
THE HIGHWAY TRAFFIC ACT
(C.C.S.M. c. H60)

Used Household Goods Regulation

Regulation 77/89
Registered March 29, 1989

Definitions

1 In this regulation,

"**Act**" means *The Highway Traffic Act*;

"**board**" means The Motor Transport Board;

"**established place of business**" means a physical structure occupied as a business engaged in the transportation of household goods which

- (a) is designated by a street number or road location,
- (b) is open during normal business hours,
- (c) has a telephone publicly listed in the name of the carrier or agent, and
- (d) has adequate facilities for the storage of used household goods;

"**operating authority**" means an intra-provincial or an extra-provincial operating authority, or both;

"**used household goods**" means

- (a) used household furniture, appliances and personal effects of a householder that are part of the contents of the householder's dwelling, including used recreational and other vehicles owned by the householder when moved as part of and in conjunction with the householder's goods,
- (b) stock in trade and used furniture and equipment forming part of an office, store or commercial establishment in which the stock in trade, furniture, and equipment are to be used,
- (c) used furniture and equipment that are part of the furnishings of a museum, hospital or public institution in which they are to be used, and

(d) works of art, displays, exhibits and computers and electronic equipment that because of their fragile or unusual nature or value require specialized handling.

Application

2 Section 7 of this regulation applies to the intra-provincial transportation of used household goods.

Designation of used household goods

3 Used household goods are designated under subsection 289(1) of *The Highway Traffic Act* as commodities for the transportation of which an operating authority may be issued to an applicant who is otherwise qualified without further findings under subsection 290(2) of the Act.

Used household goods authority required

3.1 A certificate that authorizes the transportation of "general merchandise" or "general freight" does not authorize the transportation of used household goods as defined in this regulation, unless the certificate expressly so provides.

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Established place of business required

4 The board shall not grant an application for an operating authority for the transportation of used household goods unless the motor carrier has provided evidence in a form satisfactory to the board that

- (a) the motor carrier maintains an established place of business in Manitoba; or
- (b) has entered into arrangements with an agent who
 - (i) holds an operating authority,
 - (ii) maintains an established place of business in Manitoba, and
 - (iii) undertakes to be liable for any default by the motor carrier in a contract for the carriage of used household goods entered into by the motor carrier.

Bills of lading

5 A bill of lading issued by a motor carrier for the transportation of used household goods shall contain

- (a) the name and address of the consignor;
- (b) the name, address and telephone number of the consignee;
- (c) the originating point of shipment;
- (d) the destination of shipment;
- (e) the date of the shipment;
- (f) in a conspicuous place, the name of the original contracting carrier and his telephone number;

- (g) in a conspicuous place, the name of the destination agent, if different from the original contracting carrier, and his telephone number;
- (h) the names of connecting carriers, if any;
- (i) an inventory of the goods comprising the shipment;
- (j) a provision stipulating whether the goods were received in apparent good order and condition, except as noted on the inventory;
- (k) a space to show the declared valuation of the shipment;
- (l) a space or spaces to show the actual amount of freight and all other charges to be collected by the carrier;
- (m) a space to show the date or time period agreed upon for delivery;
- (n) a space to note any special services or agreements between the contracting parties;
- (o) a statement to indicate that the uniform conditions of carriage apply;
- (p) a statement in conspicuous form to indicate that the carrier's liability is limited by a term or condition of carriage;
- (q) a statement in conspicuous form indicating that the signature of the consignee for receipt of goods does not preclude future claims for loss or damage made within the time limits prescribed by the conditions of carriage; and
- (r) spaces for the signatures of the shipper and the consignee.

Terms and conditions of carriage

6(1) The terms and conditions of carriage set out in the Schedule shall be deemed to be a part of every contract for the transportation for compensation of used household goods.

6(2) A contract may contain terms and conditions which vary or add to those set out in the Schedule but any variation or addition other than as expressly permitted in the Schedule is invalid and of no effect to the extent that it has the effect of diminishing the rights of a consignor or consignee.

6(3) The terms and conditions of carriage shall be printed on the bill of lading issued by the motor carrier.

Estimates and bids

7(1) A motor carrier shall not demand or receive payment on account of any service rendered in connection with the transportation of used household goods unless

- (a) the carrier provides a written estimate or fixed bid to the consignor which identifies

- (i) the consignor and consignee,
 - (ii) the name, address and the phone number of the destination agent, and
 - (iii) terms and methods of payment consistent with section 14 of the Schedule;
- (b) the carrier
- (i) makes a full disclosure in the bid or estimate of all rates and charges,
 - (ii) sets out all anticipated charges in the bid or estimate,
 - (iii) where unanticipated charges are to be paid by the consignor, sets out each unanticipated charge in the tariff of rates and charges that is referred to in the bid or estimate,
 - (iv) where the tariff of rates and charges is referred to in this estimate or bid, the carrier specifies the tariff and posts it for inspection at the carrier's place of business;
- (c) the estimate or fixed bid is identified as such and is agreed to by the consignor prior to the transportation of the goods;
- (d) the payment demanded and received is strictly in accordance with the estimate or fixed bid;
- (e) in the case of an estimate, the carrier sets out the information described in subsection 2; and
- (f) in the case of a fixed bid, the carrier clearly identifies the circumstances in which the fixed bid will not apply.

7(2) An estimate shall disclose

- (a) the estimated weight of the shipment;
- (b) applicable rates of linehaul, packing, insurance, storage, extra handling, urban delivery, territorial surcharges, service charges, and all other anticipated accessorial charges;
- (c) applicable mileage over the shortest route or an explanation of the manner in which an alternative mileage base is calculated;
- (d) total estimated charges for the estimated weight;
- (e) the rate per 100 pounds for the weight brackets immediately above and below the rate used for the estimate; and
- (f) the identification number of the tariff upon which the estimate is based.

Repeal

8 Manitoba Regulation 193/81 as amended and Manitoba Regulation 109/86 are repealed.

Coming into force

9 This regulation comes into force one week after it is published in *The Manitoba Gazette*.

March 28, 1989

THE MANITOBA MOTOR TRANSPORT BOARD:

D. Norquay
Chairman

L. Olijnek
Secretary

SCHEDULE
(Section 6)

TERMS AND CONDITIONS OF CARRIAGE

Liability of carrier

1 The 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 carriers

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

Recovery from connecting carrier

3 The original contracting carrier or the delivering carrier, as the case may be, is entitled to recover from any other carrier to whom the goods are or have been delivered the amount of loss or damage that the original contracting carrier or delivering 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 carrier.

Remedy by consignor or consignee

4 Nothing in articles 2 or 3 deprives a consignor or consignee of any rights he may have against any carrier.

Exceptions from liability

5 The carrier shall not be liable for

(a) 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;

(b) other than because of his, his agent's or employee's negligence;

(i) damage to fragile articles that are not packed and unpacked by the contracting carrier, his agent or employees,

(ii) damage to the mechanical, electronic or other operations of radios, phonographs, clocks, appliances, musical instruments and other equipment, irrespective of who packed or unpacked such articles, unless servicing and preparation was performed by the contracting carrier, his agent or employees,

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

(iv) loss of contents of consignor packed articles, unless the containers used are opened for the carrier's inspection and articles are listed on the Bill of Lading and receipted for by the carrier,

- (v) burden of proving absence of such negligence shall be on the carrier,
- (c) damage to or loss of a complete set or unit when only part of such set is damaged or lost, in which event the carrier shall only be liable for repair or recovering of the lost or damaged piece or pieces;
- (d) damage to the goods at place or places of pick-up at which the consignor or his agent is not in attendance;
- (e) damage to the goods at place or places of delivery at which the consignee or his agent is not in attendance and cannot give receipt for goods delivered.

Delay

6(1) At the time of acceptance of the contract, the original contracting carrier shall provide the consignor with a date or time period within which delivery is to be made. Failure by the carrier to effect delivery within the time specified on the face of the Bill of Lading shall render him liable for reasonable food and lodging expenses incurred by the consignee.

6(2) Failure by the consignee to accept delivery when tendered within the time specified on the Bill of Lading shall render him liable for reasonable storage in transit, handling and redelivery charges incurred by the carrier.

Routing by the carrier

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

Stoppage in transit

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

Valuation

9 Subject to article 10, the amount of any loss or damage for which the carrier shall be liable, whether or not the loss or damage results from negligence of the 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

10(1) The amount of any loss or damage computed under article 9 shall not exceed the greater of

- (a) the value declared by the shipper; or
- (b) \$2.00 per pound computed on the total weight of the shipment, provided that, where the consignor released the shipment to a value of 60¢ per pound per article or less in writing, the amount of any loss or damage computed under article 9 shall not exceed such lower amount.

10(2) Where clause 1(a) or 1(b) applies, additional charges to cover the additional coverage over 60¢ per pound per article shall be paid by the consignor.

Consignor's risk

11 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 transportation and the agreement shall not relieve the carrier from liability for any loss or damage or delay which may result from any negligent act or omission of the carrier, his agents or employees and the burden of proving absence of negligence shall be on the carrier.

Notice of claim

12(1) No carrier is liable for loss, damage or delay to any goods carried under the Bill of Lading unless notice thereof setting out particulars of the origin, destination and date of shipment of the goods and the estimated amount claimed in respect of such loss, damage or delay is given in writing to the original contracting carrier or the delivering carrier within 60 days after delivery of goods or, in the case of failure to make delivery, within nine months from the date of shipment.

12(2) The final statement of the claim must be filed within nine months from the date of shipment.

12(3) Either the original contracting carrier or the delivering carrier, as the case may be, shall acknowledge receipt of claim within 30 days of receipt of the claim.

Articles of extraordinary value

13 No carrier is bound to carry any documents, specie or any articles of extraordinary value unless by 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 carrier shall not be liable for any loss or damage.

Freight charges

14(1) If required by the carrier, the freight and all other lawful charges accruing on the goods shall be paid before delivery, provided that, where the total actual charges exceed by more than 10% the total estimated charges, the consignee shall be allowed 15 days after the day on which the goods are delivered (excluding Saturdays, Sundays and holidays) to pay the amount by which the total actual charges exceed 110% of the total estimated charges.

14(2) The fifteen day extension provided in subarticle (1) does not apply where the carrier notifies the consignor of the total actual charges immediately after the goods are loaded or, where the carrier receives a waiver of the extension provision signed by the consignor.

Dangerous goods

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

Undelivered goods

16(1) Where, through no fault of the carrier, the goods cannot be delivered, the carrier shall immediately give notice to the consignor and consignee that delivery has not been made, and shall request disposal instructions.

16(2) Pending receipt of such disposal instructions:

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

(b) provided that the carrier has notified the consignor of his intention, the goods may be removed to, and stored in, a public or licenced warehouse, at the expense of the consignor, without liability on the part of the carrier, and subject to a lien for all freight and other lawful charges, including a reasonable charge for storage.

Alterations

17 Subject to article 18, any additional limitation on the 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 his agent and the original contracting carrier or his agent and unless so acknowledged shall be without effect.

Weights

18 It shall be the responsibility of the original contracting carrier or his agent to show the correct tare, gross and net weights on the Bill of Lading by use of a certified public scale, and attach the weight scale ticket to his copy of the Bill of Lading. In cases where certified public scales are not available at origin or at any point within a radius of ten miles thereof, a constructive weight based on 7 pounds per cubic foot of properly loaded van space shall be used.