CHAPTER 363

RATES AND LIABILITIES OF TELEGRAPH COMPANIES, ETC.

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363.01 Rates.—No telegraph, cable company nor any company transmitting telegraph messages in the state shall charge and collect more than four cents per word for the first ten words, exclusive of the date, address and signature, of any message transmitted over any ocean or cable telegraph line a distance of one hundred miles; two cents per word for every additional word for the same number of miles within the state and proportionate rates for any greater or less number of miles that any message is transmitted. They shall also not charge more than two cents per word for the first ten words of any message transmitted over any land telegraph line within the state for the first one hundred miles, one cent per word for every additional word of any message for the same number of miles within the state and proportionate rates for any greater or less number of miles that any message is transmitted.

History.—§1, ch. 3609, 1885; RS 2258; GS 2829; RGS 4382; CGL 6346; am. §7, ch. 22858, 1945.

363.02 Liability for failure to promptly deliver messages; proviso. — Any telegraph company owning or operating a telegraph line wholly or partly in this state, and engaged in transmitting messages for a consideration, who shall negligently fail promptly to transmit and deliver to the addressee, any message received by such company or by any of its agents or employees for transmission, shall be liable to the sender of such message in a penalty for fifty dollars, and in addition thereto, shall be liable to both the sender and to the addressee of such message for all damages which they or either of them may sustain in consequence of such negligent failure promptly to transmit and deliver any message so received for transmission as aforesaid, and the company shall not be relieved from such penalty or liability by any stipulation or notice to the contrary; provided, that the provisions of this section relative to the delivery of messages shall apply only to deliveries in incorporated cities and towns.

History.—§1, ch. 5628, 1907; RGS 4383; CGL 6347.

363.03 Presumption of negligence. — The failure promptly to transmit or to deliver to the addressee any message so received for transmission as aforesaid shall be presumed to be due to the negligence of the company accepting such message for transmission until the contrary shall be made to appear.

History.—§2, ch. 5628, 1907: RGS 4384; CGL 6348.

363.04 Refusing messages for transmission; damages; evidence, etc.—Any telegraph company owning or operating any telegraph line or lines wholly or partly in this state and engaged in transmitting messages, for a consideration, who shall refuse to receive for transmission any legible message tendered to it or to any of its agents or employees for transmission at any office or place where such messages are usually received for transmission during the usual hours in which the messages are received at such office or place for transmission to the destination to which the message so refused is addressed, provided, such destination is a place to which messages are usually transmitted, together with the usual charge for the transmission of such a message, shall be liable to the sender and addressee of such message in a penalty of fifty dollars, and in addition thereto shall be liable both to the sender and to the addressee of such message for all damages which they or either of them may sustain in consequence of the refusal to receive, transmit and deliver such message unless it shall be made to appear that the line or lines over which such message should be transmitted is or are in such condition that such message could not be transmitted by means thereof, and the burden of showing such a condition of said line or lines shall be upon the company.

History.—§1, ch. 5629, 1907; RGS 4386; CGL 6350; am. §7, ch. 22858, 1945.

363.05 Attorney's fee.—Any person recovering the penalty specified in, or any damage under, §§363.02-363.04 shall be entitled to recover, in addition thereto, ten per cent of the amount so recovered as attorney's fees.

History.—§3, ch. 5628, 1907; §2, ch. 5629, 1907; RGS 4385, 4387; CGL 6349, 6351.

363.06 Recovery for mental anguish and physical suffering; burden of proof.—Persons engaged in the business of transmitting telegrams into or out of this state, or from one point to another point in this state, shall be liable in damages to the sender and addressee, jointly or severally, of any telegram received for transmission and delivery, whether such telegram is received for transmission into or out of this state, or from one point to another point within this state, for mental anguish, distress or feeling, physical and mental pains and suffering resulting from the negligent failure to promptly transmit or promptly deliver such telegram, or because of the negligent failure to correctly transmit and deliver such telegram. In all cases brought under §§363.06-

363.10, the burden of proof shall be upon the defendant to show to the satisfaction of the jury, or if there be no jury, to the satisfaction of the judge trying the case, by a preponderance of the evidence, that such defendant was free from fault in and about the transmission and delivery of any telegram received for transmission and delivery.

History.—§1, ch. 6522, 1913; RGS 4388; CGL 6352.
cf.—§1.01(3) "Person" defined.

363.07 Assessing damages.—The jury, or the judge where there is no jury, trying any case arising under §363.06 shall assess the damages to be awarded the plaintiff or plaintiffs.

History.—§2, ch. 6522, 1913; RGS 4389; CGL 6353.

363.08 Cipher messages.—Persons engaged in the business of transmitting telegrams into or out of this state, or from one point to another point within this state, shall be liable in damages to the sender and addressee, jointly or severally, of any telegram in cipher received for transmission into or out of this state, or from one point to another point within this state, for damages resulting from the negligent failure of such person to promptly transmit and deliver any such telegram in cipher, in the same manner and to the same extent as if such telegram was not in cipher; provided, that the provisions of this section shall not apply to telegrams relating to sickness or death.

History.—§3, ch. 6522, 1913; RGS 4390; CGL 6354.

363.09 Presumption as to notice of contents.—The receipt of a telegram for transmission by any person engaged in the telegraph business in this state, shall be deemed and held to be notice to such person that such telegram is of importance requiring prompt and correct transmission and delivery.

History.—§4, ch. 6522, 1913; RGS 4391; CGL 6355.

363.10 Contracts limiting liability illegal.—All provisions and stipulations contained in any contract relieving or exempting, or having the effect to relieve or exempt any person engaged in the telegraph business in this state, from the liabilities imposed by law, or purporting to limit the time in which suits may be brought against such person for negligent failure to perform any duty imposed by law, or assumed by any such person to a period of time shorter than the time provided by the statute of limitation of this state, are declared to be against the public policy of this state, to be illegal and void, and no court in this state shall give effect to any such provisions or stipulation contained in any contract whatsoever.

History.—§5, ch. 6522, 1913; RGS 4392; CGL 6356.
cf.—§95.11, Limitation of time upon actions.