

IC 8-4-32

Chapter 32. Railroad's Liability for Livestock

IC 8-4-32-1

Scope of liability; evidence as to name of railroad

Sec. 1. Any railroad corporation, lessee, assignee, receiver, and other person or corporation, running, controlling, or operating any railroad into or through this state, shall be liable, jointly or severally, for stock killed or injured by the locomotives, cars, or other carriages run on such road, in the name in which the road was run or operated at the time, to the extent and according to the provisions of this chapter; and the bills of lading usually issued at any railroad station in the county in which such stock was killed or injured shall be prima facie evidence as to the character or name in which said railroad was owned, held, controlled, or operated.

(Formerly: Acts 1863, c.25, s.1; Acts 1877(ss), c.30, s.1.) As amended by P.L.62-1984, SEC.85.

IC 8-4-32-2

Complaints; venue

Sec. 2. If an animal is killed or injured by the locomotives, cars, or other carriages used on any railroad in or running into or through Indiana, whether the railroad is run and controlled by the company, a lessee, an assignee, a receiver, or other person, an owner of the animal may file a complaint and prosecute a claim in the circuit court of the county in which the animal was injured or killed.

(Formerly: Acts 1863, c.25, s.2.) As amended by P.L.1-1990, SEC.119.

IC 8-4-32-3

Summons; service

Sec. 3. When the complaint is filed in the circuit court under section 2 of this chapter, the clerk of the court shall issue a summons in the case as in other cases. The summons may be served by copy on any conductor on any train on the road passing into or through the county.

(Formerly: Acts 1863, c.25, s.3.) As amended by P.L.1-1990, SEC.120.

IC 8-4-32-4

Parties

Sec. 4. The action may, in all cases contemplated by this chapter, be brought against the railroad as defendants, whether the same is or was being run by the company, or by a lessee, assignee, receiver, or other person in the name of such company.

(Formerly: Acts 1863, c.25, s.4.) As amended by P.L.62-1984, SEC.86.

IC 8-4-32-5

Judgment upon hearing; order to appear; answer; deposit in court

pending final judgment

Sec. 5. (a) After the hearing of the cause under this chapter, the court or jury trying the cause shall give judgment for the plaintiff or plaintiffs for the value of the animal or animals killed or the injury done, without regard to the question whether the killing or injury was the result of willful misconduct, negligence, or unavoidable accident.

(b) If the cause is commenced in the county specified under section 2 of this chapter, the court shall, on motion of the plaintiff or plaintiffs, on the rendition of the judgment, or afterward, at any time, after notice is served on the railroad company defendant, order a writ to issue, directed to the sheriff of the proper county, for any agent, conductor, or employee of the railroad company or the lessee, a receiver, or an assignee of the company, named in the motion, to appear and answer upon oath as to:

(1) the amount of money in their hands, if any, belonging to the company or the assignee, lessee, or receiver; and

(2) the probable amount of money receivable by the agent, conductor, or employee belonging to the railroad company, lessee, assignee, or receivers.

(c) If an agent, a conductor, or an employee ordered to appear under subsection (b) answers that the agent, conductor, or employee has any money, or is in constant receipt of money as agent, conductor, or employee, the court shall order the agent, conductor, or employee to pay into the clerk's office of the court, at the times named by the court, the portions of the money held or received, not exceeding one-half (1/2) the amount held or received, as may be determined just by the court, until the judgment and costs are fully paid and satisfied.

(Formerly: Acts 1863, c.25, s.5.) As amended by P.L.1-1990, SEC.121.

IC 8-4-32-6

Repealed

(Repealed by P.L.1-1990, SEC.122.)

IC 8-4-32-7

Applicability to fenced property

Sec. 7. This chapter shall not apply to any railroad securely fenced in, and such fence properly maintained by such company, lessee, assignee, receiver, or other person running the same.

(Formerly: Acts 1863, c.25, s.7.) As amended by P.L.62-1984, SEC.88.

IC 8-4-32-8

Repealed

(Repealed by Acts 1978, P.L.2, SEC.867.)