
 15 signatures of their respective presidents and secretaries,
 16 containing the terms and conditions of such consolidation
 17 and the mode of carrying the same into effect, including:

18 (a) the name of the corporation resulting from such
 19 consolidation;

20 (b) the amount of its capital stock and the number and
 21 amount of shares thereof;

22 (c) the manner of retiring the shares of the capital
 23 stock of the corporations so consolidated or of converting
 24 the same into or exchanging ~~it~~ them for the capital stock of
 25 such resultant corporation;

1 (d) the number which shall constitute the board of
 2 directors of such corporation and what officers it shall
 3 have;

4 (e) the persons who shall constitute the first board
 5 of directors and officers thereof, their term terms of
 6 office, and the manner in which their successors shall be
 7 elected, which shall be according to the provisions of
 8 ~~[15-405]~~ 69-14-501; and

9 (f) such other matters as ~~may-be-deemed~~ are considered
 10 necessary to perfect such consolidation and as may be agreed
 11 upon.

12 (2) Such articles of agreement shall, before the same
 13 shall be effectual, be assented to, approved, or ratified by
 14 the stockholders of the respective corporations so
 15 consolidated at a regular meeting of such stockholders or a
 16 special meeting thereof, duly called and held, by resolution
 17 adopted by a vote in favor thereof, in person or by proxy,
 18 of the holders of at least three-fifths a majority in amount
 19 of the outstanding capital stock of such corporations,
 20 respectively.

21 (3) A duplicate of such articles of agreement,
 22 together with a copy of the resolutions so adopted by the
 23 stockholders of such corporations assenting to, approving,
 24 or ratifying the same, certified under the corporate seal
 25 and the signature of the secretary and verified by a sworn

1 statement of the president and secretary of the corporation
 2 ~~corporations~~ stating that such resolution was duly adopted
 3 by the vote in favor thereof of the holders of three-fifths
 4 a majority in amount of the outstanding capital stock of the
 5 corporation ~~corporations~~ at a meeting of the stockholders
 6 thereof, duly held, shall be recorded in the office of the
 7 secretary of state. It shall be the duty of the secretary
 8 to record the same upon presentation for that purpose. Upon
 9 the filing thereof for record, as aforesaid, the corporation
 10 formed by such consolidation shall be a corporation by the
 11 corporate name mentioned in such articles of agreement and
 12 as such shall be perpetual and shall succeed to and have,
 13 own, possess, exercise, and enjoy all the powers, rights,
 14 franchises, privileges, immunities, and property of every
 15 name and nature possessed by the corporations so
 16 consolidated or to which they were entitled at the time of
 17 such consolidation and shall be entitled to have, own, hold,
 18 exercise, possess, and enjoy all the powers, rights,
 19 franchises, privileges, and immunities which may at any time
 20 appertain to railroad corporations under the general laws of
 21 this state. All railroads and branches thereof of the
 22 consolidated corporation are subject to taxation and to
 23 regulation and control by the laws of this state, in all
 24 respects the same as if constructed by corporations
 25 organized under the laws of this state."

1 Section 46. Section 69-14-513, MCA, is amended to
 2 read:
 3 "69-14-513. Lease or purchase of other railroads. (1)
 4 Any railroad corporation whose ~~line is wholly or partly~~
 5 ~~within this state or reaches the boundary line thereof,~~
 6 whether chartered by or organized under the laws of the
 7 state or territory of Montana, the United States, or any
 8 other state or territory, may lease or purchase the whole or
 9 any part of the railroad or line of railroad of any railroad
 10 corporation, constructed or unconstructed, together with all
 11 the rights, powers, immunities, privileges, franchises, and
 12 all other property or appurtenances thereto ~~provided the~~
 13 ~~railroad or line of railroad so leased or purchased is~~
 14 ~~continuous of or connected with its own line and not a~~
 15 ~~parallel or competing line. Any such railroad corporation,~~
 16 ~~whether chartered by or organized under the laws of the~~
 17 ~~state or territory of Montana, the United States, or any~~
 18 ~~other state or territory, may take, purchase, hold, set,~~
 19 ~~and dispose of or guarantee the payment of the capital~~
 20 ~~stock, bonds, and securities of any other railroad~~
 21 ~~corporation whose line of railroad within this state is~~
 22 ~~continuous of or connects with its own line. The railroad~~
 23 company of any other state of the United States which
 24 purchases or leases a railroad or any part thereof in this
 25 state:

1 (a) shall possess and may exercise and enjoy, as to
 2 the control, management, and operation of the road, all the
 3 rights, powers, privileges, and franchises possessed by
 4 railroad corporations organized under the laws of this
 5 state, including the exercise of the power of eminent
 6 domain; and

7 (b) shall establish and maintain an office or offices
 8 in this state at some point or points on its line at which
 9 legal process and notice may be served, as upon railroad
 10 corporations of this state.

11 (2) Any railroad company may sell or lease the whole
 12 or any part of its railroad or branches within this state,
 13 constructed or to be constructed, together with all property
 14 and rights, privileges, and franchises pertaining thereto,
 15 to any railroad company organized or existing pursuant to
 16 the laws of the United States, this state, or any other
 17 state or territory of the United States.

18 (3) All roads or branches thereof in this state,
 19 whether purchased or leased, shall be subject to taxation
 20 and to regulation and control by the laws of this state, in
 21 all respects the same as if constructed by corporations
 22 organized under the laws of this state.

23 (4) Before any such lease or purchase shall be
 24 effective, it shall be assented to or approved or
 25 ratified by the stockholders of each corporation by a vote

1 in favor thereof, at a general or special meeting of such
 2 stockholders, by the holders of three-fifths a majority in
 3 amount of all the outstanding capital stock of the company."

4 Section 47. Section 69-14-514, MCA, is amended to
 5 read:

6 "69-14-514. Interrailroad agreements--and business
 7 arrangements and out-of-state operations. (1) Any railroad
 8 company now-or-hereafter incorporated pursuant to the laws
 9 of this state, the United States, or any state or territory
 10 of the United States, may at any time, by means of
 11 subscription to the capital stock of any other railroad
 12 company or by the purchase of its stock or bonds or by
 13 guaranteeing its bonds or otherwise, aid such company in the
 14 construction of its railroad within or without this state
 15 and may take, purchase, hold, sell, and dispose of or
 16 guarantee the payment of the capital, stock, bonds, and
 17 securities of any other railroad corporation whose line of
 18 railroad within this state is continuous of or connects with
 19 its own line.

20 (2) Any company owning or operating a railroad within
 21 this state may:

22 (a) extend the same into any other state or territory;
 23 (b) build, buy, lease, or consolidate with any
 24 railroad or railroads in such other state or territory or
 25 with any other railroad in this state;

1 (c) operate the same; and
 2 (d) own such real estate and other property in such
 3 other state or territory as may be necessary or convenient
 4 in the operation of such road.
 5 ~~(3) Any railroad company may sell or lease the whole~~
 6 ~~or any part of its railroad or branches within this state~~
 7 ~~constructed or to be constructed together with all property~~
 8 ~~and rights, privileges, and franchises pertaining thereto~~
 9 ~~to any railroad company organized or existing pursuant to~~
 10 ~~the laws of the United States, this state, or any other~~
 11 ~~state or territory of the United States.~~
 12 ~~(4) Any railroad company incorporated or existing~~
 13 ~~under the laws of the United States or any state or~~
 14 ~~territory of the United States may extend, construct,~~
 15 ~~maintain, and operate its railroad or any portion or branch~~
 16 ~~thereof into and through this state and may build branches~~
 17 ~~from any point or such extension to any place or places~~
 18 ~~within this state. The railroad company of any other state~~
 19 ~~or territory of the United States which shall so purchase or~~
 20 ~~lease a railroad or any part thereof in this state or shall~~
 21 ~~extend or construct its road or any portion or branch~~
 22 ~~thereof in this state shall possess and may exercise and~~
 23 ~~enjoy, as to the control, management, and operation of the~~
 24 ~~road and as to the location, construction, and operation of~~
 25 ~~any extension or branch thereof, all the rights, powers,~~

1 privileges and franchises possessed by railroad
 2 corporations organized under the laws of this state,
 3 including the exercise of the power of eminent domain.
 4 ~~(5)(3)~~ Such purchase, sale, consolidation with, or
 5 lease may be made or such aid furnished upon such terms or
 6 conditions as may be agreed upon by the directors or
 7 trustees of the respective companies, but the same shall be
 8 approved or ratified by persons holding or representing a
 9 majority in amount of the capital stock of each of such
 10 companies, respectively, at any annual stockholders' meeting
 11 or at a special meeting of the stockholders called for that
 12 purpose or by approval in writing of a majority in interest
 13 of the stockholders of each company respectively.
 14 ~~(6)(4)~~ Nothing in the foregoing provisions shall be
 15 held or construed as curtailing the right of this state or
 16 the counties through which any such road or roads may be
 17 located to levy and collect taxes upon the same and upon the
 18 rolling stock thereof in conformity with the provisions of
 19 the laws of this state upon that subject. All roads or
 20 branches thereof in this state so consolidated with
 21 purchased, leased, aided, or extended into the state shall
 22 be subject to taxation and to regulation and control by the
 23 laws of this state in all respects the same as if
 24 constructed by corporations organized under the laws of this
 25 state. Any corporation of another state or territory or of

1 the United States, being the purchaser or lessee of a
 2 railroad within this state or extending its railroad or any
 3 portion thereof into or through this state, shall establish
 4 and maintain an office or offices in this state at some
 5 point or points on its line at which legal process and
 6 notice may be served, as upon railroad corporations of this
 7 state. Before any railroad corporation organized under the
 8 laws of any other state or territory or of the United States
 9 shall be permitted to avail itself of the benefits of this
 10 section, such corporation shall file with the secretary of
 11 state a true copy of its charter or articles of
 12 incorporation."

13 Section 48. Section 69-14-532, MCA, is amended to
 14 read:

15 "69-14-532. Authority to plan, lay out, and construct
 16 rail lines. Every railroad corporation has power to ~~may~~:

17 (1) cause such examination and surveys to be made as
 18 may be necessary to the selection of the most advantageous
 19 route for the railroad;

20 (2) lay out its road, not exceeding in width 100 feet
 21 on each side of its center-line ~~centerline~~, unless a greater
 22 width be is required for the purpose of excavation or
 23 embankment, and construct and maintain the same, with a
 24 single or double track and with such appendages and adjuncts
 25 as may be necessary for the convenient use of the same;

1 (3) construct their its road across, along, or upon
 2 any stream of water, watercourse, roadstead, bay, navigable
 3 stream, street, avenue, or highway or across any railway,
 4 canal, ditch, or flume which the route of its road
 5 intersects, crosses, or runs along, in such manner as to
 6 afford security for life and property; but the corporation
 7 shall restore the stream or watercourse, road, street,
 8 avenue, highway, railroad, canal, ditch, or flume thus
 9 intersected to its former state of usefulness, as near as
 10 may ~~be possible~~, or so that the railroad shall not
 11 unnecessarily impair its usefulness or injure its franchise;

12 (4) erect and maintain all necessary and convenient
 13 buildings, stations, depots, fixtures, and machinery for the
 14 accommodation and use of their its passengers, freight, and
 15 business;

16 (5) change the line of its road, in whole or in part,
 17 whenever a majority of the directors so determine, as is
 18 provided in 69-14-534; but no such change ~~must~~ may vary the
 19 general route of such road, as contemplated in its articles
 20 of incorporation."

21 Section 49. Section 69-14-536, MCA, is amended to
 22 read:

23 "69-14-536. Extension of rail lines into Montana. (1)
 24 Any railroad corporation chartered by or organized under the
 25 laws of the United States or of any state or territory whose

~~line of railroad shall reach or intersect the boundary line~~
~~of this state at any point~~ may extend, construct, maintain
 and operate its railroad into and through this state from
 any such point or points to any place or places within the
 state and may build branches from any point on such
 extension or continuation of any such extension or branch.
 Before making such extension into the state or building any
 such branch, road or any such continuation, such ~~the~~
 corporation shall, by resolution of its board of directors,
 to be entered in the records of its proceedings, designate
 the general route of such proposed extension, branch, or
 continuation, ~~in the manner provided in [15-108 and 15-109]~~
 and file a copy of such record, certified by the president
 and secretary, in the office of the secretary of state, who
 shall record the same when presented for record. Thereupon
 such corporations shall have all the rights, powers,
 privileges, immunities, and franchises to make, maintain,
 and operate such extension and build, maintain, and operate
 such branch or continuation, including the right of eminent
domains which it would have had if it had been incorporated
 for such purposes under the general laws of ~~the state or~~
 territory of Montana. Any corporation of another state or
of the United States extending its railroad or any portion
thereof into or through this state;
(a) shall establish and maintain an office or offices

in this state at some point or points on its line at which
legal process and notice may be served, as upon railroad
corporations of this state; and

(b) is subject to taxation and regulation and control
by the laws of this state, in all respects the same as if
the line were constructed by corporations organized under
the laws of this state.

(2) Before any railroad corporation organized under
the laws of any other state or territory or of the United
States shall be permitted to avail itself of the benefits of
this section, such corporation shall file with the secretary
of state a true copy of its charter or articles of
incorporation."

Section 50. Section 69-14-606, MCA, is amended to
 read:

"69-14-606. Role of public service commission with
 respect to crossings. (1) The commission ~~is~~ hereby given
~~full~~ power to may enforce the orders of any board of county
 commissioners for the construction of railroad crossings and
~~is~~ ~~likewise~~ given ~~full~~ power to may pass upon the
 reasonableness of any such order to and modify, change, or
 annul the same.

(2) Whenever any railroad crossing has been ordered by
 the county commissioners, as herein provided, the railroad
 company may, within 30 days after the service of such order,

1 serve upon the commission a notice stating why such the
 2 order is considered unreasonable or unjust and request
 3 requesting that the commission hold a hearing for the
 4 purpose of determining whether or not the construction of
 5 such crossing should reasonably be required. The commission
 6 shall thereupon institute a hearing for said this purpose,
 7 and all interested parties shall be given reasonable notice
 8 and an opportunity to be heard. Said the commission may,
 9 after such hearing, either affirm, modify, or annul such
 10 order."

11 Section 51. Section 69-14-713, MCA, is amended to
 12 read:

13 "69-14-713. Violation of provisions dealing with
 14 injury to livestock. (1) Except as otherwise provided, every
 15 person who violates any of the provisions of 69-14-701
 16 through 69-14-712 relating to livestock killed or injured by
 17 railroads is guilty of a misdemeanor.

18 (2) Any person violating any of the provisions of
 19 69-14-709, 69-14-711, or 69-14-712 shall, upon conviction
 20 thereof, be punished by a fine of not less than \$10 or more
 21 than \$300 or by imprisonment in the county jail for a period
 22 of not less than 10 days or more than 60 days or by both
 23 such fine and imprisonment."

24 Section 52. Section 69-14-802, MCA, is amended to
 25 read:

1 "69-14-802. Structural details of platform. Each
 2 platform shall be not less than 12 feet wide and 32 feet
 3 long, extending 4 feet and 6 inches, or such height as shall
 4 be determined by the commission, above the rails of the
 5 track, with suitable approaches to and from such platform to
 6 admit of the driving of loaded-teams vehicles thereon."

7 Section 53. Section 69-14-1001, MCA, is amended to
 8 read:

9 "69-14-1001. Protection of employees affected by
 10 closure of station or other facility. (1) Whenever any
 11 railroad, as defined in 69-14-101(2)(b), 69-14-101, is
 12 granted the authority to close a railroad station or
 13 facility by order of the commission, it shall--be--incumbent
 14 on the commission to shall require employee protection.
 15 Before the commission may approve closure of a station or
 16 facility, it shall require from the railroad an agreement to
 17 protect employees affected by the closure by providing jobs
 18 equal in nature and pay to the job held by the employee for
 19 the 6 months prior to such the closure. The equal job and
 20 pay agreement must be in effect for a period of 4 years or,
 21 in the alternative, the number of years the employee has
 22 been employed prior to closure, whichever is shorter.

23 (2) Notwithstanding any other provisions of this
 24 section, an agreement pertaining to protection of the
 25 interests of affected employees may be entered into between

1 the railroad and duly authorized representatives of the
2 employees."

3 Section 54. Section 69-14-1003, MCA, is amended to
4 read:

5 "69-14-1003. Railroad personnel as law officers. Every
6 conductor, engineer, or other person in charge of the
7 operation of cars, trains, or locomotives upon any railroad
8 is, while so engaged or employed, hereby constituted a
9 public executive officer of the class of peace officers and
10 of the grade of a constable in each county wherein his
11 train, cars, or locomotives may from time to time happen to
12 be and ~~is hereby given~~ has the same authority as other peace
13 officers to, with or without a warrant, arrest and prosecute
14 persons ~~violating any provision of sections 1 and 2 of page~~
15 ~~150 of laws of 1999~~ trespassing or illegally obtaining passage
16 on the railroad. The persons railroad personnel mentioned
17 herein shall not be entitled to receive fees for any arrest
18 or prosecution which may be made or prosecuted under
19 ~~sections 1 and 2 of page 150 of laws of 1999~~ this section. None
20 of the persons railroad personnel herein named shall be
21 authorized to hold said office or exercise its functions
22 ~~unless at the time he shall be a citizen~~ they are citizens
23 of the United States and ~~shall have been a citizen~~ citizens
24 of this state for at least 1 year next preceding his their
25 exercising the functions thereof."

1 Section 55. Repealer. (1) Sections 8-127 and 72-220,
2 R.C.M. 1947, are repealed.

3 (2) Sections 69-14-136 and 69-14-403, MCA, are
4 repealed.

5 Section 56. Severability. If a part of this act is
6 invalid, all valid parts that are severable from the invalid
7 part remain in effect. If a part of this act is invalid in
8 one or more of its applications, the part remains in effect
9 in all valid applications that are severable from the
10 invalid applications.

-End-

1 HOUSE BILL NO. 7

2 INTRODUCED BY MANUEL

3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAWS RELATING TO PUBLIC UTILITIES AND COMMON
7 CARRIERS; REPEALING SECTIONS 8-127 AND 72-220, R.C.M. 1947,
8 AND SECTIONS 69-14-136 AND 69-14-403, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 69-1-102, MCA, is amended to read:

12 "69-1-102. Creation of public service commission. A
13 public service commission is hereby created, whose duty it
14 shall be ~~is~~ to supervise and regulate the operations of the
15 public utilities ~~hereinafter named, common carriers,~~
16 ~~railroads, and other regulated industries listed in this~~
17 ~~title.~~ Such supervision and regulation shall be in
18 conformity with ~~chapter-3~~ this title."

19 Section 2. Section 69-1-108, MCA, is amended to read:

20 "69-1-108. Secretary of commission. (1) The commission
21 shall, immediately after its members have qualified, appoint
22 a secretary ~~who shall possess the same qualifications as~~
23 ~~members of said commission~~ to serve during the pleasure of
24 the commission. The secretary shall be a qualified elector
25 of the state.

1 (2) The secretary shall:

2 (a) keep a full and complete record of all proceedings
3 of the commission;

4 (b) be the custodian of its records and file and
5 preserve at the office of the commission all books, maps,
6 documents, and papers entrusted to his care and be
7 responsible to the commission for the same; and

8 (c) perform such other duties as the commission may
9 prescribe."

10 Section 3. Section 69-1-113, MCA, is amended to read:

11 "~~69-1-113. Suspension~~ Removal or suspension of
12 commissioner. If any commissioner ~~shall~~ ~~fail~~ fails to
13 perform his duties as provided for in ~~Chapter-37, Laws of~~
14 ~~1987~~ this title, he may be removed from office as provided
15 for by 45-7-401. Upon complaint made and good cause shown,
16 the governor ~~is authorized to~~ may suspend any commissioner
17 or ~~commissioners~~, and if, in his judgment, the exigencies of
18 the case require, the governor ~~is authorized to~~ may appoint
19 temporarily some competent person or persons to perform the
20 duties of ~~such the~~ suspended commissioner or ~~commissioners~~
21 during the period of ~~such the~~ suspension."

22 Section 4. Section 69-2-202, MCA, is amended to read:

23 "69-2-202. Institution of and intervention in
24 proceedings involving regulated companies. (1) The consumer
25 counsel may institute proceedings before the commission

1 against regulated companies.

2 (2) The consumer counsel may institute, intervene in,
3 or otherwise participate in appropriate proceedings in the
4 state and federal courts and administrative agencies in the
5 name of and on behalf of the utility and transportation
6 consuming public of the state of Montana or substantial
7 elements thereof, including review of decisions rendered by
8 or failure to act by the commission and applications for
9 restraining orders pending the investigation of and decision
10 upon a matter by the commission, pursuant to 27-19-202--or
11 27-19-203."

12 Section 5. Section 69-3-110, MCA, is amended to read:

13 "69-3-110. Enforcement of public utility law. (1) The
14 commission shall inquire into any neglect or violation of
15 the laws of this state by any such public utility, as
16 hereinbefore defined, doing business therein in this state
17 or by the officers, agents, or employees thereof. The
18 commission shall ~~have the power and it shall be its duty to~~
19 enforce the provisions of this chapter and report all
20 violations thereof to the attorney general.

21 (2) All rates, fares, charges, classifications, and
22 joint rates fixed by the commission shall be enforced and
23 ~~shall--be~~ are prima facie lawful from the date of the order
24 until changed or modified by the commission or in pursuance
25 of part 4. All regulations rules, practices, and services

1 prescribed by the commission shall be enforced and action
2 enforcement actions shall be brought for--that-purpose
3 pursuant to the provisions of part 4--or until the rules,
4 practices, or services are changed or modified by the
5 commission ~~itself~~ upon a satisfactory showing being made.

6 (3) Upon the request of the commission, it ~~shall be~~ is
7 the duty of the attorney general or the prosecuting attorney
8 of ~~the proper~~ or any county to aid in any ~~investigations~~
9 ~~prosecutions~~ investigation, prosecution, hearing, or trial
10 had under the provisions of this chapter and to institute
11 and prosecute all necessary actions or proceedings necessary
12 for the enforcement of this chapter.

13 (4) Any forfeiture or penalty herein provided shall be
14 recovered and suit thereon shall be brought in the name of
15 the state of Montana in the district court of any county
16 having jurisdiction of the defendant. The attorney general
17 of--Montana shall be the counsel in any proceeding
18 investigation, hearing, or trial prosecuted or defended by
19 the commission, as also shall any prosecuting attorney
20 selected by ~~said~~ the commission or other special counsel
21 furnished ~~said~~ the commission in any county where such
22 action is pending.

23 (5) In addition to ~~all~~ the other remedies provided by
24 this chapter for the prevention and punishment of any and
25 ~~all~~ violations violation of the provisions thereof and all

1 orders of the commission, the commission may compel
2 compliance with the provisions of this chapter and of the
3 orders of the commission by proceedings in mandamus, by
4 injunction, or by other civil remedies."

5 Section 6. Section 69-3-204, MCA, is amended to read:

6 "69-3-204. Fees to be charged by commission. (1) The
7 public service commission shall, except as otherwise
8 provided by law, require and receive fees before filing
9 annual reports, schedules, and supplements of these and
10 shall require and receive fees for copies of orders,
11 documents, classifications, blank forms, and other
12 instruments prepared by it or on file in its office, unless
13 provided by law to be furnished free of charge, under the
14 following schedule:

- 15 (a) filing annual reports, each.....\$ 5.00;
- 16 (b) ~~filing rate schedules, each.....\$ 2.00;~~
- 17 (b)(c) classification for public utilities, each.....
- 18\$ 1.50;
- 19 (c)(d) for blank forms of annual reports for utilities
- 20 costs

21 (2) This section does not require or authorize the
22 public service commission to collect fees for the filing of
23 annual reports, schedules, and supplements of these which
24 relate solely to interstate commerce."

25 Section 7. Section 69-3-209, MCA, is amended to read:

1 "69-3-209. Violations of public utility laws or
2 orders. If any public utility ~~shall violate~~ violates any
3 provision of this chapter, ~~shall--do~~ does any act herein
4 prohibited, or ~~shall--fail~~ fails or refuse ~~refuses~~
5 any duty enjoined upon it, ~~or-upon-failure-of-any-public~~
6 ~~utility~~ fails to place in operation any rate or joint rate
7 ~~or-do-any-act-herein-prohibited, for-which-a-penalty-has-not~~
8 ~~been--provided, or shall--fail--neglect--or-refuse~~ fails,
9 neglects, or refuses to obey any lawful requirement or order
10 made by the commission or any court, ~~then~~ then for every such
11 violation, failure, or refusal--~~such~~ the public utility
12 ~~shall-be~~ is subject to the penalty prescribed by 69-3-206."

13 Section 8. Section 69-3-301, MCA, is amended to read:

14 "69-3-301. Schedule of rates, tolls, and charges. (1)
15 Every public utility shall file with the commission, within
16 a time fixed by the commission, schedules which shall be
17 open to public inspection, showing all rates, tolls, and
18 charges which it has established and ~~which~~ which are in force at
19 the time for any service performed by it within the state or
20 for any service in connection therewith or performed by any
21 public utility controlled or operated by it. ~~The--rates--~~
22 ~~tolls--and-charges-shown-on-such-schedules-shall-not-exceed~~
23 ~~the-rates--tolls--and-charges-in-force--on--March--4--1973.~~
24 Every public utility shall file with and as a part of such
25 schedule all rules that in any manner affect the rates

1 charged or to be charged for any service. When a schedule of
 2 joint rates or charges is or may be in force between two or
 3 more public utilities, such schedule shall in like manner be
 4 printed and filed with the commission.

5 (2) A copy of so much of ~~said the~~ schedule as the
 6 commission ~~shall deem~~ considers necessary for the use of the
 7 public shall be printed in plain type and kept on file in
 8 every station or office of ~~such the~~ public utility where
 9 payments are made by the consumers or users. Such copy
 10 shall be open to the public and in such form and place as to
 11 be readily accessible to the public and ~~as can be~~
 12 conveniently inspected."

13 Section 9. Section 69-4-202, MCA, is amended to read:

14 "69-4-202. Regulation of construction by rural
 15 electrification associations. (1) All electrical
 16 construction conducted and to be operated by any rural
 17 electrification association and constructed and to be
 18 operated in pursuance of the authority of the rural
 19 electrification administration of the federal government,
 20 within the state of Montana, shall be in conformity with the
 21 rules and regulations set forth in the national electrical
 22 safety code approved by the American engineering standards
 23 committee national standards institute, as published by the
 24 department ~~of commerce of the United States~~ American
 25 institute of electrical and electronic engineers, and any

1 ~~and all revisions~~ revision thereof as the ~~same~~ may exist
 2 from time to time; provided, however, that where Y-connected
 3 circuits with neutral conductors effectively grounded
 4 throughout their length are used, minimum vertical clearance
 5 of wires or neutral conductors over ground or rails shall be
 6 determined by the voltage between wires and ground; if such
 7 voltage does not exceed 15,000 volts.

8 (2) The provisions of the national electrical safety
 9 code, as designated in subsection (1), wherever the same may
 10 be are in conflict with or in any manner contravene the
 11 provisions of this part, shall be ~~deemed~~ and construed as
 12 superseding, amending, and modifying the provisions of this
 13 part ~~insofar as the provisions thereof conflict with the~~
 14 ~~provisions of the national electrical safety code to the~~
 15 extent of such conflict; provided, that the provisions of
 16 this section ~~shall~~ apply only to electrical construction
 17 conducted and operated in pursuance of the authority of the
 18 rural electrification administration of the federal
 19 government.

20 (3) Every person, firm, or corporation which ~~shall~~
 21 ~~violate~~ violates any provisions provision of this section
 22 ~~shall be~~ is guilty of a misdemeanor."

23 Section 10. Section 69-4-204, MCA, is amended to read:

24 "69-4-204. Repeating ~~clause~~ Regulation by local
 25 government. ~~Acts or parts of acts and all ordinance~~ or

1 parts-of-ordinances-of-cities-and--towns--in--the--state--in
 2 conflict---with--Chapter--171v--laws--of--1917v--are--hereby
 3 repeatedv-and-hereafter-no-ordinance-in-conflict-with-any
 4 provisions-of-Chapter-171v-laws-of-1917v-shall-be-enacted-or
 5 passed--in--any--city--or--town-in-the-state No ordinance in
 6 conflict with any provision of this part may be enacted by a
 7 municipality, and any such ordinance is void."

8 Section 11. Section 69-4-305, MCA, is amended to read:
 9 "69-4-305. Effect on authority of public service
 10 commission. Nothing contained in this part shall vest any
 11 jurisdiction over any public utility in the governing body.
 12 The public service commission shall retain all jurisdiction
 13 now or hereafter conferred upon it by law."

14 Section 12. Section 69-5-106, MCA, is amended to read:
 15 "69-5-106. Service to industrial or commercial
 16 premises. (1) An electric utility ~~shall have~~ has the right
 17 to furnish electric service to any industrial or commercial
 18 premises if the estimated connected load for full plant
 19 operation at such industrial or commercial premises will be
 20 400 kilowatts or larger within 2 years from the date of
 21 initial service ~~provided, however,~~ such electric utility
 22 can extend its lines to such industrial or commercial
 23 premises at less cost to the electric utility or the
 24 industrial or commercial customer than the electric
 25 cooperative cost. The estimated connected load shall be

1 determined from the plans and specifications prepared for
 2 construction of the premises or, if such estimate is not
 3 available, shall be determined by agreement of the electric
 4 supplier and the customer. The fact that actual connected
 5 load after 2 years from the date of initial service exceeds
 6 ~~or fails to equal~~ is less than 400 kilowatts ~~shall~~ does not
 7 affect the right of the electric supplier initially
 8 providing service to continue service to such premises.

9 (2) An independent consultant engineer agreeable to
 10 both electric suppliers or, in the event of failure of the
 11 electric suppliers to agree on a consultant engineer, then
 12 by an independent consultant engineer selected by the
 13 district court having jurisdiction, as provided in 69-5-110,
 14 shall determine which electric supplier can extend its lines
 15 to the consumer at the least ~~costs~~ cost. The ~~costs~~ cost of
 16 such engineering services shall be paid equally by the
 17 electric suppliers involved.

18 (3) No premises other than another such commercial or
 19 industrial premises shall be served from a line constructed
 20 under this section."

21 Section 13. Section 69-5-109, MCA, is amended to read:
 22 "69-5-109. Special provisions for annexed areas. With
 23 respect to service in areas which are annexed to
 24 incorporated municipalities having a population in excess of
 25 3,500 persons ~~on or after March 17, 1939,~~ electric suppliers

1 shall have rights and be ~~are~~ subject to restrictions as
 2 follows:

3 (1) Every electric supplier shall ~~have~~ has the right
 4 to serve all premises being served by it on the date of
 5 annexation.

6 (2) An electric cooperative shall ~~does~~ not have the
 7 right to serve any premises initially requiring service on
 8 or after the date of annexation. The restriction stated in
 9 this subsection does not apply to incorporated
 10 municipalities in which 95% or more of the premises are ~~are~~
 11 served by an electric cooperative on February 1, 1971."

12 Section 14. Section 69-11-109, MCA, is amended to
 13 read:

14 "69-11-109. Provision for transportation of passengers
 15 and property for free or reduced rates. (1) No provisions of
 16 the laws of this state shall prevent any person,
 17 association, company, or corporation engaged as a common
 18 carrier of persons or property in this state from carrying,
 19 storing, or handling property free or at reduced rates for
 20 the United States, ~~for~~ state or municipal governments, or
 21 for charitable institutions, or property which is being
 22 transported to or from fairs and expositions for exhibit
 23 thereat, or cars used by the government of the United States
 24 or the state for the transportation of fish ~~for~~ and from
 25 carrying free or at reduced rates agents and employees

1 employed in such transportation, and nothing therein
 2 contained shall ~~prevent~~ prevents such person, association,
 3 company, or corporation from issuing free transportation or
 4 selling tickets at reduced rates to the following classes of
 5 persons, listed in 69-11-208.

6 ~~(a) employees of the issuing road and the members of~~
 7 ~~their families;~~

8 ~~(b) officers and employees of other railroads and the~~
 9 ~~members of their families upon the exchange of passes or~~
 10 ~~tickets;~~

11 ~~(c) doctors, nurses, and helpers being carried to~~
 12 ~~wrecks;~~

13 ~~(d) soldiers or sailors going to or coming from~~
 14 ~~institutions for their keeping;~~

15 ~~(e) ministers of religion and persons engaged in~~
 16 ~~charitable or religious work and destitute or homeless~~
 17 ~~persons being transported by charitable societies or of~~
 18 ~~public expense;~~

19 ~~(f) executive, judicial, or legislative officers of~~
 20 ~~this state, including the members of the faculty of the~~
 21 ~~different educational institutions of the state;~~

22 (2) When free transportation or a ticket at a reduced
 23 rate is issued to any such officer or any president or
 24 member of the faculty of any educational institution
 25 referred to in subsection ~~(f)~~ 69-11-208(1)(f), it shall

1 only be issued upon the application of the secretary of
 2 state, and the transportation or ticket shall be delivered
 3 to the secretary of state for delivery to the person or
 4 persons applying therefor. The secretary of state shall keep
 5 record of all transportation and tickets at reduced rates so
 6 received and delivered by him. The state officer and the
 7 president and faculty of the state educational institutions,
 8 when traveling upon any free transportation, may not charge
 9 any mileage against the state, or if traveling upon a ticket
 10 sold at reduced fare, they may not charge mileage in excess
 11 of the cost of the ticket.

12 (3) The carrying free or at reduced rates of property
 13 or persons in any of the classes above specified shall be
 14 held to be a reasonable classification by ~~retrroad-compentes~~
 15 common carriers for such purposes and not to be unjust
 16 discrimination. The carriage and transportation by any
 17 ~~retrroad-company, common carrier~~ at free or reduced rates
 18 in any of the cases above specified ~~shall-be-held-not-to-be~~
 19 is not a violation of any of the provisions of the laws of
 20 Montana or and does not subject ~~seid-retrroad-company the~~
 21 common carrier to any penalty therefor."

22 Section 15. Section 69-11-121, MCA, is amended to
 23 read:

24 "69-11-121. Detriment caused by carrier. (1) The
 25 detriment caused by the breach of a carrier's obligation to

1 accept freight, messages, or passengers is deemed to be the
 2 difference between the amount which he had a right to charge
 3 for the carriage and the amount which it would be necessary
 4 to pay for the same service when it ought to be performed.

5 (2) The detriment caused by the breach of a carrier's
 6 obligation to deliver freight, where he has not converted it
 7 to his own use, is deemed to be the value thereof at the
 8 place and on the day at which it should have been delivered,
 9 deducting the freightage to which he would have been
 10 entitled if he had completed the delivery.

11 (3) The detriment caused by a carrier's delay in the
 12 delivery of freight is deemed to be the depreciation in the
 13 intrinsic value of the freight during the delay and also the
 14 depreciation, if any, in the market value thereof, otherwise
 15 than by reason of a depreciation in its intrinsic value, at
 16 the place where it ought to have been delivered and between
 17 the day at which it ought to have been delivered and the day
 18 of its actual delivery.

19 (4) The damages prescribed by this section are
 20 exclusive of exemplary damages and interest, except where
 21 those are expressly mentioned. Notwithstanding the
 22 provisions of this section, no person can recover a greater
 23 amount in damages for the breach of an obligation than he
 24 could have gained by the full performance thereof on both
 25 sides, except ~~in--the--cases--specified--in--27-1-221--through~~

1 ~~27-1-223, 27-1-322, 70-16-100, 70-27-207, and 70-27-200~~ as
 2 provided in 27-1-303.*

3 Section 16. Section 69-11-208, MCA, is amended to
 4 read:

5 "69-11-208. Classes of persons who may receive free
 6 transportation. (1) The persons to whom free tickets, free
 7 passes, free transportation, and discriminating reduced
 8 rates may be issued, furnished, or given are the following:

9 (a) the officers, agents, employees, attorneys,
 10 physicians, and surgeons of such common carriers of
 11 passengers and the officers and employees of other common
 12 carriers upon the exchange of passes or tickets;

13 (b) the families of the persons included in subsection
 14 (1)(a);

15 (c) the general officers of any such common carriers;

16 (d) employees of sleeping car and express car
 17 companies and linemen of telegraph and telephone companies,
 18 railway mail service employees, post-office inspectors,
 19 customs inspectors, and immigration inspectors, newsboys and
 20 newsgirls on trains, and baggage agents;

21 (e) persons injured in wrecks and physicians and
 22 nurses attending such persons;

23 (f) passengers traveling with the object of providing
 24 relief in cases of railroad accident, general epidemic,
 25 pestilence, or other calamitous visitation;

1 (g) necessary caretakers of livestock, vegetables, and
 2 fruit, including return transportation to forwarding
 3 stations;

4 (h) the officers, agents, or regularly accredited
 5 representatives of labor organizations composed wholly of
 6 employees of railway companies;

7 (i) inmates of homes for the reform or rescue of the
 8 ~~vicious-or-unfortunate~~ disadvantaged, including those about
 9 to enter and those returning home after discharge, and
 10 boards of managers, including officers and superintendents,
 11 of such homes;

12 (j) superannuated and pensioned employees and members
 13 of their families and surviving spouses of such members;

14 (k) employees, crippled and disabled in the service of
 15 the common carrier of passengers;

16 (l) policemen and firefighters of any city, wearing
 17 the insignia of their office, within the limits of such
 18 city;

19 (m) ministers of religion, newspaper employees in
 20 exchange for advertising, traveling secretaries of Young
 21 Men's Christian Associations and Young Women's Christian
 22 Associations, inmates of hospitals and charitable and
 23 eleemosynary institutions, and persons exclusively engaged
 24 in charitable and eleemosynary work;

25 (n) indigent, destitute, and homeless persons, le

1 being transported by charitable societies or hospitals, and
 2 necessary agents and employees in such transportation;

3 (o) school children, to and from public or parochial
 4 schools;

5 ~~(p) the public service commission of Montana soldiers~~
 6 ~~or sailors~~ MILITARY PERSONNEL going to or coming from
 7 institutions for their keeping;

8 ~~(q) the state fire marshal;~~

9 ~~(r) the state seal expert and his necessary~~
 10 ~~employees while traveling on official duty~~ executive,
 11 judicial, or legislative officers of this state, including
 12 the members of the faculty of the different educational
 13 institutions of this state;

14 ~~(s) the furloughed employees of common carriers~~
 15 ~~authorized by 69-11-207 to issue free transportation and~~
 16 ~~members of their families;~~

17 ~~(t) persons who have become disabled or infirm in~~
 18 ~~the service of a common carrier or members of families of~~
 19 ~~persons who have become disabled or infirm in the service of~~
 20 ~~any such common carrier;~~

21 ~~(u) families of persons killed and surviving~~
 22 ~~spouses who have not remarried and minor children during~~
 23 ~~minority of persons who died while in the service of any~~
 24 ~~such common carrier;~~

25 ~~(v) witnesses attending any legal investigation in~~

1 which such carrier is interested;

2 ~~(w) the remains of persons who died while in the~~
 3 ~~employment of a common carrier; and~~

4 ~~(x) ex-employees traveling for the purpose of~~
 5 ~~entering the service of any such common carrier.~~

6 (2) The provisions of this section and 69-11-207 shall
 7 not be construed to prohibit the interchange of passes for
 8 the persons to whom free tickets, free passes, or free
 9 transportation may be furnished or given under the
 10 provisions of this section. Nothing in this section or
 11 69-11-207 shall be construed to invalidate any existing
 12 contract between a street railway company and a city, where
 13 a condition of a franchise grant requires the furnishing of
 14 transportation to policemen, firefighters, and officers
 15 while in the performance of official duties."

16 Section 17. Section 69-11-421, MCA, is amended to
 17 read:

18 "69-11-421. Liability of inland carriers for loss. (1)
 19 Any common carrier, railroad, or transportation company
 20 subject to the provisions of 69-11-421 through 69-11-427,
 21 receiving property for transportation from a point in
 22 Montana to any other point in Montana, shall issue a receipt
 23 or bill of lading therefor and shall be liable to the lawful
 24 holder thereof for any loss, damage, or injury to such
 25 property caused by it or by any common carrier, railroad, or

1 transportation company to which such property may be
 2 delivered or over whose line or lines such property may pass
 3 within the state when transported on a through bill of
 4 lading. No contract, receipt, rule, or other limitation of
 5 any character whatsoever shall exempt such common carrier,
 6 railroad, or transportation company from the liability
 7 hereby imposed.

8 (2) Except as provided in 69-11-422, any such common
 9 carrier, railroad, or transportation company receiving
 10 property for transportation from a point in Montana to a
 11 point in Montana or any common carrier, railroad, or
 12 transportation company delivering said property so received
 13 and transported shall be liable to the lawful holder of
 14 said receipt or bill of lading or to any party entitled to
 15 recover thereon, whether such receipt or bill of lading has
 16 been issued or not, for the full actual loss, damage, or
 17 injury to such property caused by it or by any common
 18 carrier, railroad, or transportation company to which such
 19 property may be delivered or over whose line or lines such
 20 property may pass within the state of Montana when
 21 transported on a through bill of lading, notwithstanding any
 22 limitation of liability or limitation of the amount of
 23 recovery or representation or agreement as to value in any
 24 such receipt or bill of lading or in any contract or rule
 25 or in any tariff filed with the public service commission.

1 Any such limitation, without respect to the manner or form
 2 in which it is sought to be made, is hereby declared to be
 3 unlawful and void, except:

- 4 (a) an inherent defect, vice, or weakness or a
- 5 spontaneous action of the property itself;
- 6 (b) the act of a public enemy of the United States or
- 7 of this state;
- 8 (c) the act of the law;
- 9 (d) an irresistible superhuman cause; or
- 10 (e) the act or default of the shipper or owner; or
- 11 (f) for natural shrinkage.

12 (3) Nothing in 69-11-421 through 69-11-426 shall
 13 deprive ~~deprives~~ any holder of such receipt or bill of
 14 lading of any remedy or right of action.

15 (4) The liability imposed by this section shall also
 16 apply ~~applies~~ in the case of property reconsigned or
 17 diverted in accordance with the applicable tariffs filed as
 18 provided in this part.

19 (5) A common carrier is liable, even in the cases
 20 excepted by ~~[the test section]~~ subsection (2), if his
 21 ordinary negligence exposes the property to the cause of the
 22 loss."

23 Section 18. Section 69-12-101, MCA, is amended to
 24 read:

25 "69-12-101. Definitions. Unless the context requires

1 otherwise, in this chapter the following definitions apply:

2 (1) "Between fixed termini" or "over a regular route"
3 means the termini or route between or over which a motor
4 carrier usually or ordinarily operates motor vehicles, even
5 though there may be periodical or irregular departures from
6 the termini or route.

7 (2) "Certificate" means the certificate of public
8 convenience and necessity issued under this chapter.

9 (3) "Compensation" means the charge imposed on motor
10 carriers for the use of the highways in this state by motor
11 carriers under 69-12-421.

12 (4) "Corporation" means a corporation, company,
13 association, or joint-stock association.

14 (5) "For hire" means for remuneration of any kind,
15 paid or promised, either directly or indirectly, or received
16 or obtained through leasing, brokering, or buy-and-sell
17 arrangements from which a remuneration is obtained or
18 derived for transportation service.

19 (6) "Motor carrier" means a person or corporation, or
20 its lessees, trustees, or receivers appointed by any court,
21 operating motor vehicles upon any public highway in this
22 state for the transportation of persons or property for hire
23 on a commercial basis, either as a common carrier or under
24 private contract, agreement, charter, or undertaking. The
25 term includes any motor carrier serving the public in the

1 business of transportation of ashes, trash, waste, refuse,
2 rubbish, garbage, and organic and inorganic matter.

3 (7) "Motor vehicle" includes vehicles or machines,
4 motor trucks, tractors, or other self-propelled vehicles
5 used for the transportation of property or persons over the
6 public highways of the state ~~and any trolley, street trolley,~~
7 ~~trolley, or other vehicle drawn thereby.~~

8 (8) "Person" means an individual, firm, or
9 partnership.

10 (9) "Public highway" means a public street, road,
11 highway, or way in this state.

12 (10) "Railroad" means the movement of cars on rails,
13 regardless of the motive power used."

14 Section 19. Section 69-12-108, MCA, is amended to
15 read:

16 "69-12-108. Violations. Any motor carrier subject to
17 the provisions of ~~Chapter 184, Laws of 1931~~ this chapter, as
18 amended, or whenever any such motor carrier is a
19 corporation, any director or officer thereof; any receiver,
20 trustee, lessee, agent, or persons ~~person~~ acting for or
21 employed by such corporation; any person, corporation, or
22 association or officer, agent, or employee thereof; or any
23 broker of property or officer, agent, or employee thereof
24 who violates or fails to comply with or who procures, aids,
25 or abets in the violation of any provision of ~~Chapter 184~~

1 ~~laws-of-1931 this chapter,~~ as amended, or who fails to obey,
 2 observe, or comply with any lawful order, decision, rule,
 3 direction, demand, or requirement of the commission or any
 4 part of the provisions thereof shall is:

5 (1) ~~be~~ subject to a civil penalty, to be collected and
 6 deposited to the general fund by the commission after notice
 7 and hearing, in an amount not less than \$25 or more than
 8 \$500 for the first offense and not less than \$100 or more
 9 than \$1,000 for each subsequent offense; or

10 (2) be subject, upon conviction in a justice's court,
 11 to a fine of not less than \$25 or more than \$500 for the
 12 first offense and not less than \$100 or more than \$1,000 for
 13 each subsequent offense."

14 Section 20. Section 69-12-203, MCA, is amended to
 15 read:

16 "69-12-203. Supervisor of motor carriers. (1) The
 17 commission shall appoint a supervisor of motor carriers who
 18 shall have general responsibility to ~~to~~ the commission for
 19 enforcement of the provisions of this chapter. The
 20 supervisor shall be either an attorney admitted to practice
 21 law in Montana or a person qualified by at least 5 years of
 22 suitable experience and training in appropriate phases of
 23 the motor carrier industry. He shall serve at the pleasure
 24 of the commission and at an annual salary to be set by the
 25 commission.

1 (2) The supervisor shall direct all enforcement
 2 activities in behalf of the commission, including the
 3 investigation and prosecution of violations of ~~Chapter--184v~~
 4 ~~laws--of--1931 this chapter,~~ as amended, or the rules or
 5 orders prescribed thereunder by the commission.

6 (3) The supervisor and whatever field inspectors may
 7 be employed by the commission to assist him shall be deemed
 8 peace officers for the purpose of making arrests in
 9 connection with violations of ~~Chapter-184v-laws-of-1931 this~~
 10 ~~chapter,~~ as amended, and issuing summonses, accepting bail,
 11 and serving warrants of arrest. The supervisor and field
 12 inspectors are empowered to make reasonable inspections of
 13 cargoes carried by commercial motor vehicles and require
 14 production of manifests, bills of lading, leases, and other
 15 documents relating to the cargo, routing, or ownership of
 16 such vehicles."

17 Section 21. Section 69-14-101, MCA, is amended to
 18 read:

19 "69-14-101. Definitions. Unless the context requires
 20 otherwise, in this chapter the following definitions apply:

21 (1) "Paralleling" ~~shall--be--held--to--mean~~ means the
 22 situation where the main tracks of parallel lines of
 23 railroad or railway are not more than 2,000 feet apart when
 24 measured from center to center.

25 (2) ~~fe}~~ "Railroad" means a corporation, company, or

1 individual owning or operating a railroad in whole or in
 2 part in this state. The term also includes express companies
 3 and sleeping-car companies.

4 ~~{b} "Railroad" shall be held to mean and include~~
 5 ~~railroad companies, express companies, car companies,~~
 6 ~~sleeping-car companies, freight and freight-line companies,~~
 7 ~~and all common carriers.~~

8 (3) "Transportation" includes instrumentalities of
 9 shipment or carriage."

10 Section 22. Section 69-14-102, MCA, is amended to
 11 read:

12 "69-14-102. Application. ~~{1} Chapter 37, Laws of 1987,~~
 13 ~~applies to the transportation of passengers and property~~
 14 ~~between points in this state and to the receiving,~~
 15 ~~switching, delivering, storing, and handling of property and~~
 16 ~~to charges connected therewith and applies to railroad~~
 17 ~~companies, express companies, car companies, sleeping-car~~
 18 ~~companies, freight and freight-line companies, and to any~~
 19 ~~shipments of property made from one point in this state to~~
 20 ~~another point in this state, whether the transportation of~~
 21 ~~it is wholly in this state or partly in this state and~~
 22 ~~partly in an adjoining state or states.~~

23 ~~{2} Chapter 37, Laws of 1987, This chapter~~ applies to
 24 all persons, firms, or companies, incorporated or otherwise,
 25 that do business as common carriers on any of the lines of

1 railroad in this state."

2 Section 23. Section 69-14-103, MCA, is amended to
 3 read:

4 "69-14-103. Interpretation. ~~Chapter 37, Laws of 1987,~~
 5 This chapter shall not have the effect to ~~release or waive~~
 6 of releasing or waiving any right of action by the state or
 7 any person for any right, penalty, or forfeiture which may
 8 arise under any law of this state. All penalties accruing
 9 under this part ~~shall be~~ are cumulative to each other, and a
 10 suit for or recovery of one ~~shall~~ is not be a bar to the
 11 recovery of any other penalty."

12 Section 24. Section 69-14-112, MCA, is amended to
 13 read:

14 "69-14-112. Investigatory authority. (1) The
 15 commission shall investigate any alleged neglect or
 16 violation of the laws of the state by any railroad or other
 17 company above specified doing business therein or by the
 18 officers, agents, or employees thereof. The commission
 19 ~~shall also have the power and authority and it shall be its~~
 20 ~~duty to~~ examine and inspect or cause to be examined and
 21 inspected, ~~under its authority,~~ all books, records, files,
 22 and papers of the persons and companies specified above,
 23 insofar as the same may be pertinent to any matter under
 24 investigation before ~~said~~ the commission, and to shall hear
 25 and take testimony in the progress of any inquiry or

1 investigation authorized by Chapter--37--Laws-of-1987 this
2 chapter.

3 (2) The commission, or some members thereof to be
4 deputed by it, shall investigate and make inquiry into every
5 accident occurring in the operation of any railroad in this
6 state resulting in death, injury to any person of such
7 gravity as to require the attention of a physician or
8 surgeon, or the destruction of property greater in value
9 than \$2,000. The testimony taken on any such hearing shall
10 be transcribed and filed in the office of the commission."

11 Section 25. Section 69-14-113, MCA, is amended to
12 read:

13 "69-14-113. Attendance and examination of witnesses.

14 (1) The commission in making any examination or
15 investigation provided for in Chapter--37--Laws-of--1987
16 shall have the power to this chapter may issue subpoenas for
17 the attendance of witnesses by such rules as it may
18 prescribe. Each witness shall receive the sum of \$3 per day,
19 together with the sum of 5 cents per mile traveled by the
20 nearest practicable route in going to and returning from the
21 place of meeting of said the commission. No witness
22 furnished with free transportation shall may receive mileage
23 for the distance he may have traveled on such free
24 transportation. No person shall may be excused from
25 attending or testifying or producing any books, papers,

1 documents, or any thing or things, before any court or
2 magistrate or commissioner or board, upon any investigation,
3 proceeding, or trial under the provisions of Chapter--37
4 Laws-1987, this chapter or for any violation of any of them
5 upon the ground or for the reason that the testimony or
6 evidence, documentary or otherwise, required of him, may
7 tend to convict him of a crime or subject him to a penalty
8 or forfeiture. No person shall be prosecuted or subjected to
9 any penalty or forfeiture for or on account of any
10 transaction, matter, or thing concerning which he may so
11 testify or produce evidence, and no testimony or evidence so
12 given or produced shall be received against him upon any
13 civil or criminal proceeding, action, or investigation.

14 (2) (a) The process issued by said the commission
15 shall be under seal and extend to all parts of the state.
16 Said the commission shall have power to issue process in
17 like manner as courts of record. Such process may be served
18 by any person authorized to serve process of courts of
19 record or by any person appointed by the commission for such
20 purpose.

21 (b) In the event the process issued by the commission
22 is a subpoena for the attendance of a witness and he shall
23 have-failed--neglected--or--refused fails, neglects, or
24 refuses to obey the same, the commission is hereby
25 authorized to file a petition with any district court in the

1 state, setting up the facts and the necessity of having such
 2 ~~the~~ witness appear in such ~~the~~ trial. The court shall
 3 thereupon summarily direct that a subpoena be issued out of
 4 the court requiring the attendance of any person or--persons
 5 as a witness before the court. The commission shall ~~may~~
 6 thereupon ~~have the power and authority to~~ examine such
 7 witness before ~~said the~~ court, under oath, respecting any
 8 inquiry or investigation being made by ~~said the~~ commission
 9 under--and pursuant to the provisions of ~~Chapter 37, laws of~~
 10 ~~1907 this~~ chapter. The court shall likewise, when any
 11 petition is filed stating the necessity therefor, order the
 12 production by any person or corporation, for examination in
 13 ~~said the~~ court, of any books, papers, records, or files
 14 necessary or pertinent to any inquiry or investigation then
 15 being made by ~~said the~~ commission."

16 Section 26. Section 69-14-115, MCA, is amended to
 17 read:

18 "69-14-115. Investigation, enforcement, and report
 19 concerning railroad safety laws. (1) ~~it is hereby made the~~
 20 ~~duty of the~~ the commission to shall:

21 (a) make inquiry into the observance by all railroads
 22 within this state of the laws of the United States and of
 23 Montana intended to safeguard the lives of the employees of
 24 persons or corporations engaged in operating the same;

25 (b) lay complaint before the proper officers, state or

1 federal ~~officer~~, of any infraction of any of such laws; and
 2 (c) prosecute before the proper court or tribunal any
 3 person guilty of violation of the penal provisions thereof.

4 (2) ~~Said the~~ the commission shall in ~~its the~~ annual report
 5 ~~required by 2-7-102~~ set out what effort it has made to carry
 6 out the provisions of this section, with the result thereof,
 7 and in detail what steps it has taken to ~~procure to be~~
 8 ~~prosecuted~~ prosecute any violations of any such acts of
 9 which it has secured information. A copy of this annual
 10 report shall be mailed to the secretary of the department of
 11 transportation."

12 Section 27. Section 69-14-131, MCA, is amended to
 13 read:

14 "69-14-131. Enforcement duties of commission. ~~it is~~
 15 ~~hereby made the duty of such the~~ the commission to shall see
 16 that the provisions of ~~Chapter 37, laws of 1907, this~~
 17 ~~chapter~~ and all laws of this state concerning railroads are
 18 enforced and obeyed and that violations thereof are promptly
 19 prosecuted and penalties due the state therefor recovered
 20 and collected. ~~Said the~~ the commission shall report all such
 21 violations, with the facts in its possession, to the
 22 attorney general or other officer charged with the
 23 enforcement of the laws and request him to institute the
 24 proper proceedings. All suits between the state and any
 25 railroad shall have precedence in all courts over all civil

1 causes, ~~criminal business and~~ original proceedings in the
2 supreme court excepted."

3 Section 28. Section 69-14-132, MCA, is amended to
4 read:

5 "69-14-132. Legal assistance for commission. The
6 attorney general is the attorney of the commission, and the
7 county attorney of every county in the state shall, on the
8 request and at the direction of the attorney general, assist
9 in all cases, proceedings, and investigations undertaken by
10 the commission under this ~~law chapter~~ in his own county.
11 However, the commission may employ special counsel, with the
12 approval of the attorney general, to assist in any case,
13 matter, proceeding, or investigation instituted under this
14 ~~law chapter~~. The attorney general, upon direction of the
15 commission, and the county attorney of each county in this
16 state, upon direction of the attorney general, shall
17 institute and prosecute and appear and defend any action or
18 proceeding arising under this ~~law chapter~~. All suits and
19 proceedings filed in any court of this state, under this
20 ~~law chapter~~ shall have precedence over all other business
21 in the court, except criminal business and original
22 proceedings in the supreme court."

23 Section 29. Section 69-14-133, MCA, is amended to
24 read:

25 "69-14-133. Collection and disposition of penalties

1 and forfeitures. ~~Att~~ Unless otherwise provided, all
2 penalties and forfeitures incurred, levied, and made under
3 the provisions of ~~Chapter--37,--laws--of--1987, this chapter~~
4 shall be collected by said ~~the~~ commission and paid over to
5 the state treasurer and credited to the general fund. Should
6 the commission fail or refuse to institute appropriate
7 action for the recovery of any penalty or forfeiture
8 provided for herein, for the space of 60 days after notice
9 of the cause of complaint by such ~~an~~ aggrieved person or
10 shipper, such person or shipper may institute and prosecute
11 such action in the name of the state against such railroad,
12 in the same manner as could the commission."

13 Section 30. Section 69-14-134, MCA, is amended to
14 read:

15 "69-14-134. Court enforcement of commission actions.
16 (1) The district court ~~shall--have~~ has jurisdiction to
17 enforce, by proper decree, injunction, or order, the rates,
18 classifications, rulings, orders, and regulations made or
19 established by the commission under the provisions of
20 ~~Chapter--37,--Laws--of--1987; Chapter--136,--Laws--of--1989; and~~
21 ~~Chapter--105,--Laws--of--1913~~ this chapter. The proceeding
22 therefor shall be by equitable action in the name of the
23 state and shall be instituted by the attorney general or
24 county attorney, whenever advised by the commission that any
25 railroad, railway, or common carrier is violative or

1 refusing to comply with any such rule, order, rate,
 2 classification, or regulation made by the commission and
 3 applicable to such railroad, railway, or common carrier.
 4 Such proceedings shall have precedence over all other
 5 business in such courts, except criminal business.

6 (2) In any action the burden of proof shall rest upon
 7 the defendant, who must show by clear and satisfactory
 8 evidence that the rule, order, regulation, rate, or
 9 classification involved is unreasonable and unjust as to
 10 them it. If, in such action, it is the decision of the court
 11 that the rule, regulation, order, rate, or classification is
 12 not so unreasonable or unjust and that in refusing
 13 compliance therewith the railroad, railway, or common
 14 carrier is thereby failing or omitting the performance of
 15 any duty, debt, or obligation, the court shall decree a
 16 mandatory and perpetual injunction compelling obedience to
 17 and compliance with the rule, regulation, order, rate, or
 18 classification by the defendant and its officers, agents,
 19 servants, and employees and may grant such other relief as
 20 may be deemed is just and proper. Any violation of such
 21 decree shall ~~render~~ renders the defendant and any officer,
 22 agent, servant, or employee of the defendant, who is in any
 23 manner instrumental in such violation, guilty of contempt,
 24 punishable by a fine not exceeding \$1,000 for each offense
 25 or by imprisonment of the person guilty of contempt until he

1 shall sufficiently purge purges himself therefrom. Such
 2 decree shall ~~continue and remain~~ remains in effect and be ~~in~~
 3 force until the rule, regulation, order, rate, or
 4 classification shall be modified or vacated by the
 5 commission. Nothing contained herein shall be construed to
 6 deprive either party to such proceedings of the right to
 7 trial by jury, as provided by the seventh amendment to the
 8 constitution of the United States or as provided by the
 9 constitution of this state.

10 (3) An appeal shall lie to the supreme court from the
 11 decree in such action, and the cause shall have precedence
 12 over all other civil actions of a different nature pending
 13 in the supreme court except original proceedings in the
 14 supreme court."

15 Section 31. Section 69-14-135, MCA, is amended to
 16 read:

17 "69-14-135. General right to supreme court review.
 18 Appeals may be taken to the supreme court from the judgment
 19 of any district court in any action brought under the
 20 provisions of ~~Chapter 37, laws of 1987; Chapter 136, laws of~~
 21 ~~1989; and Chapter 105, laws of 1913~~ this chapter. Such
 22 appeals shall have precedence over all other business,
 23 except criminal business and original proceedings in such
 24 courts and shall be heard and determined as are appeals in
 25 civil actions."

1 Section 32. Section 69-14-137, MCA, is amended to
2 read:

3 "69-14-137. Violations. If any railroad or other
4 common carrier ~~shall~~ willfully violate violates any
5 provision of ~~Chapter 37, Laws of 1987~~ this chapter, ~~shall do~~
6 does any other act herein prohibited, or ~~shall refuse~~
7 refuses to perform any ~~and all~~ lawful orders emanating from
8 ~~said~~ the commission relating to rates and charges or any
9 other duty enjoined upon it, for which a penalty has not
10 herein been provided, ~~then~~ for every such act of or
11 violation it shall pay to the state a penalty of not more
12 than \$500."

13 Section 33. Section 69-14-202, MCA, is amended to
14 read:

15 "69-14-202. Duty to furnish shipping and passenger
16 facilities. (1) ~~it is hereby made the duty of every~~ Every
17 person, corporation, and or association operating a railroad
18 in the state to shall maintain and staff facilities for
19 shipment and delivery of freight and ~~to~~ shall ship and
20 deliver freight and accommodate passengers in at least one
21 location, preferably the county seat, in each county through
22 which the line of the railway passes and at any point upon
23 the line of such railway where there is a city or town
24 having a population, according to the last federal ~~decennial~~
25 census, of not less than 1,000; provided, however, that this

1 section shall not require the maintenance and staffing of
2 such facilities in any county or at any city or town in
3 which such facilities were not maintained and staffed on
4 July 1, 1969.

5 (2) Nothing in this section ~~shall be construed to~~
6 authorize authorizes the discontinuance of any facility
7 presently established in any city, town, or other location
8 having a population of less than 1,000 without a hearing
9 before the public service commission, as provided by law.

10 (3) ~~Any person, corporation, or association which~~
11 ~~shall, for 60 days after written request of not less than 50~~
12 ~~inhabitants of such platted townsite, fail to comply with~~
13 ~~the provisions of Chapter 26, Laws of 1985, shall, upon~~
14 ~~conviction, be fined not less than \$10 or more than \$100 for~~
15 ~~each day thereafter so long as the provisions of that~~
16 ~~chapter are not complied with."~~

17 Section 34. Section 69-14-209, MCA, is amended to
18 read:

19 "69-14-209. Issuance of passenger tickets. (1) Every
20 railroad corporation must provide and, on being tendered the
21 regular rates of fare, furnish a ticket to every person
22 desiring a passage on its passenger cars, which entitles the
23 purchaser to a ride and to the accommodations provided on
24 ~~their~~ its cars from the depot or station where the same is
25 purchased to any other depot or station on the line of its

1 road. Every such ticket entitles the holder thereof to ride
 2 on its passenger cars to the station or depot of destination
 3 or any intermediate station and from any intermediate
 4 station to the depot of destination designated in the ticket
 5 at any time within 6 months thereafter.

6 (2) Any corporation failing so to provide and furnish
 7 tickets or refusing the passage which the same calls for
 8 when sold must pay to the person so refused the sum of
 9 \$200."

10 Section 35. Section 69-14-215, MCA, is amended to
 11 read:

12 "69-14-215. Issuance of bills of lading by railroad
 13 station agents ~~--penalty.~~ (1) All railway companies
 14 operating in the state which do not permit bills of lading
 15 to be issued by other employees other than agents shall be
 16 required to have said bills of lading issued by the station
 17 agent at the nearest station where a station agent is
 18 regularly maintained in the direction toward which the
 19 shipment is destined. The conductor of the train which
 20 receives the shipment at its point of origin shall deliver
 21 to the agent at the nearest station at which an agent is
 22 maintained through which ~~said the~~ shipment moves,
 23 immediately upon the arrival of the train carrying ~~said the~~
 24 shipment at ~~said the~~ agency station, all data necessary for
 25 the issuance of a bill of lading for ~~said the~~ shipment. The

1 agent shall immediately issue ~~said the~~ bill of lading and
 2 shall deliver the same to the shipper or his agent or shall,
 3 within 24 hours after the receipt of ~~said the~~ data from the
 4 conductor, for shipment of 20,000 pounds or over, deposit
 5 the bill of lading in a United States post office, addressed
 6 and registered or certified to the consignor of ~~said the~~
 7 shipment or his agent or attorney to his proper post-office
 8 address. A bill of lading for shipments of less than 20,000
 9 pounds to ~~may~~ be mailed without registering the use of
 10 registered or certified mail.

11 (2) Any railway company operating in Montana violating
 12 any provisions of this section ~~shall--be~~ is guilty of a
 13 misdemeanor and liable to a fine of not less than \$50 or
 14 more than \$1,000."

15 Section 36. Section 69-14-232, MCA, is amended to
 16 read:

17 "69-14-232. Size and equipment of caboose. (1)
 18 Caboose shall be at least 24 feet in length, exclusive of
 19 platforms, and shall be provided with a door in each end and
 20 with cupolas or bay windows, platforms, ~~guard--rails~~
 21 guardrails, grabirons, and steps for the safety of persons
 22 in alighting or getting on cabooses. Cabooses shall be of
 23 metal frame construction and be sufficiently insulated to
 24 eliminate track and other related noise above 85 decibels in
 25 any octave in the speech range. Other requirements for

1 cabooses are as follows:

2 (a) The trucks shall provide riding qualities at least
3 equal to those of freight type trucks modified with
4 elliptical or additional coil springs or other means of
5 equal or greater efficiency and shall have at least two
6 four-wheel trucks with standard steel wheels or their
7 equivalent. Draft gears shall have a minimum travel of 2 1/2
8 inches and a minimum capacity of 18,000 foot-pounds and
9 shall comply with Association of American Railroad Railroads
10 Standard M-901 or its equivalent.

11 (b) Electric lighting of at least 40 foot-candles
12 shall be provided for direct illumination of the caboose
13 desk, reading areas, and lavatory facilities.

14 (c) A spotlight shall be provided on the rear of the
15 caboose with sufficient candlepower to illuminate the track
16 for a distance of at least 300 feet to the rear of the
17 caboose during the hours of darkness.

18 (d) The caboose marker or markers shall be either
19 reflectorized or capable of illumination when required.

20 (e) Only glass of the ~~safety-glass~~ safety-glass type
21 shall be used in partitions, doors, windows, or wind
22 deflectors.

23 (f) All seats and seat backs shall conform to the
24 safety standards designed designated by the United States
25 department of transportation in its "Federal Motor Vehicle

1 Safety Standards", Motor Vehicle Safety Standard No. 201.
2 All edges and protrusions on seats and seat backs shall be
3 rounded to prevent injury to employees.

4 (2) Any person, corporation, or company, operating any
5 railroad or railway in this state, violating any of the
6 provisions of ~~[the preceding section]~~ shall be deemed this
7 section and 69-14-233 is guilty of a misdemeanor and upon
8 conviction thereof shall be fined not less than \$500 or more
9 than \$1,000 for each offense."

10 Section 37. Section 69-14-252, MCA, is amended to
11 read:

12 "69-14-252. Accident reports. ~~It is hereby made the~~
13 ~~duty of every~~ Every railroad company operating any line of
14 railroad within this state, shall promptly upon the
15 occurrence ~~or in connection with the operation of its line~~
16 ~~within the state~~ of any accident such as is mentioned in
17 69-14-112(2) ~~to report the same to the commission.~~ In the
18 report shall be stated the time and place of the accident,
19 the names of the persons killed or injured, and the value of
20 any property destroyed."

21 Section 38. Section 69-14-301, MCA, is amended to
22 read:

23 "69-14-301. Commission powers related to ratemaking.
24 (1) The commission shall adopt all necessary rates, charges,
25 and regulations to govern and regulate freight and passenger

1 tariffs, to correct abuses, and to prevent unjust
 2 discrimination and intimidation in the rates of freight and
 3 passenger tariffs on the different railroads in this state
 4 and to make the same effective by enforcing the penalties
 5 prescribed in ~~Chapter 37, Laws of 1907~~ this chapter.

6 (2) The commission shall fairly and justly classify
 7 and subdivide all freight and merchandise of whatever
 8 character that may be transported over railroads of this
 9 state into such general and special classes or subdivisions
 10 as may be considered necessary or expedient.

11 (3) The commission may fix different rates for
 12 different railroads and for different lines under the same
 13 management or for different parts of the same lines if found
 14 necessary to do justice and may make rates for express
 15 companies different from the rates fixed for railroads. The
 16 commission shall also fix and establish for all or any
 17 connecting lines of railroad in this state reasonable joint
 18 rates of freight charges for the various classes of freight
 19 and cars that may pass over two or more lines of such
 20 railroads.

21 (4) The commission shall make and establish reasonable
 22 rates for the transportation of freight within the state and
 23 shall prescribe rates, tolls, and charges for all other
 24 service ~~services~~ performed by any railroad subject hereto."

25 Section 39. Section 69-14-303, MCA, is amended to

1 read:

2 "69-14-303. Prohibition on rate discrimination. (1) If
 3 any railroad subject hereto, directly or indirectly or by
 4 any special rate, rebate, drawback, or other device,
 5 charges, demands, or receives from any person, firm, or
 6 corporation a greater or ~~less~~ lesser compensation for any
 7 service rendered or to be rendered in the transportation of
 8 property subject to the provisions of ~~Chapter 37, Laws of~~
 9 ~~1907, this chapter~~ this chapter than that fixed by the commission for
 10 such service, such railroad ~~is guilty of intimidation~~ and
 11 shall forfeit and pay to the state not less than \$500 or
 12 more than \$2,000 for each offense. Nothing in this
 13 subsection prevents any railroad or railroad corporation
 14 from giving excursion rates to or from any point within or
 15 without the state.

16 (2) If any railroad subject to ~~Chapter 37, Laws of~~
 17 ~~1907, this chapter~~ this chapter or its agents or officers hereafter
 18 collects, charges, demands, or receives from any person,
 19 company, firm, or corporation a greater rate, charge, or
 20 compensation than that fixed and established by the
 21 commission for the transportation of freight, passengers, or
 22 cars or for the use of any car on the line of its railroad
 23 or any line operated by it or for receiving, forwarding,
 24 handling, or storing any such freight car or for any other
 25 service performed or to be performed by it, such railroad

1 and its agents and officers are guilty of intimidation and
2 shall forfeit and pay to the state a sum not less than \$500
3 or more than \$2,000.

4 ~~{3}--it-is-hereby--declared--to--be--unlawful--for--any~~
5 ~~ticket-selling-agent-v-so-authorized-and-licensed-as-provided~~
6 ~~in--69-14-211--or--for--any--common--carrier-subject-to-the~~
7 ~~provisions-of-69-14-211-through-69-14-214-to-charge-demand~~
8 ~~collect-or-receive-from-or-to-sell--barter--transfer--or~~
9 ~~assign--to--any--person--firm--company--corporation--or~~
10 ~~association-any-ticket-of-any-class-whatever--entitling--the~~
11 ~~purchaser--or-holder-thereof-to-transportation-by-the-common~~
12 ~~carrier-issuing-such-ticket-for-a-greater--or--less--sum--or~~
13 ~~price--than--is-charged--demanded--collected--or--received--by~~
14 ~~such-ticket-selling-agent-or-common-carrier-subject--to--the~~
15 ~~provisions--of--69-14-211--through--69-14-214--for-a-similar~~
16 ~~ticket-of-the-same-class--Any-person--ticket-selling--agent--~~
17 ~~or--common--carrier--subject--to--the-provisions-of-69-14-211~~
18 ~~through-69-14-214-who-shall-violate-the-provisions--of--this~~
19 ~~subsection--shall--be--guilty--of--a--misdemeanor--and--upon~~
20 ~~conviction-thereof-shall-be-fined-in-the-sum--not--exceeding~~
21 ~~\$1,000--for--each--offense~~

22 {4}{1} (a) It is unlawful for any railroad subject to
23 this title to charge or receive any greater compensation in
24 the aggregate for the transportation of passengers or of
25 like kind kinds of property for a shorter distance than for

1 a longer distance over the same line or route in the same
2 direction, the shorter being included within the longer
3 distance, or to charge any greater compensation as through
4 rate than the aggregate of the intermediate rates; provided
5 that upon application to the commission and after
6 investigation, such carrier, in special cases, may be
7 authorized by the commission to charge less for longer than
8 for shorter distances for the transportation of passengers
9 or property, and the commission may from time to time
10 prescribe the extent to which such designated carriers may
11 be relieved from the operation of the foregoing provisions
12 of this subsection, but in exercising the authority
13 conferred upon it in this proviso, the commission shall not
14 permit the establishment of any charge to or from the more
15 distant point that is not reasonably compensatory for the
16 service performed.

17 (b) Violations of this subsection {3} shall be
18 punished in accordance with 69-14-805."

19 Section 40. Section 69-14-309, MCA, is amended to
20 read:

21 "69-14-309. Posting of rate schedule. Each railroad
22 affected by the provisions of Chapter 37, Laws of 1907, this
23 chapter shall display, in a conspicuous place in each of its
24 stations in this state, a schedule printed in plain,
25 legible, English type showing all classifications and rates

1 fixed and established by the commission."

2 Section 41. Section 69-14-322, MCA, is amended to
3 read:

4 "69-14-322. Actions to recover excess charges. (1) Any
5 sum or amount of money paid to any railroad by any person or
6 shipper in excess of the rates, tolls, or charges fixed and
7 established by the commission for such service may be
8 recovered from such railroad by the person or shipper in any
9 action instituted and maintained in the district court of
10 the county in which such payment was made. No contract or
11 agreement, written or otherwise, between such person or
12 shipper and the railroad shall be admissible in evidence for
13 the purpose of showing a waiver of the right given by this
14 section. No voluntary payment by any person or shipper of
15 any such excess or overcharge to any railroad shall be or be
16 held to be a waiver on the part of such person or shippers
17 ~~shipper~~ of the right to sue and recover for such excess or
18 overcharge as provided for in this section. If, upon the
19 trial of such action, it shall satisfactorily appear to the
20 court or jury that such overcharge was willfully made, the
21 person or shipper bringing the action shall be awarded
22 damages in treble the amount of such excess or overcharge,
23 together with the costs and expenses of such action,
24 including a reasonable attorney's fee, to be taxed and
25 collected as other costs in the action.

1 (2) ~~for~~ Such an action ~~shall~~ under this section must
2 be brought within 3 years from the date of such payment IHE
3 CAUSE OF ACTION ACCRUES.

4 ~~(b) All actions at law by carriers subject to this~~
5 ~~section for recovery of their charges or any part thereof~~
6 ~~shall be begun within 3 years from the time the cause of~~
7 ~~action accrues and not after."~~

8 Section 42. Section 69-14-402, MCA, is amended to
9 read:

10 "69-14-402. Lawsuit to determine reasonableness of
11 commission actions. (1) Any railroad, shipper, or other
12 interested person may bring an action in the district court
13 of the county where the principal office or place of
14 business of such railroad, shipper, or other interested
15 person is situated, or in any county where any
16 classification, rate, toll, charge, regulation rule, or
17 order of the commission is applicable, against the
18 commission as defendant, to determine whether or not any
19 such classification, rate, toll, charge, regulation rule, or
20 order made, fixed, or established by the commission under
21 the provisions of ~~Chapter 37, Laws of 1987~~, this chapter is
22 just and reasonable.

23 (2) Until the final decision in any such action, the
24 classification, rate, toll, charge, regulation rule, or
25 order of the commission affecting rates or charges shall be

1 deemed considered to be final and conclusive except as
 2 herein otherwise provided. In any action, hearing, or
 3 proceeding in any court, the classifications, rates, tolls,
 4 charges, ~~regulations~~ rules, and orders made, fixed, and
 5 established by said ~~the~~ commission shall prima facie be
 6 deemed-to-be considered just, reasonable, and proper.

7 (3) ~~(a)~~-All costs and expenses incurred in the
 8 hearing, trial, or appeal of any action brought under this
 9 section by-a-railroad shall be fixed and assessed as may
 10 seem just and equitable to the court.

11 ~~(b)--Costs--shall--be--awarded--in--all--actions--brought~~
 12 ~~under--the--provisions--of--this--section--by--a--shipper--or--other~~
 13 ~~interested--person--as--in--other--civil--causes."~~

14 Section 43. Section 69-14-501, MCA, is amended to
 15 read:

16 "69-14-501. Organization of railroad corporation. (1)
 17 The persons named in the articles of incorporation or a
 18 majority of them shall be authorized to order books to be
 19 opened for receiving subscriptions to the capital stock of
 20 the railroad corporation, at such times and at such places
 21 as they may deem expedient, after having given at least 30
 22 days' notice in a newspaper of general circulation in this
 23 state of the time and place of opening books.

24 (2) As soon as 5% on of the capital stock shall be is
 25 subscribed, they may give like notice for the stockholders

1 to meet at such time and place within the state as they may
 2 designate for the purpose of electing five or more directors
 3 who shall continue in office until the time fixed for the
 4 annual election, which time shall be within 6 months from
 5 the date when such directors were elected, and until their
 6 successors are elected and qualified. At the time and place
 7 appointed, directors shall be elected in the manner provided
 8 in ~~{15-405}~~ 35-1-506. The candidates for director
 9 receiving the highest number of votes shall be declared
 10 electd. The persons named in such articles or such of them
 11 as may be present shall be inspectors of such election and
 12 shall certify what persons are elected directors and appoint
 13 specify the time and place for holding their first meeting."

14 Section 44. Section 69-14-511, MCA, is amended to
 15 read:

16 "69-14-511. Authorization to consolidate railroad
 17 corporations. (1) Any two or more railroad corporations
 18 whose respective lines--not--being--parallel--or--competing
 19 lines, are wholly or partly within this state, whether
 20 chartered by or organized under the laws of the state or
 21 territory of Montana or of the United States or of any other
 22 state or territory, when-their-respective-lines-of--road--or
 23 any--branch--thereof--so--connect--within--this--state--that--they
 24 may-operate-together-as-one-property, may consolidate their
 25 capital stock, franchises, and property and thereby become

1 one corporation ~~to be known~~ by any name adopted by them,
 2 which may be that of one of them, upon such terms and
 3 conditions as may be agreed upon by them, in the manner
 4 provided in 69-14-512.

5 ~~(2) Before any railroad corporation organized under~~
 6 ~~the laws of any other state or territory or of the United~~
 7 ~~States shall be permitted to avail itself of the benefits of~~
 8 ~~this section and 69-14-512, such corporation shall file with~~
 9 ~~the secretary of state a true copy of its charter or~~
 10 ~~articles of incorporation."~~

11 Section 45. Section 69-14-512, MCA, is amended to
 12 read:

13 "69-14-512. Procedure to consolidate. (1) Articles of
 14 agreement shall be entered into by and--between such
 15 corporations, under their respective corporate seals and the
 16 signatures of their respective presidents and secretaries,
 17 containing the terms and conditions of such consolidation
 18 and the mode of carrying the same into effect, including:

19 (a) the name of the corporation resulting from such
 20 consolidation;

21 (b) the amount of its capital stock and the number and
 22 amount of shares thereof;

23 (c) the manner of retiring the shares of the capital
 24 stock of the corporations so consolidated or of converting
 25 the same into or exchanging it ~~them~~ for the capital stock of

1 such resultant corporation;

2 (d) the number which shall constitute the board of
 3 directors of such corporation and what officers it shall
 4 have;

5 (e) the persons who shall constitute the first board
 6 of directors and officers thereof, their ~~term terms~~ of
 7 office, and the manner in which their successors shall be
 8 elected, which shall be according to the provisions of
 9 ~~[15-405] 69-14-501~~; and

10 (f) such other matters as ~~may-be-deemed~~ are considered
 11 necessary to perfect such consolidation and as may be agreed
 12 upon.

13 (2) Such articles of agreement shall, before the same
 14 shall be effectual, be assented to, approved, or ratified by
 15 the stockholders of the respective corporations so
 16 consolidated at a regular meeting of such stockholders or a
 17 special meeting thereof, duly called and held, by resolution
 18 adopted by a vote in favor thereof, in person or by proxy,
 19 of the holders of at least ~~three-fifths~~ a majority in amount
 20 of the outstanding capital stock of such corporations,
 21 respectively.

22 (3) A duplicate of such articles of agreement,
 23 together with a copy of the resolutions ~~so~~ adopted by the
 24 stockholders of such corporations assenting to, approving,
 25 or ratifying the same, certified under the corporate seal

1 and the signature of the secretary and verified by a sworn
 2 statement of the president and secretary of the corporation
 3 ~~corporations~~ stating that such resolution was duly adopted
 4 by the vote in favor thereof of the holders of ~~three-fifths~~
 5 ~~a majority~~ in amount of the outstanding capital stock of the
 6 corporation ~~corporations~~ at a meeting of the stockholders
 7 thereof, duly held, shall be recorded in the office of the
 8 secretary of state. It shall be the duty of the secretary
 9 to record the same upon presentation for that purpose. Upon
 10 the filing thereof for record, as aforesaid, the corporation
 11 formed by such consolidation shall be a corporation by the
 12 corporate name mentioned in such articles of agreement and
 13 as such shall be perpetual and shall succeed to and have,
 14 own, possess, exercise, and enjoy all the powers, rights,
 15 franchises, privileges, immunities, and property of every
 16 name and nature possessed by the corporations so
 17 consolidated or to which they were entitled at the time of
 18 such consolidation and shall be entitled to have, own, hold,
 19 exercise, possess, and enjoy all the powers, rights,
 20 franchises, privileges, and immunities which may at any time
 21 appertain to railroad corporations under the general laws of
 22 this state. All railroads and branches thereof of the
 23 consolidated corporation are subject to taxation and to
 24 regulation and control by the laws of this state, in all
 25 respects the same as if constructed by corporations

1 organized under the laws of this state."
 2 Section 46. Section 69-14-513, MCA, is amended to
 3 read:
 4 "69-14-513. Lease or purchase of other railroads. (1)
 5 Any railroad corporation whose ~~line is wholly or partly~~
 6 ~~within this state or reaches the boundary line thereof,~~
 7 whether chartered by or organized under the laws of the
 8 state or territory of Montana, the United States, or any
 9 other state or territory, may lease or purchase the whole or
 10 any part of the railroad or line of railroad of any railroad
 11 corporation, constructed or unconstructed, together with all
 12 the rights, powers, immunities, privileges, franchises, and
 13 all other property or appurtenances thereto ~~provided the~~
 14 ~~railroad or line of railroad so leased or purchased is~~
 15 ~~continuous of or connected with its own line and not a~~
 16 ~~parallel or competing line. Any such railroad corporation,~~
 17 ~~whether chartered by or organized under the laws of the~~
 18 ~~state or territory of Montana, the United States, or any~~
 19 ~~other state or territory, may take, purchase, hold, sell,~~
 20 ~~and dispose of or guarantee the payment of the capital~~
 21 ~~stock, bonds, and securities of any other railroad~~
 22 ~~corporation whose line of railroad within this state is~~
 23 ~~continuous of or connects with its own line. The railroad~~
 24 company of any other state of the United States which
 25 purchases or leases a railroad or any part thereof in this

1 state:

2 ~~(a) shall possess and may exercise and enjoy, as to~~
 3 ~~the control, management, and operation of the road, all the~~
 4 ~~rights, powers, privileges, and franchises possessed by~~
 5 ~~railroad corporations organized under the laws of this~~
 6 ~~state, including the exercise of the power of eminent~~
 7 ~~domain; and~~

8 ~~(b) shall establish and maintain an office or offices~~
 9 ~~in this state at some point or points on its line at which~~
 10 ~~legal process and notice may be served, as upon railroad~~
 11 ~~corporations of this state.~~

12 ~~(2) Any railroad company may sell or lease the whole~~
 13 ~~or any part of its railroad or branches within this state,~~
 14 ~~constructed or to be constructed, together with all property~~
 15 ~~and rights, privileges, and franchises pertaining thereto,~~
 16 ~~to any railroad company organized or existing pursuant to~~
 17 ~~the laws of the United States, this state, or any other~~
 18 ~~state or territory of the United States.~~

19 ~~(3) All roads or branches thereof in this state,~~
 20 ~~whether purchased or leased, shall be subject to taxation~~
 21 ~~and to regulation and control by the laws of this state, in~~
 22 ~~all respects the same as if constructed by corporations~~
 23 ~~organized under the laws of this state.~~

24 ~~(4) Before any such lease or purchase shall be~~
 25 ~~effectuated effective, it shall be assented to or approved or~~

1 ratified by the stockholders of each corporation by a vote
 2 in favor thereof, at a general or special meeting of such
 3 stockholders, by the holders of three-fifths a majority in
 4 amount of all the outstanding capital stock of the company."

5 Section 47. Section 69-14-514, MCA, is amended to
 6 read:

7 "69-14-514. Interrailroad agreements---and business
 8 arrangements ~~and out-of-state operations.~~ (1) Any railroad
 9 company ~~now--or hereafter~~ incorporated pursuant to the laws
 10 of this state, the United States, or any state or territory
 11 of the United States, may at any time, by means of
 12 subscription to the capital stock of any other railroad
 13 company or by the purchase of its stock or bonds or by
 14 guaranteeing its bonds or otherwise, aid such company in the
 15 construction of its railroad within or without this state
 16 ~~and may take, purchase, hold, sell, and dispose of or~~
 17 ~~guarantee the payment of the capital, stock, bonds, and~~
 18 ~~securities of any other railroad corporation whose line of~~
 19 ~~railroad within this state is continuous of or connects with~~
 20 ~~its own line.~~

21 (2) Any company owning or operating a railroad within
 22 this state may:

23 (a) extend the same into any other state or territory;

24 (b) build, buy, lease, or consolidate with any
 25 railroad or railroads in such other state or territory or

1 ~~with any other railroad in this state;~~
2 (c) operate the same; and
3 (d) own such real estate and other property in such
4 other state or territory as may be necessary or convenient
5 in the operation of such road.
6 ~~{3} Any railroad company may sell or lease the whole
7 or any part of its railroad or branches within this state
8 constructed or to be constructed, together with all property
9 and rights, privileges and franchises pertaining thereto
10 to any railroad company organized or existing pursuant to
11 the laws of the United States, this state or any other
12 state or territory of the United States.
13 {4} Any railroad company incorporated or existing
14 under the laws of the United States or any state or
15 territory of the United States may extend, construct,
16 maintain and operate its railroad or any portion or branch
17 thereof into and through this state and may build branches
18 from any point or such extension to any place or places
19 within this state. The railroad company of any other state
20 or territory of the United States which shall so purchase or
21 lease a railroad or any part thereof in this state or shall
22 extend or construct its road or any portion or branch
23 thereof in this state shall possess and may exercise and
24 enjoy, as to the control, management and operation of the
25 road and as to the location, construction and operation of~~

1 ~~any extension or branch thereof, all the rights, powers,~~
2 ~~privileges and franchises possessed by railroad~~
3 ~~corporations organized under the laws of this state,~~
4 ~~including the exercise of the power of eminent domain.~~
5 ~~{5} {2} Such purchase, sale, consolidation with, or~~
6 ~~lease may be made or such aid furnished upon such terms or~~
7 ~~conditions as may be agreed upon by the directors or~~
8 ~~trustees of the respective companies, but the same shall be~~
9 ~~approved or ratified by persons holding or representing a~~
10 ~~majority in amount of the capital stock of each of such~~
11 ~~companies, respectively, at any annual stockholders' meeting~~
12 ~~or at a special meeting of the stockholders called for that~~
13 ~~purpose or by approval in writing of a majority in interest~~
14 ~~of the stockholders of each company respectively.~~
15 ~~{6} {4} Nothing in the foregoing provisions shall be~~
16 ~~held or construed as curtailing the right of this state or~~
17 ~~the counties through which any such road or roads may be~~
18 ~~located to levy and collect taxes upon the same and upon the~~
19 ~~rolling stock thereof in conformity with the provisions of~~
20 ~~the laws of this state upon that subject. All roads or~~
21 ~~branches thereof in this state so consolidated with~~
22 ~~purchased, leased, aided or extended into the state shall~~
23 ~~be subject to taxation and to regulation and control by the~~
24 ~~laws of this state in all respects the same as if~~
25 ~~constructed by corporations organized under the laws of this~~

1 states--Any corporation of another state or territory or of
 2 the--United--States--being--the--purchaser--or--lessee--of--a
 3 railroad--within--this--state--or--extending--its--railroad--or--any
 4 portion--thereof--into--or--through--this--state--shall--establish
 5 and--maintain--an--office--or--offices--in--this--state--at--some
 6 point--or--points--on--its--line--at--which--legal--process--and
 7 notice--may--be--served--as--upon--railroad--corporations--of--this
 8 states. Before any railroad corporation organized under the
 9 laws of any other state or territory or of the United States
 10 shall be permitted to avail itself of the benefits of this
 11 section, such corporation shall file with the secretary of
 12 state a true copy of its charter or articles of
 13 incorporation."

14 Section 48. Section 69-14-532, MCA, is amended to
 15 read:

16 "69-14-532. Authority to plan, lay out, and construct
 17 rail lines. Every railroad corporation has power to ~~may~~:

18 (1) cause such examination and surveys to be made as
 19 may be necessary to the selection of the most advantageous
 20 route for the railroad;

21 (2) lay out its road, not exceeding in width 100 feet
 22 on each side of its center--line centerline, unless a greater
 23 width is required for the purpose of excavation or
 24 embankment, and construct and maintain the same, with a
 25 single or double track and with such appendages and adjuncts

1 as may be necessary for the convenient use of the same;
 2 (3) construct their its road across, along, or upon
 3 any stream of water, watercourse, roadstead, bay, navigable
 4 stream, street, avenue, or highway or across any railway,
 5 canal, ditch, or flume which the route of its road
 6 intersects, crosses, or runs along, in such manner as to
 7 afford security for life and property; but the corporation
 8 shall restore the stream or watercourse, road, street,
 9 avenue, highway, railroad, canal, ditch, or flume thus
 10 intersected to its former state of usefulness, as near as
 11 ~~may--be~~ possible, or so that the railroad shall not
 12 unnecessarily impair its usefulness or injure its franchise;

13 (4) erect and maintain all necessary and convenient
 14 buildings, stations, depots, fixtures, and machinery for the
 15 accommodation and use of their its passengers, freight, and
 16 business;

17 (5) change the line of its road, in whole or in part,
 18 whenever a majority of the directors so determine, as is
 19 provided in 69-14-534; but no such change ~~must~~ may vary the
 20 general route of such road, as contemplated in its articles
 21 of incorporation."

22 Section 49. Section 69-14-536, MCA, is amended to
 23 read:

24 "69-14-536. Extension of rail lines into Montana. (1)
 25 Any railroad corporation chartered by or organized under the

1 laws of the United States or of any state or territory whose
 2 ~~line-of-railroad-shall-reach-or-intersect-the-boundary--line~~
 3 ~~of--this-state-at-any-point~~ may extend, construct, maintain,
 4 and operate its railroad into and through this state from
 5 ~~any--such--point-or-points~~ to any place or ~~pieces~~ within the
 6 state and may build branches from any point on such
 7 extension or continuation of any such extension or branch.
 8 Before making such extension into the state or building any
 9 such branch road or any such continuation, such ~~the~~
 10 corporation shall, by resolution of its board of directors,
 11 to be entered in the records of its proceedings, designate
 12 the general route of such proposed extension, branch, or
 13 ~~continuation; in the manner provided in [15-108-end-15-109];~~
 14 and file a copy of such record, certified by the president
 15 and secretary, in the office of the secretary of state, who
 16 shall record the same when presented for record. Thereupon
 17 such corporations shall have all the rights, powers,
 18 privileges, immunities, and franchises to make, maintain,
 19 and operate such extension and build, maintain, and operate
 20 such branch or continuation, including the right of eminent
 21 domain, which it would have had if it had been incorporated
 22 for such purposes under the general laws of ~~the state or~~
 23 territory of Montana. Any corporation of another state or
 24 of the United States extending its railroad or any portion
 25 thereof into or through this state;

1 ~~(a) shall establish and maintain an office or offices~~
 2 ~~in this state at some point or points on its line at which~~
 3 ~~legal process and notice may be served, as upon railroad~~
 4 ~~corporations of this state; and~~
 5 ~~(b) is subject to taxation and regulation and control~~
 6 ~~by the laws of this state, in all respects the same as if~~
 7 ~~the line were constructed by corporations organized under~~
 8 ~~the laws of this state.~~
 9 ~~(2) Before any railroad corporation organized under~~
 10 ~~the laws of any other state or territory or of the United~~
 11 ~~States shall be permitted to avail itself of the benefits of~~
 12 ~~this section, such corporation shall file with the secretary~~
 13 ~~of state a true copy of its charter or articles of~~
 14 ~~incorporation."~~
 15 Section 50. Section 69-14-606, MCA, is amended to
 16 read:
 17 "69-14-606. Role of public service commission with
 18 respect to crossings. (1) The commission ~~is hereby given~~
 19 ~~full power to~~ may enforce the orders of any board of county
 20 commissioners for the construction of railroad crossings and
 21 ~~is--likewise--given--full--power--to~~ may pass upon the
 22 reasonableness of any such order ~~to~~ and modify, change, or
 23 annul the same.
 24 (2) Whenever any railroad crossing has been ordered by
 25 the county commissioners, as herein provided, the railroad

1 company may, within 30 days after the service of such order,
 2 serve upon the commission a notice stating why such ~~the~~
 3 order is considered unreasonable or unjust and request
 4 ~~requesting~~ that the commission hold a hearing for the
 5 purpose of determining whether or not the construction of
 6 such crossing should reasonably be required. The commission
 7 shall thereupon institute a hearing for ~~said this~~ purpose,
 8 and all interested parties shall be given reasonable notice
 9 and an opportunity to be heard. ~~Said the~~ commission may,
 10 after such hearing, either affirm, modify, or annul such
 11 order."

12 Section 51. Section 69-14-713, MCA, is amended to
 13 read:

14 "69-14-713. Violation of provisions dealing with
 15 injury to livestock. (1) Except as otherwise provided, every
 16 person who violates any of the provisions of 69-14-701
 17 through 69-14-712 relating to livestock killed or injured by
 18 railroads is guilty of a misdemeanor.

19 (2) Any person violating any of the provisions of
 20 ~~69-14-709~~, 69-14-711~~y~~ or 69-14-712 shall~~y~~ upon conviction
 21 thereof, be punished by a fine of not less than \$10 or more
 22 than \$300 or by imprisonment in the county jail for a period
 23 of not less than 10 days or more than 60 days or by both
 24 such fine and imprisonment."

25 Section 52. Section 69-14-802, MCA, is amended to

1 read:

2 "69-14-802. Structural details of platform. Each
 3 platform shall be not less than 12 feet wide and 32 feet
 4 long, extending 4 feet and 6 inches, or such height as shall
 5 be determined by the commission, above the rails of the
 6 track, with suitable approaches to and from such platform to
 7 admit of the driving of ~~loaded teams~~ vehicles thereon."

8 Section 53. Section 69-14-1001, MCA, is amended to
 9 read:

10 "69-14-1001. Protection of employees affected by
 11 closure of station or other facility. (1) Whenever any
 12 railroad, as defined in ~~69-14-101(2)(b)~~ 69-14-101, is
 13 granted the authority to close a railroad station or
 14 facility by order of the commission, ~~it shall be incumbent~~
 15 on the commission to shall require employee protection.
 16 Before the commission may approve closure of a station or
 17 facility, it shall require from the railroad an agreement to
 18 protect employees affected by the closure by providing jobs
 19 equal in nature and pay to the job held by the employee for
 20 the 6 months prior to such ~~the~~ closure. The equal job and
 21 pay agreement must be in effect for a period of 4 years or,
 22 in the alternative, the number of years the employee has
 23 been employed prior to closure, whichever is shorter.

24 (2) Notwithstanding any other provisions of this
 25 section, an agreement pertaining to protection of the

1 interests of affected employees may be entered into between
 2 the railroad and duly authorized representatives of the
 3 employees."

4 Section 54. Section 69-14-1003, MCA, is amended to
 5 read:

6 "69-14-1003. Railroad personnel as law officers. Every
 7 conductor, engineer, or other person in charge of the
 8 operation of cars, trains, or locomotives upon any railroad
 9 is, while so engaged or employed, hereby constituted a
 10 public executive officer of the class of peace officers and
 11 of the grade of a constable in each county wherein his
 12 train, cars, or locomotives may from time to time happen to
 13 be and ~~is hereby given has~~ the same authority as other peace
 14 officers to, with or without a warrant, arrest and prosecute
 15 persons ~~violating any provision of sections 1 and 2, page~~
 16 ~~150, laws of 1899 trespassing or illegally obtaining passage~~
 17 ~~on the railroad.~~ The persons railroad personnel mentioned
 18 herein shall not be entitled to receive fees for any arrest
 19 or prosecution which may be made or prosecuted under
 20 ~~sections 1 and 2, page 150, laws of 1899 this section.~~ None
 21 of the persons railroad personnel herein named shall be
 22 authorized to hold said office or exercise its functions
 23 unless at the time ~~he shall be a citizen~~ they are citizens
 24 of the United States and ~~shall~~ have been ~~a citizen~~ citizens
 25 of this state for at least 1 year next preceding his their

1 exercising the functions thereof."

2 Section 55. Repealer. (1) Sections 8-127 and 72-220,
 3 R.C.M. 1947, are repealed.

4 (2) Sections 69-14-136 and 69-14-403, MCA, are
 5 repealed.

6 Section 56. Severability. If a part of this act is
 7 invalid, all valid parts that are severable from the invalid
 8 part remain in effect. If a part of this act is invalid in
 9 one or more of its applications, the part remains in effect
 10 in all valid applications that are severable from the
 11 invalid applications.

-End-

January 30, 1979

SENATE STANDING COMMITTEE REPORT

That House Bill No. 7 be amended as follows:

1. Page 46, line 2.

Following: "date"

Strike: "of such payment"

Insert: "the cause of action accrues"