

Chapter 2.—LIABILITY FOR INJURIES TO EMPLOYEES

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§ 51. Liability of common carriers by railroad, in interstate or foreign commerce, for injuries to employees from negligence; definition of employees.

Every common carrier by railroad while engaging in commerce between any of the several States or Territories, or between any of the States and Territories, or between the District of Columbia and any of the States or Territories, or between the District of Columbia or any of the States or Territories and any foreign nation or nations, shall be liable in damages to any person suffering injury while he is employed by such carrier in such commerce, or, in case of the death of such employee, to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee; and, if none, then of such employee's parents; and, if none, then of the next of kin dependent upon such employee, for such injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of such carrier, or by reason of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.

Any employee of a carrier, any part of whose duties as such employee shall be the furtherance of interstate or foreign commerce; or shall, in any way directly or closely and substantially, affect such commerce as above set forth shall, for the purposes of this chapter, be considered as being employed by such carrier in such commerce and shall be considered as entitled to the benefits of this chapter. (Apr. 22, 1908, ch. 149, § 1, 35 Stat. 65; Aug. 11, 1939, ch. 685, § 1, 53 Stat. 1404.)

AMENDMENTS

1939—Act Aug. 11, 1939, added last par., defining employee.

EMPLOYERS' LIABILITY ACTS

The following are commonly referred to as Employers' Liability Acts:

- June 11, 1906, ch. 3073, 34 Stat. 232 [Unconstitutional.]
- Apr. 22, 1908, ch. 149, 35 Stat. 65. See sections 51—59 of this title.
- Apr. 5, 1910, ch. 143, 36 Stat. 291. See sections 56, 59 of this title.
- Aug. 11, 1939, ch. 685, 53 Stat. 1404. See sections 51, 54, 56, and 60 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Form of complaint, see Form 14, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 52. Carriers in Territories or other possessions of United States.

Every common carrier by railroad in the Territories, the District of Columbia, the Panama Canal Zone, or other possessions of the United States shall be liable in damages to any person suffering injury while he is employed by such carrier in any of said jurisdictions, or, in case of the death of such employee, to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee; and, if none, then of such employee's parents; and, if none, then of the next of kin dependent upon such employee, for such injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employees of such carrier, or by reason of any defect or insufficiency, due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment. (Apr. 22, 1908, ch. 149, § 2, 35 Stat. 65.)

§ 53. Contributory negligence; diminution of damages.

In all actions on and after April 22, 1908 brought against any such common carrier by railroad under or by virtue of any of the provisions of this chapter to recover damages for personal injuries to an employee, or where such injuries have resulted in his death, the fact that the employee may have been guilty of contributory negligence shall not bar a recovery, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to such employee: *Provided*, That no such employee who may be injured or killed shall be held to have been guilty of contributory negligence in any case where the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee. (Apr. 22, 1908, ch. 149, § 3, 35 Stat. 66.)

§ 54. Assumption of risks of employment.

In any action brought against any common carrier under or by virtue of any of the provisions of this chapter to recover damages for injuries to, or the death of, any of its employees, such employee shall not be held to have assumed the risks of his employment in any case where such injury or death resulted in whole or in part from the negligence of any of the officers, agents, or employees of such carrier; and no employee shall be held to have assumed the risks of his employment in any case where the violation by such common carrier of any statute enacted for the safety of employees contributed to the injury or death of such employee. (Apr. 22, 1908, ch. 149, § 4, 35 Stat. 66; Aug. 11, 1939, ch. 685, § 1, 53 Stat. 1404.)

AMENDMENTS

1939—Act Aug. 11, 1939, amended section by inserting "where such injury . . . in any case" following "of his employment in any case".

CROSS REFERENCES

Assumption of risk by employees, see section 7 of this title.

§ 55. Contract, rule, regulation, or device exempting from liability; set-off.

Any contract, rule, regulation, or device whatsoever, the purpose or intent of which shall be to en-

able any common carrier to exempt itself from any liability created by this chapter, shall to that extent be void: *Provided*, That in any action brought against any such common carrier under or by virtue of any of the provisions of this chapter, such common carrier may set off therein any sum it has contributed or paid to any insurance, relief benefit, or indemnity that may have been paid to the injured employee or the person entitled thereto on account of the injury or death for which said action was brought. (Apr. 22, 1908, ch. 149, § 5, 35 Stat. 66.)

§ 56. Actions; limitation; concurrent jurisdiction of courts.

No action shall be maintained under this chapter unless commenced within three years from the day the cause of action accrued.

Under this chapter an action may be brought in a district court of the United States, in the district of the residence of the defendant, or in which the cause of action arose, or in which the defendant shall be doing business at the time of commencing such action. The jurisdiction of the courts of the United States under this chapter shall be concurrent with that of the courts of the several States. (Apr. 22, 1908, ch. 149, § 6, 35 Stat. 66; Apr. 5, 1910, ch. 143, § 1, 36 Stat. 291; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 11, 1939, ch. 685, § 2, 53 Stat. 1404; June 25, 1948, ch. 646, § 18, 62 Stat. 989.)

CODIFICATION

The first paragraph of this section is from act Apr. 22, 1908.

The second paragraph of this section is from act Apr. 5, 1910.

AMENDMENTS

1948—Act June 25, 1948, amended section by omitting provision in last sentence relating to removal of actions.

1939—Act Aug. 11, 1939, changed limitation in first sentence from two to three years.

CHANGE OF NAME

"District court" was substituted for "circuit court" to conform to act Mar. 3, 1911, which transferred the powers and duties of the circuit courts to the district courts.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment of this section should be effective as of Sept. 1, 1948.

CROSS REFERENCES

Actions in state courts not removable to federal courts, see section 1445 of Title 28, Judiciary and Judicial Procedure.

Venue of district court—

Generally, see chapter 87 of Title 28, Judiciary and Judicial Procedure.

Change of venue, see section 1404 of Title 28.

§ 57. Who included in term "common carrier."

The term "common carrier" as used in this chapter shall include the receiver or receivers or other persons or corporations charged with the duty of the management and operation of the business of a common carrier. (Apr. 22, 1908, ch. 149, § 7, 35 Stat. 66.)

§ 58. Duty or liability of common carriers and rights of employees under other acts not impaired.

Nothing in this chapter shall be held to limit the duty or liability of common carriers or to impair the rights of their employees under any other Act or Acts of Congress. (Apr. 22, 1908, ch. 149, § 8, 35 Stat. 66.)

§ 59. Survival of right of action of person injured.

Any right of action given by this chapter to a person suffering injury shall survive to his or her personal representative, for the benefit of the surviving widow or husband and children of such employee, and, if none, then of such employee's parents; and, if none, then of the next of kin dependent upon such employee, but in such cases there shall be only one recovery for the same injury. (Apr. 22, 1908, ch. 149, § 9, as added Apr. 5, 1910, ch. 143, § 2, 36 Stat. 291.)

§ 60. Penalty for suppression of voluntary information incident to accidents; separability clause.

Any contract, rule, regulation, or device whatsoever, the purpose, intent, or effect of which shall be to prevent employees of any common carrier from furnishing voluntarily information to a person in interest as to the facts incident to the injury or death of any employee, shall be void, and whoever, by threat, intimidation, order, rule, contract, regulation, or device whatsoever, shall attempt to prevent any person from furnishing voluntarily such information to a person in interest, or whoever discharges or otherwise disciplines or attempts to discipline any employee for furnishing voluntarily such information to a person in interest, shall, upon conviction thereof, be punished by a fine of not more than \$1,000 or imprisoned for not more than one year, or by both such fine and imprisonment, for each offense: *Provided*, That nothing herein contained shall be construed to void any contract, rule, or regulation with respect to any information contained in the files of the carrier, or other privileged or confidential reports.

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons and circumstances shall not be affected thereby. (Apr. 22, 1908, ch. 149, § 10, as added Aug. 11, 1939, ch. 685, § 3, 53 Stat. 1404.)

Chapter 3.—HOURS OF SERVICE OF EMPLOYEES

Sec.

61. Carriers and transportation subject to provisions of chapter; "railroad" and "employees" defined.
62. Hours of service limited.
63. Penalty; suits therefor; exceptions from operation of chapter.
64. Enforcement by Interstate Commerce Commission.
65. Establishment of eight-hour day.
66. Penalty for violation.

§ 61. Carriers and transportation subject to provisions of chapter; "railroad" and "employees" defined.

The provisions of sections 61—64 of this title shall apply to any common carrier or carriers, their officers, agents, and employees, engaged in the transportation of passengers or property by railroad in the District of Columbia or any Territory of the United States, or from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia, or from any place in the United States to an adjacent foreign country, or