

# PUBLIC UTILITIES

## CHAPTER 321

H. B. No. 778  
(Tweten)

### RAILROAD CROSSING SIGNS

#### AN ACT

To amend and reenact section 49-11-16 of the North Dakota Century Code, relating to caution signs, specifications thereof and posting thereof at railroad crossings.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 49-11-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-11-16. Caution Signs—Specifications—Posting at Crossings.)** Every railroad corporation operating a line of road within this state must erect suitable signs of caution at each crossing of its road with a public highway, which signs shall be painted with black Roman or block letters on white background, said letters to be at least eight inches in length and proportionately broad. The height of such signs shall be approximately eight feet six inches above the level of the traveled roadway to the crossarms but this may be varied to provide the best view to persons approaching the crossing.

Approved March 18, 1963.

## CHAPTER 322

S. B. No. 81

(Brooks, Redlin, Reichert, Erickson)

## RATE ALTERATIONS AUTHORIZED

## AN ACT

To create and enact section 49-15-10.1 of the North Dakota Century Code, permitting the public service commission of North Dakota to grant relief from the long and short haul, equidistant and volume statutes of North Dakota, upon application of a common carrier and repealing sections 49-02-03.1 and 49-02-20.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. 49-15-10.1.) The commission may, upon application by a common carrier, permit and prescribe the extent to which any such carrier may be relieved from the operation of the principles contained in sections 49-04-09, 49-15-09 and 49-15-10 of the North Dakota Century Code.

§ 2.) Sections 49-02-03.1 and 49-02-20 of the North Dakota Century Code are hereby repealed.

Approved March 14, 1963.

## CHAPTER 323

S. B. No. 71

(Brooks, Ringsak, Wartner)

## COMMON CARRIER CERTIFICATES

## AN ACT

To amend and reenact sections 49-18-12, 49-18-16 and 49-18-26 of the North Dakota Century Code, relating to the granting and revocation of a temporary permit by the public service commission for service by a common carrier to specific points or territories.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. Amendment.) Section 49-18-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-18-12. Common Motor Carrier—Certificate of Public Convenience—Temporary Permit—Application.)** No common motor carrier shall operate within this state without first

having obtained from the commission a certificate of public convenience and necessity. Application therefor shall be made upon forms to be prescribed by the commission. The commission shall make regulations for the filing of such application. The application must contain a financial statement, a list of equipment to be used, a description of the type of service offered, and the route and territory to be served. However, upon receipt of such an application and when there is an immediate and urgent need the commission shall have the authority to grant a temporary permit for service by a common motor carrier to a specified point or points or within a specified territory having no carrier service capable of meeting such need. Such temporary permit shall be granted without a hearing and, unless suspended or revoked for good cause, shall be valid for such time as the commission shall specify but for not more than an aggregate of one hundred and eighty days, and shall create no presumption that the corresponding certificate of public convenience and necessity shall be granted after the hearing on the application. Such temporary permit shall be transferable only after notice to all interested parties and approval by the commission, after opportunity for hearing.

§ 2. **Amendment.)** Section 49-18-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-18-16. Certificate—Temporary Permit—Amending—Revoking—Suspending.)** The commission, at any time, for good cause, may suspend and, upon not less than five days' notice to the grantee of any certificate or temporary permit, and on opportunity to be heard, may revoke or amend any certificate or temporary permit.

§ 3. **Amendment.)** Section 49-18-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-18-26. Certificates—Permits—Duration—Transfer.)** Certificates and permits issued to carriers by the commission under this chapter shall remain in force and effect subject to the regulatory and annual fee provisions of said chapter, and subject to all limitations and requirements thereof. Such certificate or permit shall be transferable only upon approval by the commission, after opportunity for hearing, giving notice to all interested parties; provided, however, that when there is an immediate and urgent need the commission may authorize the temporary transfer of a certificate, pending hearing. Such temporary transfer shall be granted without a hearing and, unless suspended or revoked for good cause, shall be valid for such time as the commission shall specify but

not for more than an aggregate of one hundred and eighty days, and shall create no presumption that the transfer of the certificate shall be granted after the hearing on the application.

Approved March 18, 1963.

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## CHAPTER 324

S. B. No. 207

(Nelson, Kee, Dahlund)

### AGRICULTURAL CARRIER INSURANCE

#### AN ACT

Amending and reenacting sections 49-18-33 and 49-18-39, relating to the insurance requirements for agricultural carriers.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.**) Section 49-18-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-18-33. Insurance or Bond Required of Common, Agricultural or Contract Carrier—Liability of Insurer and Surety—Trial.)** The commission in granting a certificate to any common motor carrier and in granting a permit to any agricultural or contract carrier shall require the owner or operator first to procure either liability and property damage insurance or a surety bond to be approved by the commission as to the form, sufficiency, and surety thereof and written by a company authorized to write such insurance in this state in an amount to be designated by the commission. The conditions of such liability insurance or surety bond shall be such as to guaranty the payment of any loss or damage to property, or on account of the death of or injury to persons, resulting from the negligence of such carrier. In any action for damages resulting from the negligence of such carrier, the insurer or surety shall not be joined as a party defendant nor shall the fact the ultimate liability of such insurer or surety be disclosed or commented on to the jury. Upon final judgment the insurer or surety shall become liable directly to the owner of such judgment for the full amount thereof but not exceeding the amount of the policy of insurance or surety bond applicable to such loss. Each insurance policy or bond so required shall be filed with the commission and shall be kept in full force and effect, and upon the failure to do so the certificate or permit shall be revoked and canceled; provided that, a certifi-

cate of any company authorized to write liability or property damage insurance in the state, in a form approved by the commission and certifying that there is in effect a liability insurance policy required by this section, may be filed in lieu of the policy itself. The commission also shall require the owner or operator first to procure a surety bond, written by a company authorized to write such bond in this state, in an amount to be designated by the commission, to guaranty the payment by the carrier to the shipper or its agent, of all cash or collect on delivery charges collected by said carrier in connection with the operation or conduct of his business as such common motor carrier or contract carrier.

**§ 2. Amendment.)** Section 49-18-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-18-39. Agricultural Carriers—Exempt from Rate Schedule Requirements.)** An agricultural carrier shall be exempt specifically from making any showing of public convenience and necessity and from any requirements as to any schedule of rates.

Approved March 18, 1963.

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## CHAPTER 325

S. B. No. 139

(Meidinger, Brooks, Sinner, Lips)

### COAL PIPELINE CARRIERS

#### AN ACT

To amend and reenact subsection 10 of section 32-15-02, subsection 3 of section 49-02-01, and sections 49-19-01, 49-19-08, 49-19-11, 49-19-13, 49-19-15, 49-19-18, 49-19-19, and 49-19-20 of the North Dakota Century Code, relating to the exercise of eminent domain by and the regulation of coal pipeline carriers.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

**§ 1. Amendment.)** Subsection 10 of section 32-15-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10. Oil, gas, and coal pipelines and works and plants for supplying or conducting gas, oil, coal, heat, refrigeration, or power for the use of any county, city, or village, or the inhabitants thereof, together with lands, buildings, and all other improvements in or upon which to

erect, install, place, maintain, use, or operate pumps, stations, tanks, and other machinery or apparatus, and buildings, works, and plants for the purpose of generating, refining, regulating, compressing, transmitting, or distributing the same, or necessary for the proper development and control of such gas, oil, coal, heat, refrigeration, or power, either at the time of the taking of said property or for the future proper development and control thereof; and

**§ 2. Amendment.)** Subsection 3 of section 49-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Pipeline companies for the transportation of gas, oil, coal, and water;

**§ 3. Amendment.)** Section 49-19-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-19-01. Definition of Common Pipeline Carriers.)** Every person:

1. Owning, operating, or managing any pipeline or any part of any pipeline within this state for the transportation of crude petroleum, gas, or coal to or for the public for hire, or engaged in the business of transporting crude petroleum, gas, or coal by pipelines;
2. Owning, operating, managing, or participating in the ownership, operation, or management of, under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind whatsoever, any pipeline, or any part of any pipeline, for the transportation of crude petroleum, gas, or coal bought from others from any oil, gas, or coal field or place of production, to any distributing, refining, or marketing center or reshipping point;
3. Engaged in the business of producing, purchasing, transporting for hire or transporting for sale within this state of natural gas, which is transported through pipelines, or any part of a pipeline, the right-of-way for which is granted or secured under the provisions of this chapter or through the exercise of the right of eminent domain; or
4. Made a common carrier by or under the terms of a contract with or in pursuance of the laws of the United States,

is a common carrier and is subject to the provisions of this chapter as a common pipeline carrier.

§ 4. **Amendment.)** Section 49-19-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-19-08. Operation of Pipelines.)** The operation of the pipelines to which this chapter applies, for the transportation of crude petroleum, coal, or gas in connection with the purchase or purchase and sale of such crude petroleum, coal, or gas, is a business in the conduct of which the public is interested, and as such is subject to regulation by law. The business of purchasing, or of purchasing and selling, crude petroleum, coal, or gas, which uses in connection with such business a pipeline of the class subject to this chapter to transport the crude petroleum, coal, or gas so bought or sold, shall not be conducted unless such pipeline so used in connection with such business is a common carrier within the purview of this chapter and subject to the jurisdiction herein conferred upon the commission. The attorney general shall enforce these provisions by injunction or other adequate remedy.

§ 5. **Amendment.)** Section 49-19-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-19-11. Pipeline Carrier Must Agree to Carry Without Discrimination.)** A common pipeline carrier, in the acceptance of the provisions of this chapter, shall agree expressly that it, without discrimination, will accept, carry, or purchase, the oil, coal, or gas of the state or of any person not the owner of any pipeline, operating a lease or purchasing oil, coal, or gas, at prices and under regulations to be prescribed by the commission.

§ 6. **Amendment.)** Section 49-19-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-19-13. Hearings on Rates of Pipeline Carrier—Power of Commission.)** The commission shall establish and enforce rates or charges and regulations for gathering, transporting, loading, and delivering crude petroleum, coal, or gas by common pipeline carriers in this state, and for the use of storage facilities necessarily incident to such transportation, and shall prescribe and enforce rules and regulations for the government and control of such common pipeline carriers in respect to their pipelines and receiving, transferring, and loading facilities. It shall exercise such power upon petition by any person showing substantial interest in the subject matter. No order establishing or prescribing rates, rules, and regulations shall be made except after hearing and notice to the common pipeline carrier affected.

§ 7. **Amendment.)** Section 49-19-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-19-15. Exchange of Tonnage by Common Carrier—Facilities To Be Maintained for Receipt and Delivery.)** Every common pipeline carrier shall exchange crude petroleum tonnage, coal, or gas with each like common pipeline carrier. The commission shall have the power to require connections and facilities for the interchange of such tonnage, coal, or gas to be made at every locality reached by both pipelines whenever the necessity therefor exists and subject to such rates and regulations as may be made by the commission. Any such common pipeline carrier under like rules and regulations shall be required to install and maintain facilities for the receipt and delivery of crude petroleum, coal, or gas of patrons at all points on such pipeline. No carrier shall be required to receive or transport any crude petroleum, coal, or gas except such as may be marketable under rules and regulations to be prescribed by the commission.

§ 8. **Amendment.)** Section 49-19-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-19-18. Joint Action by Commissions to Regulate Interstate Commerce.)** Where pipelines within the scope of this chapter are engaged in interstate transportation of oil, coal, or gas, the commission shall act jointly and in conjunction with the supervisory body which exercises jurisdiction over and control of such pipelines within any other state for the purpose of control, supervision, making joint rates for interstate transportation of oil, coal, or gas, or any other matters within the scope of this chapter.

§ 9. **Amendment.)** Section 49-19-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-19-19. Discrimination Between Shippers in Facilities Furnished, Service Rendered, and Rates Prohibited.)** No common pipeline carrier shall discriminate between or against shippers in regard to facilities furnished, services rendered, or rates charged under the same or similar circumstances in the transportation of crude petroleum, coal, or gas, nor shall there be any discrimination in the transportation of crude petroleum, coal, or gas produced or purchased by itself directly or indirectly. In this connection the pipeline shall be considered as a shipper of the crude petroleum, coal, or gas produced or purchased by itself directly or indirectly and handled through its facilities. No such carrier in such operation,

directly or indirectly, shall charge, demand, collect, or receive from anyone a greater or less compensation for any service rendered than from another for a like contemporaneous service. This shall not limit the right of the commission to prescribe rates and regulations from or to some places different from other rates or regulations for transportation from or to other places as it may determine, nor shall any carrier be guilty of discrimination when obeying any order of the commission. Where there shall be offered for transportation more crude petroleum or coal than can be transported immediately, the same shall be apportioned equitably. Gas shall be taken pro rata on the basis of open flow production of the wells connected to the pipeline or lines and the delivery of each well shall be regulated accordingly. The commission may make and enforce general or specific regulations in this regard.

**§ 10. Amendment.)** Section 49-19-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-19-20. Duties of Pipeline Carriers.)** Subject to the provisions of this chapter and the rules and regulations which may be prescribed by the commission, every common pipeline carrier shall receive and transport crude petroleum, coal, or gas delivered to it for transportation and shall receive and transport the same and perform its other duties with respect thereto without discrimination.

Approved March 18, 1963.