

AMENDMENTS TO THE INTERSTATE COMMERCE ACT PROVIDING
LIMITATIONS ON TIME FOR RECOVERY OF UNDERCHARGES
AND OVERCHARGES BY OR AGAINST COMMON CARRIERS BY
MOTOR VEHICLE, COMMON CARRIERS BY WATER, AND FREIGHT
FORWARDERS

APRIL 30, 1948—Ordered to be printed

Mr. REED, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 2759]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 2759) to amend the Interstate Commerce Act, as amended, so as to provide limitations on the time within which actions may be brought for the recovery of undercharges and overcharges by or against common carriers by motor vehicle, common carriers by water, and freight forwarders, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

This bill amends parts II, III, and IV of the Interstate Commerce Act so as to set up a period of limitation within which actions may be brought for the recovery of undercharges or overcharges, by or against common carriers by motor vehicle, common carriers by water, and freight forwarders, thus making parts II, III, and IV conform with the present provisions of part I of the act relating to the collection of undercharges and overcharges.

The remedy of common carriers for recovery of their charges on shipments of freight is a common-law action in the courts. Ordinarily such charges are prepaid by the shippers or collected by the carrier from the consignee upon delivery of the shipment. It happens not infrequently, however, that errors are made in the assessment of these charges. If the carrier fails to collect the full amount to which it is entitled, there arises what is commonly known as an undercharge, which carriers subject to the Interstate Commerce Act are under a legal duty to collect by suit, if necessary. Such suits by interstate motor carriers are subject to the statute of limitations of the particular State in which the action is brought, and there is a diversity of periods of limitation so fixed by the various States. One purpose of H. R.

2759 is to provide a uniform period of limitation for such suits, which is clearly desirable.

On the other hand, when an interstate motor carrier collects from a shipper a charge in excess of that applicable to the transportation under a tariff lawfully on file with the Interstate Commerce Commission, the legal remedy of the shipper for the overcharge is likewise a common-law action in the courts. As to suits of this kind there is, of course, the same diversity of periods of limitation under the statutes of the various States, and it is equally desirable that this lack of uniformity be corrected, as proposed in H. R. 2759.

The situation with respect to common carriers by motor vehicle described above also applies to freight forwarders subject to part IV of the Interstate Commerce Act.

The bill would add a new section to part II of that act, No. 204a, and another to part IV, 406a, similar in effect and wording to those provisions of section 16 (3) which govern suits by or against rail carriers and others subject to part I for recovery of undercharges or overcharges.

Sections 2 and 3 of the bill would make important changes in section 308 of the Interstate Commerce Act, which relates to reparation awards against certain water carriers. At present that section applies only to water carriers—

engaged in transportation * * * (1) by way of the Panama Canal, or (2) as a common carrier by water on the high seas or the Great Lakes on regular routes from port to port.

Under section 2 of H. R. 2759 section 308 (a) would be broadened to include all common carriers by water subject to part II of the Interstate Commerce Act. Your committee regards this change as desirable.

By section 3 of the bill section 308 (f) (1) would be amended so as to read almost identically with section 16 (3) (a)–(d), which applies to carriers by railroad. This would make two changes in the section as it now stands: (1) A uniform period of limitation for suits by water carriers to collect undercharges would be provided where none exists today, and (2) the period of limitation for actions at law against water carriers for recovery of overcharges or complaints before the Interstate Commerce Commission for recovery of overcharges or damages not based on overcharges would be reduced from 3 to 2 years.

Your committee held public hearings on this legislation and all witnesses including representatives of the Association of American Railroads, the American Trucking Associations, the Freight Forwarders Institute, the National Industrial Traffic League (a shippers' organization), and the National Federation of American Shipping spoke in support of the 2-year statute which this bill provides. The bill also has the approval of the Interstate Commerce Commission and the United States Maritime Commission.

Your committee recommends that the bill receive early and favorable consideration.

