

Carriage of Freight by Vehicle Regulations

made under Section 303 of the
Motor Vehicle Act
R.S.N.S. 1989, c. 293
O.I.C. 95-188 (March 7, 1995), N.S. Reg. 24/95

1 These regulations apply to carriage by commercial vehicle and by freight vehicle.

Definitions

2 In these regulations

(a) "carrier" means a person who owns, leases or is otherwise responsible for the operation of a commercial vehicle;

(b) "commercial vehicle" means a commercial motor vehicle having a registered gross vehicle weight exceeding 4500 kg;

(c) "freight vehicle" means a vehicle operated by or on behalf of any person carrying on the business of a carrier of freight for gain;

(d) "motor carrier" means a person who owns, leases or is otherwise responsible for the operation of a freight vehicle.

Insurance

3 In addition to any other policy of insurance required by the Act, every carrier shall effect or place and maintain a motor vehicle liability policy of insurance issued by a company duly authorized to issue the policy in the Province of Nova Scotia and in a form approved by the Superintendent of Insurance for the Province providing third party coverage in respect of liability for loss or damage resulting from bodily injury to or the death of persons other than passengers and for damage to property of others to the limit of at least \$1 000 000.00, exclusive of interest and costs, for commercial vehicles, and \$2 000 000.00, exclusive of interest and costs, for commercial vehicles carrying dangerous goods, under an inclusive coverage for each commercial vehicle used.

4 A motor vehicle liability policy of insurance for the protection of freight carried by a motor carrier must be in a form approved by the Superintendent of Insurance for the Province of Nova Scotia, shall be issued by a company duly authorized to issue the policy in the Province, must insure against the liability of

the motor carrier for loss or damage resulting from direct physical loss or damage to freight caused by

- (a) fire (including self-ignition and internal explosion and lightning);
- (b) flood (meaning rising navigable waters);
- (c) cyclone, hurricane or tornado;
- (d) accidental collision of the vehicle with any other vehicle or object;
- (e) overturning of the vehicle;
- (f) collapse of a bridge;
- (g) stranding, sinking, fire or collision, including general average or salvage charges when being transported on or in the vehicle while on a regular ferry;
- (h) theft of an entire shipping package,

and must be in the maximum amount prescribed by clause (k) of the Uniform Conditions of Carriage set out in Section 7 of these regulations.

5 A carrier must permit any vehicle used by the carrier to be inspected by an Inspector appointed under the Act at any reasonable time.

6 It is an offence for a carrier or for any person employing or otherwise directing the driver of a commercial vehicle to require the operation of the vehicle upon a highway when the vehicle is equipped otherwise than as required or permitted by these regulations or by any other law.

Freight and express carriage conditions and documents

7 Except as otherwise provided by or under these regulations, the following clauses are prescribed as uniform conditions of carriage of freight by a motor carrier and are deemed to be part of every contract for the carriage of freight by a motor carrier and shall be contained or incorporated by reference in every bill of lading relating to the carriage of freight by a motor carrier:

Uniform conditions of carriage

Liability of motor carrier

(a) The motor carrier of the goods herein described is liable for any loss of or damage to goods accepted by him or his agent, except as herein provided.

Liability of originating and delivering motor carriers

(b) Where a shipment is accepted for carriage by more than one motor carrier, the originating contracting motor carrier and the motor carrier who assumes responsibility for delivery to the consignee (hereinafter called the delivering motor carrier), in addition to any other liability hereunder, are liable jointly and severally for any loss or damage to the goods while they are in the custody of any other motor carrier to whom the goods are or have been delivered and from which liability the other motor carrier is not relieved.

Recovery from connecting motor carrier

(c) The originating motor carrier or the delivering motor carrier, as the case may be, is entitled to recover from any other motor carrier to whom the goods are or have been delivered, the amount of loss or damage that the original contracting motor carrier or delivering motor carrier, as the case may be, may be required to pay hereunder resulting from any loss of or damage to the goods while they are in the custody of such other motor carrier.

Remedy by consignor or consignee

(d) Nothing in clauses (b) or (c) deprives a consignor or consignee of any rights the consignor or consignee may have against any motor carrier.

Exceptions from liability

(e) The motor carrier is not liable for

(i) loss, damage or delay to any of the goods described in the bill of lading caused by an act of God, the Queen's or public enemies, riots, strikes, a defect or inherent vice in the goods, the act or default of the consignor, owner or consignee, authority of law or quarantine,

(ii) loss arising from

(A) damage to fragile articles that are not packed and unpacked by the contracting motor carrier, the motor carrier's agent or employee,

(B) damage to mechanical, electronic or other operations of radios, phonographs, clocks, appliances, musical instruments and other equipment unless packed by the motor carrier, the motor carrier's agent or employee,

(C) deterioration of or damage to perishable food, plants or pets,

(D) loss of contents of articles packed by the consignor, unless the containers used are opened for the motor carrier's inspection and articles are listed on the bill of lading and a receipt for the articles is provided by the motor carrier,

other than that due to the negligence of the motor carrier, the motor carrier's agent or employee, the burden of [of] proving absence of such negligence shall be on the motor carrier,

(iii) damage to or loss of a complete set or unit when only part of such set or unit is damaged or lost, in which event the motor carrier shall only be liable for the repair or recovery of the lost or damaged part;

(iv) damage to the goods at place of pick-up at which the consignor or the consignor's agent is not in attendance,

(v) damage to the goods at place of delivery where the consignee or the consignee's agent is not in attendance and cannot give receipt for goods delivered.

Delay

(f) At the time of acceptance of the contract, the motor carrier shall provide the consignor with a date or time period within which delivery is to be made, which date or time period shall be shown on the bill of lading. Failure by the motor carrier to effect delivery on the date or within the time period specified shall render the motor carrier liable for reasonable food and lodging expenses incurred by the consignee which result from the failure.

(g) Failure by the consignee to accept delivery when tendered within the time specified on the bill of lading will render the consignee liable for reasonable storage in transit, handling and redelivery charges incurred by the motor carrier which result from the failure.

Routing by motor carrier

(h) In the case of physical necessity where the motor carrier forwards the goods by a conveyance that is not a licensed for-hire vehicle, the liability of the motor carrier is the same as though the entire carriage were by licensed for-hire vehicle.

Stoppage in transit

(i) Where goods are stopped or held in transit at the request of a party entitled to so request, the goods are held at the risk of that party.

Valuation

(j) Subject to clause (k), the amount of any loss or damage for which the motor carrier is liable, whether or not the loss or damage results from negligence of the motor carrier or its employees or agents, shall be computed on the basis of the value of the lost or damaged articles at the time and place of shipment.

Maximum liability

(k) (i) The amount of any loss or damage computed under clause (j) must not exceed the greater of

(A) the value declared by the consignor, or

(B) \$4.41 per kg computed on the total weight of the shipment,

provided that where the consignor releases to the motor carrier a shipment which is stated in writing to have a value of \$1.32 per kg per article or less, the amount of any loss or damage computed under clause (j) must not exceed such lower amount,

(ii) Where paragraph (A) or (B) applies, additional charges to cover the additional coverage over \$1.32 per kg per article shall be paid by the consignor.

Consignor's risk

(l) Where it is agreed that the goods are carried at the risk of the consignor of the goods, such agreement covers only such risks as are necessarily incidental to the transportation and the agreement will not relieve the motor carrier from liability for any loss or damage or delay which results from any negligent act or omission of the motor carrier, the motor carrier's agents or employees and the burden of proving absence of negligence is on the motor carrier.

Notice of claim

(m) No motor carrier is liable for loss, damage or delay to any goods carried under the bill of lading unless notice setting out particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of the loss, damage or delay is given in writing to the originating motor carrier or the delivering motor carrier within 60 days after the delivery of the goods, or, in the case of failure to make delivery, within 9 months from the date of shipment.

(n) The final statement of the claim shall be filed with the motor carrier within 9 months from the date of shipment.

(o) The party receiving the notice of claim shall acknowledge receipt of claim within 30 days of receipt of the claim.

Articles of extraordinary value

(p) No motor carrier is bound to carry any documents, specie or any articles of extraordinary value without a special agreement to do so. If such goods are carried without a special agreement and the nature of the goods is not disclosed on the face of the bill of lading, the motor carrier is not [to] be [held] liable for any loss or damage to them.

Dangerous goods

(q) Every consignor, whether as principal or agent, shipping explosives or dangerous goods without previous full disclosure to the motor carrier as required by law shall indemnify the motor carrier against all loss, damage or delay caused thereby, and such goods may be warehoused at the consignor's risk and expense.

Undelivered goods

(r) Where, through no fault of the motor carrier, the goods cannot be delivered, the motor carrier shall immediately give notice to the consignor and consignee that delivery has not been made, and shall request disposal instructions.

(s) Pending receipt of such disposal instructions

(i) the goods may be stored in the warehouse of the motor carrier, subject to a reasonable charge for storage, or

(ii) if the motor carrier has notified the consignor of the motor carrier's intention, the goods may be removed to, and stored in, a public or licensed warehouse, at the expense of the consignor, without liability on the part of the motor carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage.

Alterations

(t) Subject to Section 11 of the Regulations Respecting the Carriage of Freight by Vehicle, any limitation on the motor carrier's liability on the bill of lading, and any alteration, or addition or erasure on the bill of lading, shall be signed or initialled by the consignor or the consignor's agent and the originating motor carrier or originating motor carrier's agent and unless so acknowledged is of no effect.

Weights

(u) It is the responsibility of the originating motor carrier or the originating motor carrier's agent to show the correct tare, and the gross and net weights measured

by use of a certified public scale, on the bill of lading, and attach the weight scale ticket to the originating motor carrier's copy of the bill of lading.

(v) Where certified public scales are not available at origin or at any point within a radius of 16 km thereof, a constructive weight based on 112 kg/m³ of properly loaded van space shall be used.

8 Except as otherwise provided by or under these regulations respecting any service or vehicle, every motor carrier shall, at the time of acceptance by the motor carrier or on the motor carrier's behalf of a shipment of freight for transportation on a freight vehicle, issue or cause to be issued for each shipment a bill of lading in accordance with these regulations.

9 (1) Except as otherwise provided by these regulations, the consignor shall plainly mark on each article covered by the bill of lading the name of the consignee and the destination, except where the shipment is from one consignor to one consignee and constitutes a truckload shipment.

(2) The bill of lading shall be signed in full, rather than initialled, by the consignor or the consignor's agent and by the motor carrier as an acceptance of all terms and conditions contained therein.

(3) At the option of the motor carrier a waybill may be prepared by the motor carrier and the waybill shall bear the same number or other positive means of identification as the original bill of lading.

(4) Under no circumstances shall the waybill replace the original bill of lading.

(5) The bill of lading acknowledging the receipt of goods must be signed by the originating motor carrier or the originating motor carrier's agent and shall indicate whether the goods were received in apparent good order and condition or otherwise when the shipment was taken into the originating motor carrier's custody.

(6) A signed copy of the bill of lading shall be retained by the consignor, one copy shall be retained by the motor carrier and one copy or the motor carrier's waybill shall accompany the shipment to its destination.

(7) If the shipment is carried on more than one vehicle, the motor carrier shall ensure that every part of the shipment is accompanied by a copy of the bill of lading or by the motor carrier's waybill.

(8) A bill of lading shall be identified by some numerical code and

(a) must show