

TITLE 62
RAILROADS AND OTHER PUBLIC UTILITIES

CHAPTER 4
OPERATION OF RAILROADS

62-401. CHECKING BAGGAGE. A check must be affixed to every package or parcel of baggage when taken for transportation by any agent or employee of a railroad corporation, and a duplicate thereof given to the passenger or person delivering the same in his behalf; and if such check is refused on demand, the railroad corporation must pay to such passenger the sum of twenty dollars (\$20.00) to be recovered in an action for damages; and no fare or toll must be collected or received from such passenger, and if such passenger has paid his fare the same must be returned by the conductor in charge of the train; and on producing the check, if his baggage is not delivered to him by the agent or employee of the railroad corporation he may recover the value thereof from the corporation.

[(62-401) R.S., sec. 2674; reen. R.C. & C.L., sec. 2809; C.S., sec. 4809; I.C.A., sec. 60-401.]

62-402. ACCOMMODATIONS FOR PASSENGERS AND FREIGHT. Every such corporation must start and run their cars for the transportation of persons and property, at such regular times as they shall fix by public notice, and must furnish sufficient accommodations for the transportation of all such passengers and property as, within a reasonable time previous thereto, offer or is offered for transportation at the place of starting, at the junction of other railroads and at siding and stopping places established for receiving and discharging way passengers and freight; and must take, transport and discharge such passengers and property at, from and to such places, on the due payment of toll, freight or fare therefor.

[(62-402) R.S., sec. 2675; reen. R.C. & C.L., sec. 2810; C.S., sec. 4810; I.C.A., sec. 60-402.]

62-403. REFUSAL TO ACCEPT PASSENGERS OR FREIGHT. In case of refusal by such corporation or its agents so to take and transport any passengers or property, or to deliver the same at the regular appointed places, such corporation must pay to the party aggrieved all damages which are sustained thereby, with costs of suit.

[(62-403) R.S., sec. 2676; reen. R.C. & C.L., sec. 2811; C.S., sec. 4811; I.C.A., sec. 60-403.]

62-404. ACCOMMODATIONS TO BE SUFFICIENT. Every railroad corporation must furnish on the inside of its passenger cars, sufficient room and accommodations for all passengers to whom tickets are sold for any one trip, and for all persons presenting tickets entitling them to travel thereon; and when fare is taken for transporting passengers on any baggage, wood, gravel or freight car, the same care must be taken and the same responsibility is assumed by the corporation as for passengers on passenger cars.

[(62-404) R.S., sec. 2677; reen. R.C. & C.L., sec. 2812; C.S., sec. 4812; I.C.A., sec. 60-404.]

62-405. PRINTED RULES AND REGULATIONS. Every railroad corporation must have printed and conspicuously posted on the inside of its passenger cars its

rules and regulations regarding fare and conduct of its passengers; and in case any passenger is injured on or from the platform of a car, or on any baggage, wood, gravel or freight car, in violation of such printed regulations, or in violation of positive verbal instructions or injunctions given to such passenger in person by any officer of the train, the corporation is not responsible for damages for such injuries, unless the corporation failed to comply with the provisions of the preceding section.

[(62-405) R.S., sec. 2678; reen. R.C. & C.L., sec. 2813; C.S., sec. 4813; I.C.A., sec. 60-405.]

62-406. ERECTION AND MAINTENANCE OF FENCES -- LIABILITY FOR DAMAGES. Every railroad company or corporation operating any steam or electric railroad in this state shall erect and maintain lawful fences, not less than four feet (4') high, on each side of its road, where the same passes through or along inclosed or adjoining cultivated fields or inclosed lands, with proper and necessary openings and gates therein and farm crossings; and also construct and maintain cattle guards suitable and sufficient to prevent horses, cattle, mules or other animals from getting on such railroads, at all highway crossings where such railroad is fenced up to such highway crossing: provided, however, that in lieu of the necessary openings and gates therein at farm crossings, cattle guards suitable and sufficient to prevent horses, cattle, mules or other animals from getting on such railroads may be installed at the expense of the adjoining landowner or landowners.

Until such fences, openings, gates, farm crossings and cattle guards shall be duly and properly made, installed and maintained, such railroad company or corporation shall be liable in a civil action to any and all person or persons who may sustain any loss, injury or damage by the wounding, maiming or killing of any horse, mare, gelding, filly, jack, jenny or mule, or any cow, heifer, bull, ox, steer or calf, or any other domestic animal which shall be done by such railroad company or corporation, or its agents or servants, in the operation and management of engines, cars, or other rolling stock, upon or over such railroad, whether such person or persons operating or in charge of such engine, cars or other rolling stock were guilty of negligence or not; and such railroad company or corporation shall also be liable in a civil action to any and all persons who may sustain any loss, injury or damage by the wounding, maiming or killing of any horse, mare, gelding, filly, jack, jenny or mule, or any cow, heifer, bull, ox, steer or calf, or any other domestic animal which shall be done by such railroad company or corporation, or its agents or servants in the operation or management of engines, cars, or other rolling stock upon or over such railroad, if any such animal or animals escape from adjoining lands and come upon the right of way or railroad tracks of such railroad company or corporation, occasioned by the failure of such railroad company or corporation to construct and maintain such fences, gates, farm crossings or cattle guards, whether the person or persons operating or in charge of such engine, cars or other rolling stock were guilty of negligence or not; but after such fences, gates, farm crossings and cattle guards shall have been duly made, installed and maintained, such railroad company or corporation shall not be liable for any such damages, unless negligently or wilfully done, and in all actions for the recovery of damages under this section, proof of the wounding, maiming or killing of such animal or animals by such railroad company or corporation, shall be prima facie evidence of negligence or wilfulness on the part of such railroad company or corporation.

If any railroad company or corporation, aforesaid, fail, neglect or refuse for and during a period of three (3) months after the completion of its road through or along the fields or enclosures hereinbefore mentioned, to erect, install and maintain any fences, openings, gates, farm crossings, or cattle guards as herein required, after having received not less than thirty (30) days' notice requiring them to erect, install and maintain such fences, openings, gates, farm crossings or cattle guards, then the owner of such field or enclosure may erect and maintain such fences, openings, gates, farm crossings and cattle guards, and shall thereupon have a right to recover from such railroad or corporation, the full value of the work so done, by a civil action in any court of competent jurisdiction.

[(62-406) R.S., sec. 2679; reen. R.C., sec. 2814; 1907, p. 324, sec. 1; reen. R.C., sec. 2815; am. 1911, ch. 223, sec. 1, p. 706; reen. C.L., sec. 2815; C.S., sec. 4814; I.C.A., sec. 60-406; am. 1945, ch. 144, sec. 1, p. 216.]

62-407. CROSSINGS AND CATTLE GUARDS. It shall be the duty of every railroad company whose line runs through or across any desert or other unoccupied territory, to keep and maintain suitable crossings and cattle guards, wherever any public highway or publicly traveled road crosses the same, and to place gates at convenient intervals not exceeding four (4) miles apart, for the crossing of the same wherever there are no roads within such distances.

[(62-407) 1907, p. 324, sec. 2; reen. R.C. & C.L., sec. 2816; C.S., sec. 4815; I.C.A., sec. 60-407.]

62-408. CLAIM FOR DAMAGES. Any person claiming damages under section 62-406[, Idaho Code,] must serve notice of his claim in writing signed by such person, or some one in his behalf, upon any station agent, ticket agent, or other agent of such railroad company or corporation, within six (6) months after the alleged damage is done, and all suits for such damage must be commenced within one (1) year after the service of such notice.

[(62-408) 1907, p. 324, sec. 3; reen. R.C., sec. 2817; am. 1911, ch. 223, sec. 2, p. 707; reen. C.L., sec. 2817; C.S., sec. 4816; I.C.A., sec. 60-408.]

62-409. RECOVERY OF ATTORNEYS' FEES. In all suits under section 62-406[, Idaho Code,] if the plaintiff recover any damages he shall also be entitled to recover reasonable attorneys' fees, together with his costs of suit.

[(62-409) 1907, p. 324, sec. 4; reen. R.C., sec. 2818; am. 1911, ch. 223, sec. 3, p. 708; reen. C.L., sec. 2818; C.S., sec. 4817; I.C.A., sec. 60-409.]

62-410. BOOK OF DESCRIPTIONS OF STOCK KILLED. Every railroad company must keep a book at a principal station in each county into or through which its road runs, to be designated by the company, and a notice of the station so designated must be filed with the recorder of the county in which the station is located; and every such company must cause to be entered in said book, within fifteen (15) days after the killing or maiming of any animal, a description as nearly as may be of such animal, its color, age, marks and brands, and keep said book subject to public inspection. Should any company fail to keep such book, or to file such notice in the manner herein provided, or to enter therein such description of any animal maimed or killed, for a

period of fifteen (15) days thereafter, such company is liable to the owner of such animal for twice the value thereof.

[(62-410) R.S., sec. 2681; reen. R.C. & C.L., sec. 2819; C.S., sec. 4818; I.C.A., 60-410.]

62-411. DISPOSAL OF CARCASS. In case of maiming or killing any cattle, sheep or hog, the body of the animal belongs to the company, unless the owner elects, within twelve (12) hours, to take the same in satisfaction or reduction of damages. The company may proceed to take care of and preserve the body of such animal, and must, unless taken by the owner, take off enough of the hide to show distinctly any brands on such animal, also both ears, including the hide between the ears, and in such way as to keep the ears together, and the pieces of hide so taken off, and the ears of each animal, must be attached together and preserved for at least three (3) months for inspection at the station house nearest to the place where such killing or maiming occurred. For every failure so to keep any such pieces of hide and ears for inspection, the company, in addition to the damages to the owner, forfeits \$100, to be recovered in an action in the name of the state, in any court of competent jurisdiction, one-half to be paid into the school fund of the county, and the residue to the informer.

[(62-411) R.S., sec. 2682 (see 1888-1889, p. 45); reen. R.C. & C.L., sec. 2820; C.S., sec. 4819; I.C.A., sec. 60-411.]

62-412. BELL OR WHISTLE. The operator of a train or locomotive is not required to sound the locomotive's bell, horn or whistle when approaching any location at which the railroad crosses a private highway, private road or private street at grade.

[(62-412) R.S., sec. 2683; reen. R.C. & C.L., sec. 2821; C.S., sec. 4820; am. 1929, ch. 50, sec. 1, p. 69; I.C.A., 60-412; am. 1974, ch. 156, sec. 1, p. 1387; am. 2007, ch. 255, sec. 1, p. 760.]

62-413. EJECTION OF PASSENGERS FOR MISCONDUCT -- PENALTY FOR EMPLOYEE'S VIOLATIONS. If any passenger on any railroad train refuses to pay his fare, or to exhibit or surrender his ticket, when reasonably requested so to do, or uses abusive, vulgar, obscene or profane language in a car occupied by other passengers, or makes his presence offensive or unsafe to the said passengers, or if any trespasser be found on any car or train, the conductor and employees of the railway company may put him and his baggage out of the cars or off the train, using no unnecessary force, at any station of the railway company operating such train, which is open at the time of such ejection, on stopping the train, but not otherwise.

Any conductor or employee of any railway company violating the provisions of this section shall be guilty of a misdemeanor, and the railway company shall be liable for all damages caused thereby.

[(62-413) R.S., sec. 2684; reen. R.C., sec. 2822; am. 1911, ch. 188, sec. 1, p. 620; reen. C.L., sec. 2822; C.S., sec. 4821; I.C.A., sec. 60-413.]

62-418. RAILROADS AND OTHER CARRIERS -- EMPLOYEE INSPECTING SHIPMENTS TO GIVE SHIPPER COPY OF REPORT. Every inspector, agent or employee of any steam or electric railroad or other public carrier who inspects any car or consignment of fruit, grain, livestock, or other agricultural or farm product, originating in the state of Idaho prior to shipment, to ascertain the

condition thereof, shall at the time of such inspection on demand of shipper or consignor deliver to the shipper or consignor a true copy or copies, duly signed by him, of any and all reports or certificates by him made or rendered to such public carrier, as to the condition of the contents of such car or consignment.

[(62-418) 1923, ch. 132, sec. 1, p. 193; I.C.A., sec. 60-418.]

62-419. PENALTY FOR FAILURE TO GIVE REPORT OR MAKING FALSE REPORT. Every inspector, agent or employee of any such public carrier who, upon making such an inspection, shall on demand of shipper or consignor fail to deliver to the shipper or consignor at such time a true copy of each and every report or certificate by him made concerning the condition of the car or consignment about to be shipped, and every such inspecting agent who shall wilfully make or cause to be made or published in any such report or certificate any false statement as to the condition of the livestock or commodity by him so inspected, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not exceeding \$300 for each offense.

[(62-419) 1923, ch. 132, sec. 2, p. 193; I.C.A., sec. 60-419.]

62-420. "TRACK MOTOR CARS" DEFINED. As used in this act, the term "track motor cars," means all power propelled speeders and motor cars which can be lifted on and off the track by hand.

[62-420, added 1953, ch. 89, sec. 1, p. 119.]

62-421. EQUIPMENT OF TRACK MOTOR CARS WITH SPECIFIED ELECTRIC LIGHTS. Every individual, firm or corporation, operating or controlling any railroad which is a common carrier shall equip each of its track motor cars operated during the period thirty (30) minutes before sunset to thirty (30) minutes after sunrise with:

(1) An electric headlight of sufficient candle power to enable the operator of the car to plainly discern any track obstruction, landmark, warning sign or grade crossing at a distance not less than 300 feet.

(2) A red rear electric light of sufficient candle power to be plainly visible at a distance not less than 300 feet.

[62-421, added 1953, ch. 89, sec. 2, p. 119.]

62-422. EQUIPMENT OF TRACK MOTOR CARS. Every individual, firm or corporation, operating or controlling any railroad which is a common carrier shall equip each of its track motor cars with:

(1) A windshield, with a transparent section, or sections, of sufficient height and width to reasonably protect the occupants of the car, and equipped with a device, which must be kept in good working order, with which the operator can clean rain, snow and other moisture from the windshield.

(2) A canopy or top adequate to protect the occupants of the car from sun, rain, snow or other inclement weather.

(3) A first aid kit to be maintained with sufficient supplies to render ordinary first aid to the usual number of occupants of the car.

[62-422, added 1953, ch. 89, sec. 3, p. 119.]

62-423. VIOLATIONS AS TO EQUIPMENT PENALIZED. Violation of any of the provisions of sections 62-421 and 62-422[, Idaho Code,] is punishable, upon conviction, by a fine of not more than \$100 for each offense.

[62-423, added 1953, ch. 89, sec. 4, p. 119.]

62-424. HEARING ON ABANDONMENT. (1) Whenever any railroad proposes to abandon any branch line or main line now in operation within the state of Idaho, the railroad shall file notice of the intended abandonment with the public utilities commission. The public utilities commission shall schedule a public hearing on the proposed abandonment. If the hearing results in a finding by the commission that the abandonment of the branch line or main line would adversely affect the area then being served and that there is reason to believe that the closure would impair the access of Idaho communities to vital goods and services and market access to those communities and that the line has potential for profitability, then the public utilities commission shall transmit a report of its findings to the United States surface transportation board on behalf of the people of the state of Idaho.

(2) The Idaho public utilities commission shall continue to intervene in federal surface transportation board abandonment proceedings when necessary to protect the state's interest.

[62-424, added 1985, ch. 82, sec. 1, p. 157; am. 1997, ch. 371, sec. 1, p. 1184; am. 2001, ch. 348, sec. 3, p. 1227.]

CHAPTER 5
CONDITIONAL SALES AND LEASES OF RAILROAD EQUIPMENT -- [REPEALED]