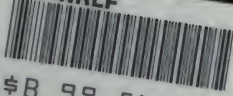


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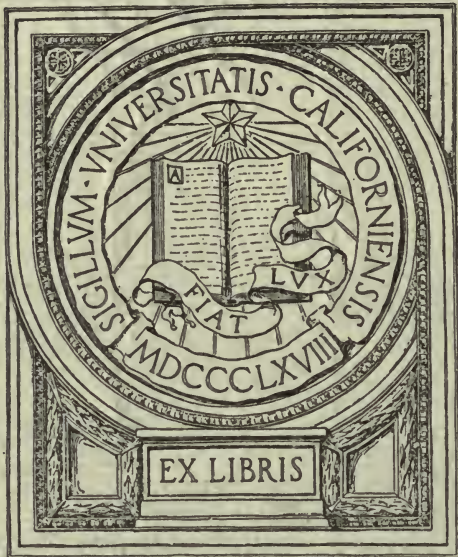
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No. 156.) AN ACT AS AMENDED. (H. 665.)

To prescribe rules and regulations relating to demurrage and car service and charges therefor and the respective rights, duties, obligations, liabilities and remedies of common carriers by rail and shippers and consignees with respect to the furnishing of empty cars and the transportation and delivery of freight and delay of shippers and consignees in the loading and unloading of cars and the receiving of freight and charges for such delay.

Section 1. Be it enacted by the Legislature of Alabama, That when a shipper or consignee makes a written application to a railroad company for a car or cars, to be loaded with any kind of freight embraced in the tariff of said company stating in said application the character of the freight, and its final destination, it shall be the duty of the railroad company to furnish the same at loading point or points if the number of cars be three or less within two days from seven o'clock a. m. of the day following such application; if the number required be more than three and less than ten, within five days; and if the number be more than ten and not more than twenty-five, within ten days from seven o'clock a. m. of the day following the date of such application; but the railroad company shall not be required to furnish more than twenty-five cars to any one shipper at any one time and place. When the shipper making such application specifies a future day on which he desires to make a shipment, giving notice thereof for not less than the number of days specified above, computing from seven o'clock a. m. of the day following such application, the railroad company shall furnish

Application
for cars.

Railroad company to furnish same;
number of cars and time for furnishing

such car or cars on the day or days specified in such application. For failure to comply with the provisions of this section the company so offending shall forfeit and pay to the shipper applying, the sum of one dollar per car, per day, for each day or fraction of a day, of delay after the expiration of free time, in furnishing said cars, upon demand in writing made within sixty days thereafter by the shipper; provided, the total forfeiture shall not exceed ten dollars for each car, the applicant may require the agent or officer with whom the application is filed to give a written receipt for the application, and any agent or officer who fails or refuses to give the receipt herein provided for shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred (\$500.00) dollars. Provided, that if the railroad company shall be delayed in furnishing the cars applied for by an act of God or by any accident on the road or by a strike, the delay thus caused shall be added to the free time allowed herein for the furnishing of said cars.

Penalty for failure to comply with section.

May demand receipt.

Free time allowed for accidents, etc.

Duty of railroads to receive freight when tendered.

Number of miles per day freight to be carried.

Penalty for failure.

Sec. 2. When freight in car loads or less is tendered a railroad company and correct shipping instructions given, the railroad agent must immediately receive the same for shipment and issue bills of lading therefor, and whenever such shipments have been so received by any railroad company, they must be carried forward at the rate of not less than fifty (50) miles per day of twenty-four hours, computing from seven o'clock a. m. of the day following receipt of shipment, and for failure to receive and transport to their destination such shipments within the time prescribed, the railroad company so offending shall forfeit and pay to the shipper, or consignee, according to whose interest is affected by the delay, the sum of one dollar per car for each day, or fraction of a day of delay beyond the free time allowed on all carload freight, and one cent per hundred pounds per day, or fraction thereof, of delay on freight in less than carloads, with mini-



mum charge of five (5) cents for each one pack-
 age, upon demand in writing by the shipper or
 consignee, whose interest is affected by such de-
 lay; provided, that in computing the time of
 freight in transit, there shall be allowed twenty-
 four hours at each point where transferring
 from one railroad to another, or rehandling of
 freight, is involved; provided, further, that the
 total forfeiture shall not exceed ten dollars
 (\$10.00) on consignments not in excess of a car
 load, and that the total forfeiture for each car
 shall not exceed ten dollars (\$10.00). Provided,
 further, that the period during which the move-
 ment of freight is suspended on account of acci-
 dent or any cause not within the power of the
 railroad company to prevent, and not due to any
 negligence of the railroad company or that of its
 employees, shall be added to the free time allow-
 ed in this section, and counted as additional free
 time.

Time allowed
 for transfer-
 ring or re-
 handling
 freight.

Total forfei-
 ture.

Free time al-
 lowed for acci-
 dents.

Sec. 3. Railroad companies shall, within twenty-
 four hours after arrival of shipment, give no-
 tice, by mail or otherwise, to consignee of the
 arrival of shipments together with the weight
 and amount of freight charges due thereon; and
 where goods or freight in car load quantities ar-
 rive, such notice shall contain the date and hour
 the car arrived, also identifying numbers, letters,
 and initials of the car or cars, and if such goods
 or freight are transferred to other car or cars in
 transit, the number and initials of the cars in
 which originally shipped. Any railroad compa-
 ny failing to give such notice within the time re-
 quired by this section shall forfeit and pay to the
 shipper, or consignee, whose interest is affected,
 the sum of one dollar (\$1.00) per car per day,
 for each day or fraction of a day of delay in giv-
 ing such notice on all carload shipments, and one
 (1) cent per hundred pounds per day, for each
 day or fraction of a day of such delay, on freight
 in less than car loads, with minimum charge of
 five (5) cents for any one package, after the ex-
 piration of said twenty-four hours; provided,

Duty of
 railroads upon
 arrival of
 shipment.

What notice
 must contain.

Penalty for
 failure.

Amount of total forfeiture. that not more than one dollar (\$1.00) per day, and not more than a total of ten dollars (\$10.00) shall be charged for any one consignment not in excess of a car load, and that the total forfeiture shall not exceed ten dollars (\$10.00) for each car.

Duty of railroads in placing freight to be unloaded. Sec. 4. Railroad companies shall deliver freight at their depots or warehouses, or, in case of shipment for track delivery, shall place loaded cars at an accessible place for unloading within twenty-four hours after arrival, computing from seven o'clock a. m. the day following the arrival of same. Except that car load shipments for track delivery at local stations having not more than one team track, shall be placed at an accessible point for unloading by the conductor of the train on which the car arrived. For failure to comply with the provisions of this section the railroad company shall forfeit and pay to the shipper or consignee, according to whose interest is affected by the delay, one dollar (\$1.00) per day, for each day or fraction of a day such delivery is so delayed; provided, however, that the total forfeiture shall not exceed ten dollars (\$10.00) for each car.

Penalty for failure. Total forfeiture. Car load freight subject to demurrage charges. Sec. 5. All car load freight, or freight carried at car load rates, and all freight in cars whether full car load or not, taking track delivery shall be subject to the demurrage, or car service charges prescribed in this act.

Time allowed shipper for loading. Demurrage charges. Failure to begin loading. Sec. 6. A shipper, on whose order a car or cars have been placed for loading, shall be allowed forty-eight hours for the loading of such car or cars, computing time from seven o'clock a. m. the day after such car or cars have been placed subject to the order of the shipper, and thereafter a demurrage charge of not more than one dollar (\$1.00) per car per day, or fraction of a day, of delay, may be assessed and collected on all such cars as have not been tendered to the railroad company with shipping instructions within said forty-eight hours, provided, however, that should the shipper fail to begin loading within forty-

eight hours after the expiration of free time the railroad company shall consider the car or cars released and may assess and collect two dollars (\$2.00) on each car, covering the demurrage then due, provided, further, that the total forfeiture shall not exceed ten dollars (\$10.00) for each car. Railroad companies shall not be compelled to furnish cars for future shipment to parties in default or arrears as to the payment of the demurrage charges herein last provided for, until such demurrage charges have been paid. If, after placing the car or cars required by this act, the railroad companies shall, during or after free time, temporarily remove all or any of them, or in any way prevent, obstruct or delay the loading of same, the shipper shall not be chargeable with the delay caused thereby. When, by reason of delay or irregularity on the part of the railroad company in filling orders, cars are bunched in excess of the ability of the shipper to load, the shipper shall be allowed separate and distinct periods of free time within which to load the car or cars specified in each separate application.

Total forfeiture.

Not required to furnish cars to parties in arrears.

If cars moved temporarily by railroad.

In case cars are bunched.

Sec. 7. A car or cars detained or held at a point of shipment for want of proper shipping instructions, or by reason of imperfect or excessive loading, where loading is done by shipper, shall be subject to a demurrage charge of one dollar (\$1.00) per car per day, or fraction of a day beyond the free time said car or cars are so detained or held. In case of imperfect or excessive loading, the shipper shall be notified thereof as early as practicable after said car or cars have been received from him, in which case the above car service charges shall begin from the time of notification if the free time has expired. Provided, however, that the total charge or forfeiture shall not exceed ten dollars (\$10.00) for each car.

Imperfect shipping instructions; demurrage.

Shipper to be notified.

Total forfeiture.

Sec. 8. Legal notice, as referred to in this act, may be either actual or constructive. Where the consignee or his agent is personally served with notice of the arrival of freight at or before six p. m. of any day, free time begins at seven

Legal notice; what is.

Free time allowed.

o'clock a. m. on the day after such notice has been given. Constructive notice referred to consists of posting notice by mail to consignee. Where this mode of giving notice is adopted there shall be twenty-four hours additional free time; from the time said notice is mailed; provided, however, that when in any case where notice of arrival is given by mail, the consignee shall make oath that neither he, his agent, nor employees have received such notice, then he will be held not to have received legal notice by reason of posting of said notice by mail.

Package
freight subject
to storage
charges.

Amount of
same.

Total charge.

Loaded covered
cars of fertili-
zer, hay, coal,
coke, brick,
etc., subject to
demurrage
charge.

Sec. 9. All package freight unloaded by railroad companies in their depots or warehouses, which is not removed by the owners thereof from the custody of the railroad company within forty-eight hours, computing from seven o'clock a. m. of the day following legal notice of arrival may be subject to a charge for storage for each day, or fraction of a day, it may remain in the custody of the railroad company, as follows: In less than car loads, nor more than one (1) cent per hundred pounds per day, or fraction thereof; in car load quantities, not more than ten cents per ton of 2,000 pounds per day or fraction thereof, but not exceeding one dollar per car load per day, or fraction of a day; provided, that in no case shall the amount so charged or collected for storage of less than a car load shipment exceed the amount authorized to be charged as storage or demurrage on a car load of similar freight for the same length of time when not unloaded from car as provided by the demurrage provisions in this act prescribed; and provided further that the total charge shall not exceed ten dollars for each car load, nor ten dollars on consignment not in excess of a car load.

Sec. 10. Loaded cars containing fertilizer, hay, coal, coke, brick, and lumber in covered cars, and the following articles in bulk: meat, potatoes, grain and grain products, cotton seed, cotton seed meal, and cotton seed hulls, taking track delivery, which are to be unloaded by consignee,

but are not unloaded within seventy-two hours, computed from seven o'clock a. m. the day following the day legal notice of arrival is given (having been placed at the accessible point designated by consignee for unloading), may be subject thereafter to a charge for demurrage of one dollar per car for each day or fraction of a day, beyond the free time that they may remain loaded in possession of the railroad company; provided, that the total charge or forfeiture shall not exceed ten dollars (\$10.00) for each car. All other loaded cars, taking track delivery, to be unloaded by consignee, shall be limited to forty-eight hours of free time; provided, however, that if, after placing a car or cars as required in this act, the railroad company shall during or after free time, temporarily remove all or any of them, or in any way obstruct the unloading of same, the consignee shall not be chargeable with the delay caused thereby. Provided, that when, on account of delay or irregularity in transportation, cars are bunched in transit and delivered to consignee in numbers beyond his reasonable ability to unload within the free time prescribed in this act, he shall be allowed by the carrier such additional time as may be necessary to unload cars so in excess by the exercise of due and usual diligence on the part of consignee and based on consignees average discharge in past.

Total forfeiture.

Free time for other loaded cars.

If cars temporarily removed by railroad.

When cars bunched in delivery.

Sec. 11. Whenever the weather during the period of free time is so severe, inclement, or rainy that it is impossible or impracticable to secure means of loading or unloading freight, or when, from the nature of the goods, loading or unloading would cause injury or damage, such time shall be added to the free period, and no demurrage charges shall be allowed for such additional free time. This section applies to the state of the weather during business hours.

Weather conditions.

Sec. 12. A consignor or consignee three miles or more from the depot, and whose freight is destined to or from his place of business or residence so located, shall not be subject to storage or de-

When parties reside away from depot when not subject to demurrage charges.

Time for unloading allowed.

murrage charges allowed in the foregoing sections until a sufficient time has elapsed after notice for said consignee or consignor to remove or load said goods by the exercise of ordinary diligence. The time limit for unloading shall not be less than four days nor more than six days from the date notice is given.

Free time on carload freight to a terminal point at a port for export.

Sec. 13. On car load freight originating in Alabama, and shipped on local bills of lading to a terminal point at a port within this State, for export, there shall be allowed ten days free time, computing from seven o'clock a. m. the day after arrival of car or cars, before application of storage or demurrage charges.

Incoming carload freight.

Sec. 14. All incoming car-load freight, if the same be not removed before demurrage charges the amount of \$5.00 attach, may be stored by the carrier in its own depots or warehouses, or in public or private warehouses, at the expense of the consignee or owner; provided that the rates charged for such storage shall be reasonable and that after storage charges attach no demurrage charges shall be made.

When consignee refuses to accept freight in pursuance of bill of lading.

Sec. 15. If the consignee shall refuse to accept freight tendered in pursuance of the bill of lading, the carrier charged with the duty of delivery shall at once give notice to the consignor of such refusal; and if such consignor shall not, within four days thereafter, give direction for the re-shipment or unloading, or other disposition of such goods, he shall thenceforth become liable to such carrier for storage on such goods, or demurrage upon the car or cars in which they are stored, to the same extent, and at the same rates as such charges are now under like circumstances, by the provisions of this act, imposed upon consignees who neglect or refuse, after notice of arrival to remove freight of like character

Liabile to carrier for storage or demurrage.

Consignee once refusing not entitle to receive same until all charges paid.

from the depots or cars of a carrier. A consignee who has once refused to accept a consignment of goods shall not thereafter be entitled to receive the same, except upon payment of all charges for storage or demurrage which have accrued;

and if the consignee, of freight in car loads or less than car loads, shall fail or neglect to remove such freight within three days after the expiration of free time, then the carrier shall, through the agent at point of shipment, so notify the shipper, unless the consignee has signified his acceptance of the property. Said notice may be served personally or given by mail.

When consignee fails or refuses to remove after free time.

Manner of serving notice.

Sec. 16. When consignors ship goods consigned to order but express in the bills of lading or shipping directions the name of a person at destination to be notified, it shall be the duty of the railroad or other transportation company to give notice to such person in the same way as if the shipping directions the name of a person at destination do not designate the name of the person to be notified the railroad or other transportation company shall give such notice only to such consignors.

When goods shipped consigned to order but name of person expressed in bill of lading.

Sec. 17. Railroads shall not discriminate between persons or places in storage or demurrage charges. No rebate, drawback or other similar device shall be allowed.

Railroad not to discriminate between persons or places.

Sec. 18. No demurrage shall be charged on private cars standing on private tracks, when both cars and tracks are owned by the same person. When the cars are not owned by the owners of the tracks no demurrage shall be charged provided the person owning the tracks shall furnish to the delivering railway satisfactory evidence that the owners of the cars releases both him and the delivering road from the payment of demurrage.

Demurrage not chargeable on private cars and private tracks.

Sec. 19. Nothing in the foregoing rules shall be construed to prohibit railroad companies from contracting with shippers and consignees on terms of mutual convenience in the matter of furnishing and discharging cars; provided, that such contracts shall be so drawn as to give to either party the right to cancel the same on ten days after notice, and thereafter demand the application of this act.

Contracts on terms of mutual convenience allowed.

Right to cancel same.

In computing time Sundays and legal holidays excepted.

Sec. 20. In all computations of time under the provisions of this act, Sundays and legal holidays shall be excluded.

Right to recover actual damages.

Sec. 21. Nothing in this act shall be so construed as to bar or prevent any shipper or consignee from recovering from any railroad company, in addition to the penalties herein prescribed such actual damages as he may have sustained by reason of any violation of the provisions of this act by such company.

When cars delivered to switching or belt line; demurrage charges incurred.

Sec. 22. In all cases where a car or cars, loaded or empty, shall be delivered by any carrier to any switching line or belt line for transfer to the shipper or consignee, if any demurrage charge or other charge or forfeiture shall be incurred by or in favor of either the shipper or consignee or the common carrier, by reason of any fault, negligence or delay on the part of such switching line or belt line, said switching line or belt line shall forfeit and pay to the shipper or consignee, according to whose interest is affected, such sum as said shipper or consignee shall pay to said carrier under the provisions of this act, as a demurrage or other charge, and shall forfeit and pay to such carrier such sum as it shall be required to pay, under the provisions of this act, to such shipper or consignee.

Manner of recovering charge or forfeiture incurred.

Sec. 23. Any charge or forfeiture incurred by any carrier, including any switching line or belt line, in favor of any shipper or consignee, under the provisions of this act, may be recovered in an action of assumpsit or debt, or under a court claiming the same in a complaint in any suit to recover such damages as he may have sustained by reason of any violation of the provisions of this act. If any shipper or consignee shall before suit commenced, and within sixty days after any such charge or forfeiture in his favor has been incurred, file a written claim, verified by affidavit, for such charge or forfeiture with any officer, manager, superintendent, freight agent or station agent of the carrier against which the claim was incurred, and if within sixty days after the

filing of said claim, the same shall not be adjusted and paid by said carrier, then the amount of the charge or forfeiture recoverable against said carrier and for which it shall be liable shall be three fold the amount prescribed in this act. Provided the proof shows that the claim filed as aforesaid was not for more than the shipper was entitled to under the provisions of this act.

Sec. 24. Any person, firm, company or corporation who shall make such application to any common carrier by rail for, and shall procure from such common carrier any number of cars without a bona fide intention to use the same for the transportation of freight shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than five hundred dollars nor more than five thousand dollars for each offense.

Penalty for securing cars without bona fide intention to use same.

Sec. 25. Any car of freight shipped from Mobile by steamer, sail, or other water craft, destined for a port outside the State of Alabama shall constitute an export shipment and entitle shipper to export time limit, as defined by this act.

What constitutes export shipment.

Sec. 26. This act shall go into effect immediately upon its approval.

Effect.

Approved February 28, 1907.

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