

MAINE STATE LEGISLATURE

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THE MICHIE COMPANY, Inc.
CHARLOTTESVILLE, VIRGINIA

Chapter 49.

Corporations for Navigation by Steam.

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Cross Reference.—See c. 44, re public utilities commission.

Corporations for Navigation by Steam.

Sec. 1. Treasurer's office.—Treasurers of corporations created for navigation by steam shall keep an office within the state. (R. S. c. 45, § 1.)

Sec. 2. Liability for neglect and misconduct.—Corporations mentioned in section 1 are liable for breach of contracts, express or implied, made as common carriers; for their neglect and misconduct; and for that of their agents, to the same extent as owners of vessels are by the maritime law. (R. S. c. 45, § 2.)

Common carrier owes highest degree of care to assure passenger's safety. — The law requires the common carrier of passengers to exercise the highest degree of care that human judgment and foresight are capable of, to make his passenger's journey safe. Whoever engages in the business impliedly promises that his passenger shall have this degree of care. In other words, the carrier is conclusively presumed to have promised to do what, under the circumstances, the law requires him to do. The law will not allow the carrier by notice or special contract even to deprive his passenger of this degree of care. If the passenger does not have such care, but on the contrary is unlawfully assaulted and insulted by one of the very persons to whom his conveyance is intrusted, the carrier's implied promise is broken, and his legal

duty is left unperformed, and he is necessarily responsible to the passenger for the damages he thereby sustains. *Goddard v. Grand Trunk Ry.*, 57 Me. 202.

And may be liable in either assumpsit or tort for breach of that duty. — The passenger's remedy may be either in assumpsit or tort, at his election. In the one case, he relies upon a breach of the carrier's common-law duty in support of his action; in the other, upon a breach of his implied promise. The form of the action is important only upon the question of damages. In actions of assumpsit, the damages are generally limited to compensation. In actions of tort, the jury are allowed greater latitude, and, in proper cases, may give exemplary damages. *Goddard v. Grand Trunk Ry.*, 57 Me. 202.

Sec. 3. Boats liable for loss or damage of property transported, and may be attached. — For loss or damage of property transported on a river, stream or bay, by boat for hire, the boat is liable, whether owned or not by the person undertaking such transportation, and may be attached on a writ against him, sued out within 60 days after such loss or damage, and sold like other personal property on an execution issued on the judgment recovered in such suit; and any surplus shall be paid to the owner of the boat. Such attachment is effectual against any conveyance or lien after such loss or injury and prior to the attachment. (R. S. c. 45, § 3.)

Safety on Inland Steamers.

Sec. 4. Inspection of vessels navigated on inland waters of state placed under jurisdiction of public utilities commission. — Every vessel subject to the provisions of this chapter and every person, firm or corporation owning or operating the same is placed under the jurisdiction of the public utilities commission for the purposes enumerated in this chapter. The commission shall employ such inspectors, engineers or other assistants as may be required to carry out the provisions of this chapter. (R. S. c. 45, § 4.)

Sec. 5. Definitions.—Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context:

- I. "Commission" means the public utilities commission.
- II. "Motorboat" means any vessel propelled by motive power other than steam.
- III. "Steamboat" means any vessel propelled by steam.
- IV. "Vessel" means any boat or vessel operated by machinery propelled by steam or other motive power. (R. S. c. 45, § 5.)

Sec. 6. Lights shown; fitted.—Every vessel navigated upon any of the inland waters of this state and not subject to the authority of the United States inspection laws, between the hours of sunset and sunrise, shall show:

- I. On the starboard or right side a green light, of such character as to be visible on a dark night with a clear atmosphere at a distance of at least 1 mile, so constructed as to show a uniform and unbroken light over an arc of the horizon of 10 points of the compass and so fixed as to throw the light from right ahead to 2 points abaft the beam on the starboard side.
- II. On the port or left side a red light, of such character as to be visible on a dark night with a clear atmosphere at a distance of at least 1 mile, so constructed as to show a uniform and unbroken light over an arc of the horizon of 10 points of the compass and so fixed as to throw the light from right ahead to 2 points abaft the beam on the port side.

The green and red lights shall be fitted with inboard screens, so as to prevent the lights from being seen across the bow and the illuminated portion of such lights of lenses shall be not less than 3 inches in diameter. Provided, however, that in the case of small vessels the commission may make special rules for lights of a different character. Whoever neglects or refuses to observe the provisions of this section shall be punished by a fine of \$10. (R. S. c. 45, §§ 6, 15.)

Sec. 7. Steamboats and motorboats inspected; certificate of inspection; vessels kept for use in connection with camps and schools subject to provisions.—Every steamboat navigated upon inland waters and every motorboat used for hire for the transportation of passengers or freight upon inland waters, before being so employed, shall be inspected and obtain from the commission a certificate authorizing its use subject to the following provisions: the owner or operator of any such vessel shall make application to the commission for registration, subject to such reasonable rules and regulations as the commission may make, which registration, if granted, shall terminate on the last day of the calendar year in which it is issued. A vessel kept for use or rental either by itself, or in connection with a camp, cottage or real estate, or used in connection with any school or camp to which boys or girls are admitted for compensation, or utilized by any officer, agent or employee of such camp or school for the transportation of any such boys or girls, shall be considered as kept for hire and shall be subject to the provisions of this chapter. (R. S. c. 45, § 7.)

Sec. 8. Woodwork about boilers, chimneys, etc., protected.—Every vessel shall be constructed so that the woodwork about the boilers, chimneys, fire-boxes, cookhouses, stove and steam pipes exposed to ignition shall be thoroughly protected by some incombustible material, in such a manner as to permit the air to circulate freely between such material and woodwork and other ignitable substance; and before granting a certificate of inspection, the commission shall require such other provisions to be made as they shall deem necessary to guard against loss or damage by fire. (R. S. c. 45, § 8.)

Sec. 9. Registration number displayed; certain vessels to have name painted on sides of bow.—Every vessel subject to registration shall display upon each side of the bow its registration number in numerals painted upon or at-

tached thereto of suitable size and color and so placed as to be always plainly visible. Every such vessel more than 30 feet in length measured from end to end over deck, excluding sheer, shall have its name painted upon each side of the bow or attached thereto in letters of suitable size and color and so placed as to be always plainly visible. The name of such vessel shall not be changed without the consent of the commission. (R. S. c. 45, § 9.)

Sec. 10. Boats, properly equipped, carried by vessels over 30 feet in length; life preservers.—Every vessel more than 30 feet in length, measured from end to end along deck, excluding sheer, subject to registration, shall have at least 1 substantial boat, with life lines attached, properly supplied with oars, kept tight and in good condition at all times and ready for immediate use. In addition thereto, such other boats shall be carried as the commission, on account of the route or the number of passengers, may deem requisite. It shall be the duty of the master of such vessel to exercise and discipline his crew in the launching, use and management of the boats until they become skillful boatmen. The commission may make such rules and regulations as it deems necessary, designating what boats, if any, shall be carried by vessels less than 30 feet in length.

Every vessel shall be provided with 1 life preserver, approved by the commission, for each passenger and each member of the crew. The life preservers shall be kept in convenient, accessible places in such vessel, in readiness for immediate use in case of accident, and the places where they are kept shall be indicated by printed notices, posted in such places on the vessel as the commission shall direct. Floats also may be required by the commission.

Any vessel or scow while towed by another vessel shall have on board 1 life preserver for each person on board and shall carry such other equipment as is deemed necessary by the commission, together with a certificate to be kept on board said vessel or scow stating what equipment shall be carried.

The commission may from time to time make such reasonable rules and regulations relating to other equipment and safety appliances for vessels subject to the provisions of this chapter as they may deem necessary. (R. S. c. 45, § 10.)

Sec. 11. Stairways and gangways provided.—Every vessel whose size and manner of construction require it shall be provided with permanent stairways and other adequate means for convenient passage from one deck to another, with gangways sufficiently large to allow persons to pass without obstruction, by freight or otherwise, fore and aft for the entire length of the vessel and to and along the guards thereof. (R. S. c. 45, § 11.)

Sec. 12. Annual inspection; capacity; safety valve not loaded or obstructed; certificate of inspection; fees.—The commission shall annually or oftener inspect every vessel of the description mentioned in section 7, examine her hull, engine, boiler, boats and other equipment, apply proper tests to her boilers, ascertain how long it will be safe to use the same, determine the pressure of steam allowed, regulate the fusible plugs, safety valves and steam cocks, so as to insure safety; require such changes, repairs and improvements to be adopted and made as they shall deem prudent for the contemplated route. The commission shall fix the number of passengers to be transported, and no greater number shall be received or allowed at any 1 time unless special permission is first obtained therefor, under such precautions as the commission may deem expedient.

No person shall intentionally load or obstruct or cause to be loaded or obstructed in any way or manner, the safety valve of the boiler, or employ any other means or device whereby the boiler may be subjected to a greater pressure than the amount allowed by the commission's certificate, nor shall intentionally derange or hinder the operation of any machinery or device employed to denote the state of the water or steam in any boiler or to give warning of approaching danger, nor shall intentionally permit the water to fall below the prescribed low-water line of the boiler.

The commission, if satisfied that any vessel is in all respects safe and in conform-

ity with the provisions of this chapter, shall give its certificate, setting forth the age of the vessel, the age of the boilers, the pressure of steam it is authorized to carry, the number of boats and life preservers it requires and the number of passengers it can transport. One copy of this certificate and of this section shall be kept posted in some conspicuous place upon such vessel. If the commission refuses to grant a certificate to any vessel, it shall make and deliver to the owners of the vessel a statement in writing giving the reasons for such refusal.

The owners of each vessel registered shall pay to the commission the sum of \$1 for each registration. The owners of each vessel inspected and certified shall pay to the commission the sum of \$5 for each inspection, and each person licensed shall pay to the commission the sum of \$2 for every original license and \$2 for each renewal thereof; provided that in the case of a vessel of 3 tons or less of gross measurement, no fees for inspection or license shall be required or paid; provided also that in cases where the master is also pilot of the vessel, he shall not be required to hold 2 licenses, but may act in either or both capacities under 1 license when the license expressly authorizes him to do so. The commission shall account for all sums of money so received and pay the same into the state treasury. (R. S. c. 45, § 12.)

See c. 141, § 17, re motorboats to be equipped with suitable mufflers.

Sec. 13. Masters, pilots, engineers and operators examined and licensed; license posted on vessel; no license issued to persons under 16 years of age.—Every person employed as master, pilot, engineer or operator on any vessel subject to the provisions of this chapter shall be examined by the commission as to his qualifications, and if satisfied therewith, it shall grant him a license for the office, which license shall expire on the last day of the calendar year in which it is issued unless sooner revoked by the commission for intemperance, incompetency or willful violation of duty. The commission may grant a renewal of such license upon written application and without further examination, subject to such reasonable rules and regulations as the commission may prescribe. Said license shall be framed under glass and posted in some conspicuous place on board such vessel. Any master, pilot, engineer or operator who holds a license to navigate any such vessel may under such license be employed on any other vessel owned or navigated upon inland waters within this state. No license shall be issued to any person under 16 years of age as master, pilot, engineer or operator of any vessel subject to the provisions of this chapter. (R. S. c. 45, § 13.)

Sec. 14. Vessels to comply with provisions of this chapter; navigating contrary to provisions; accidents investigated.—Every vessel described in section 7 shall comply with all the terms and provisions of this chapter and with all orders, regulations and requirements of the commission; and if any such vessel is navigated without complying therewith or without the certificate of the commission, the owners and master, severally, shall forfeit to the state \$500 for each offense, half thereof to the informer, unless otherwise provided, for which sum the vessel so engaged is liable and may be proceeded against by attachment in a *qui tam* action commenced within 60 days after the commission of the offense, or said penalty may be recovered by indictment. In case of damage by collision, fire or explosion, the commission shall forthwith, and in other cases in its discretion the commission may, investigate the cause thereof, and if found to have been occasioned by a violation of any of the aforesaid provisions or of the orders, regulations and requirements of said commission, they shall so certify to the attorney general and to the county attorney in the county where the offense was committed, together with the names of the parties and witnesses, and prosecution shall be instituted forthwith against all parties liable. If any such vessel is deprived of the services of any licensed officer, without the consent, fault or collusion of the master, owner or any person interested in the vessel, the deficiency may be supplied temporarily

until another licensed officer can be obtained. Provided, however, that if the owners and master of such vessel seasonably notify the commission of the expiration of its certificate and request a new inspection and certificate and said commission fails to make said inspection and issue said certificate when the vessel is entitled thereto, such owners or master are not liable for any of the penalties provided in this chapter on account of navigating such vessel without a certificate of inspection. (R. S. c. 45, § 14.)

Sec. 15. Acting as master, pilot, engineer or operator without license.—Whoever acts as master, pilot, engineer or operator on any vessel subject to the provisions of this chapter, without having in force the license required by section 13, shall be punished by a fine of \$50 for every day he acts without such license. (R. S. c. 45, § 16.)

Sec. 16. General penalties; jurisdiction.—Any person who shall violate any of the provisions of this chapter for which a specific penalty is not otherwise prescribed shall be punished by a fine of not less than \$10 nor more than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. Trial justices shall have jurisdiction concurrent with municipal courts and the superior court of all complaints and prosecutions under the preceding sections. (R. S. c. 45, § 17.)

See c. 139, § 5, re gambling on steamboats.

Sec. 17. Commissioners may administer oaths, subpoena witnesses, etc.—Each of the public utilities commissioners, for the purposes mentioned in this chapter, may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, documents and testimony, punish by fine and imprisonment for contempt and issue all processes necessary to the performance of the duties imposed upon the commission by the provisions of this chapter. (R. S. c. 45, § 18.)

Unclaimed Baggage and Merchandise.

Sec. 18. Merchandise unclaimed for 6 months, sold to pay charges.—Whenever baggage, goods, merchandise, packages or parcels transported by any railroad, steamboat, express company or stage company existing by virtue of the laws of this state remain unclaimed for 6 months after its arrival at the point to which it shall have been directed, the same may be sold at auction in the city or town where said railroad, steamboat, express company or stage company has its general or principal office or any freight house; and whenever baggage, goods, merchandise, packages or parcels transported by any railroad, steamboat, express company or stage company not existing by virtue of the laws of this state and having no office or president, treasurer, clerk or general superintendent within this state, but doing business in this state, remain unclaimed for 6 months after its arrival at the point to which it shall have been directed, the same may be sold at auction to pay the charges thereon and the expense of advertising and selling. (R. S. c. 45, § 19.)

See c. 47, § 24, re applicability of § 18, to steam railroads.

Sec. 19. Notice of sale; disposal of proceeds.—Any company existing by virtue of the laws of this state holding any such articles or merchandise shall, before selling the same, give 30 days' notice of the time and place of sale in 4 public newspapers, 1 published at Portland, in the county of Cumberland; 1 published at Augusta, in the county of Kennebec; 1 published at Lewiston, in the county of Androscoggin; and 1 published at Bangor, in the county of Penobscot; said notices shall contain a brief description and list of all such property, and shall describe such marks thereon as may serve to identify them, together with the name of the

consignee and the place to which said articles were billed. Any company not existing by virtue of the laws of this state and having no office or president, treasurer, clerk or general superintendent within this state, but doing business within this state, before selling any such articles or merchandise, shall give 30 days' notice of the time and place of sale, by publishing notice in some public newspaper, printed in the county where such merchandise is so held, 3 weeks successively, the last publication to be at least 7 days before the day appointed for the sale; if no newspaper is published in the county where such articles or merchandise are so held, such notice shall be published in some newspaper in an adjoining county. Such articles or merchandise shall be sold at the place where held. The proceeds of all goods so sold, after deducting the costs of transportation, storage, advertising and sale, shall be placed to the credit of the owner in the books of the company making the sale and shall be paid to him on demand; and such company shall not be liable to said owner of such property for any greater sum than so received from said sale. (R. S. c. 45, § 20.)

See c. 47, § 24, re applicability of § 19, to steam railroads.

Sec. 20. Common carriers may sell perishable goods which owner neglects or refuses to receive. — When a common carrier has transported property of a perishable nature, which cannot be kept without great deterioration or substantial destruction, to its place of destination and has notified the owner or consignee of the arrival of the same, and the owner or consignee, after such notice, has refused or omitted to receive and take away the same and pay the freight and proper charges thereon, said carrier may, in the exercise of a reasonable discretion, sell the same at public or private sale without advertising; and the proceeds, after deducting the amount of said freight and charges and expenses of sale, shall be held for the persons entitled thereto; and if the owner or consignee cannot be found on reasonable inquiry, the sale may be made without such notice. (R. S. c. 45, § 21.)

Sec. 21. May sell livestock after owner notified and refused to take away; proceedings, when owner or consignee cannot be found; notice of sale.—When a common carrier has transported livestock which can be kept only at continual expense to its place of destination and has notified the owner or consignee of the arrival of the same, and the owner or consignee after such notice has refused or omitted to receive and take away the same and pay the freight and proper charges thereon, said carrier may cause the same to be sold at auction to pay the freight and charges thereon, including the cost of keeping, and the expenses of advertising and selling; and if the owner or consignee cannot be found on reasonable inquiry, the carrier may cause the same to be advertised and sold as aforesaid without such notice. Before selling any such livestock, the common carrier holding the same shall give 2 weeks' notice of the time and place of sale in a newspaper published in the place where said livestock is held, if any; otherwise in a newspaper published at a place nearest thereto. Said notice shall reasonably describe said livestock; and the proceeds of sale, after deducting the amount of freight and charges, including the cost of keeping and the expenses of advertising and sale, shall be held for the persons entitled thereto. (R. S. c. 45, § 22.)

Sec. 22. All sales recorded.—All sales under the foregoing provisions shall be recorded in a suitable book, open to the inspection of claimants, in which the articles sold shall be correctly described, and the charges and expenses thereon and the price at which they were sold shall be entered. (R. S. c. 45, § 23.)

Transportation of Property in Dispute.

Sec. 23. Transportation of property, when the title is in dispute.—When property is delivered to a common carrier for transportation, and any per-

son other than the consignor or consignee shall claim the title to such property and shall forbid its transportation, he shall forthwith give written notice to the carrier forbidding its transportation, and thereupon the carrier shall be authorized to delay the transportation for the space of 5 days, and unless within such 5 days such claimant shall replevy such property or if he shall fail to give such written notice, the carrier is authorized to proceed with the transportation of such property and shall not be liable for so transporting. (R. S. c. 45, § 24.)

See c. 107, § 4, sub-§ VIII, re jurisdiction in equity of bill of interpleader.