

A vintage, sepia-toned photograph of a bustling restaurant interior. In the foreground, several people are seated at tables, engaged in conversation and dining. The middle ground shows a busy bar area with a bartender and patrons. The background features a large window with a view of the outdoors. The ceiling is adorned with numerous small, starburst-shaped pendant lights. The overall atmosphere is warm and lively.

Whitelaw—Twining

Motor Truck Cargo in the Canadian Marketplace

Presented by Whitelaw Twining

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Liability in Motor Truck Transport Claims: Differences Across Canada

Michael D. Silva



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Statistics

- + Canadian Trucking Industry generates \$67 billion in revenue per year
- + Road based trade from Canada to USA totals \$327 billion per year
- + Canadian truckers drive 60 billion miles in the USA
- + 25% of trucks operating in USA are Canadian trucks

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Liability of a Common Carrier

- + Common law: onerous liability practically amounting to liability of an insurer
- + Statute: creates additional defences to encourage trade (i.e. \$2/pound)



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Statutory Defences: \$2/Pound

- + Statutes in each Province include a set of “Uniform Conditions”
- + “Uniform Conditions” in each Province contain a \$2/pound weight limit
- + BUT: requirements that must be met to rely on the \$2/pound defence are different from Province to Province

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Alberta & Ontario

- + “Uniform Conditions” are “deemed to apply” to every contract of carriage
- + No requirement to “properly issue” the bills of lading
- + Easier to rely on limitation defences

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B.C. & Saskatchewan

- + No “deeming” language
- + Bills of lading must be “properly issued”
- + “Properly Issued” includes proper form, and proper use

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Law of Which Province?

- + Law of the Province in which a shipment originates will apply
 - + B.C. to Alberta shipment, Bill of Lading must be “properly issued”
 - + Alberta to B.C. shipment, no need to “properly issue” the Bill of Lading

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Other Limitation Options

- + Intention of the parties
- + Through Bills & Himalaya Clauses

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Limits of Weight Limit Defence

- + \$2/pound limitation does not apply to loss of profit or business loss claims
 - + only limits liability for direct damage to cargo / property
 - + serious risk of being exposed to a loss the carrier is not insured for

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Head Contracts

- + Clarifies Limitation and other issues
- + Practical Uses:
 - + Between Carrier and regular / routine customer booking a number of loads per year
 - + Overseas shippers

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Motor Carrier Liability

- + Onerous liability: need statutory defences
- + \$2/pound in B.C. only if “properly issued”
- + “Properly Issued” requires compliance with both form and use
- + Other limitation options based on intention of parties and “Through” Bills of Lading
- + \$2/pound does not apply to business losses
- + Consider ability to use head contracts

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SHIP TO

VALHALLA HELICOPTERS
1760 INDUSTRIAL RD WEST
KELOWNA BC

PRO. NO. M 25672

SHIPPER
1760 INDUSTRIAL RD WEST
ORIGIN
SURREY BC ALBERTA PK
CUSTOMER
ADDRESS
1760

SHORT FORM BILL OF LADING AND TRUCK LOADING ORDER COMBINED
- ISSUED AT SHIPPER'S REQUEST -

ANY EXCEPTIONS MUST BE NOTED AT TIME OF DELIVERY

DATE 5/6/11 TRUCK No 274 TRAILER No 4208 JOB No 117 CUST ORDER No 34454 PICK UP No

1 FLAT BED CONVERTER
TOLUO 2961644

REC'D BY [Signature] DATE 5/11/11 DRIVER'S SIGNATURE [Signature]

MARK WITH X
TARP BLIND
REGULAR
PREPAID
COLLECT

WHITE — CONSIGNEE CANARY — CUSTOMER PINK — FILE GOLDENROD — FILE

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Received at the point of origin on the date specified, from the consignor mentioned herein, the property herein described, in apparent good order, except as noted (contents and conditions of contents of package unknown) marked, consigned and destined as indicated below, which, the carrier agrees to carry and to deliver to the consignee at the said destination, if on its own authorization route or otherwise to cause to be carried by another carrier on the route to said destination, subject to the rates and classification in effect on the date of shipment.
Maximum liability of \$2.20/lb. (\$1.00 lb.) CAD, computed on total weight of shipment unless declared valuation states otherwise. Overseas container maximum liability of \$30,000 U.S.F. unless declared valuation states otherwise.
It is mutually agreed, as to each carrier of all or any of the goods over all or any portion of the route to destination, and as to each party of any time interested in all or any of the goods, that every service to be performed here under shall be subject to all conditions not prohibited by law, whether printed or written, hereby incorporated by reference herein, which are hereby agreed by the consignor and accepted for himself and his assigns.

SHIPPER: <u>P.T. Ink</u>		DATE: <u>April 5-09</u>		C.O.D. _____	
ADDRESS: <u>Richmond BC</u>		P/U# _____		CASH _____	
CONSIGNEE TO: <u>Samuel Honey</u>				CHEQUE _____	
DESTINATION: <u>Granum AB</u>				REPORT ALL C.O.D.'S TO DISPATCH	
				JOB NUMBER: _____	

No. OF PIECES	DESCRIPTION	WEIGHT	TICKET No.			
	637 X 1 Kg Box Packages	1600 Kg				
	Set of 10°C					
					EXTRA DEL.	
					EXTRA PICKUP	
					WAIT TIME	
					GST	
RECEIVER'S NAME (PLEASE PRINT) X <u>Alan Pearce</u>				TOTAL		

Preload Driver: <u>Palwinder Arewal</u>	Truck# <u>L12 00</u>	Trailer# <u>447</u>
Delivery Driver: <u>Palwinder Arewal</u>	Truck# <u>L12 00</u>	Trailer# <u>447</u>

CHARGES WILL BE PAYABLE BY THE PARTY DESIGNATED HEREIN BY THE SHIPPER, AND NO TRANSFERS CAN BE MADE
White: Office Copy • Yellow: Invoice Copy • Pink: Customer Copy • Green: Driver Copy

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Truck No. <u>93.95</u>	BILL OF LADING NOT NEGOTIABLE		Pilot Car:
Trailer No. <u>21-212</u>			
At <u>RAYCROFT A.B.</u>	Date <u>MAY 23/12</u>		
Consignor <u>VESTAS</u>	Consignor's No. <u>RTL 41686</u>		
Received at the point of origin on the date specified, from the consignor mentioned herein, the property herein described, in apparent good order, except as noted (contents and conditions of contents of packages unknown) marked, consigned and destined as indicated below, which the carrier agrees to carry and to deliver to the consignee at the said destination, if on its own authorized route or otherwise to cause to be carried by another carrier on the route to said destination, subject to the rates and classification in effect on the date of shipment.			
It is mutually agreed, as to each carrier of all or any of the goods over all or any portion of the route to destination, and as to each party of any time interested in all or any of the goods, that every service to be performed here under shall be subject to all the conditions not prohibited by law, whether printed or written, including conditions which are hereby agreed by the consignor and accepted for himself and his assigns.			
Consignee <u>VESTAS TORSITE</u>			
Destination <u>TUMBLER RANGE D.C.</u> Route _____			
Number & Type of Packages	Particulars of the Goods, Marks and Exceptions	Weight	Rate Amount
1	The contract for the carriage of the goods covered in this bill of lading is covered by conditions in force in the jurisdiction at the time and place of shipment and is subject to the conditions set out in the back of this bill.		
	<u>LOAD TIME START 9-23-530 AM</u>		
	<u>PREVIOUS DAMAGE 5-23-5:40 P.M.</u>		
	<u>CRACKED & CHIPPED</u>		
	<u>FIREGLASS AROUND BOLTS ON SIDE TRANSIT RETURNED TO RAYCROFT MAY 24/12</u>		
Loaded Dimensions: L _____ W _____ H _____			
Weight: ST _____ Jeep _____ TR _____ Booster _____			
Hours: Load _____ Travel Loaded _____ Travel Unloaded _____			
Remember, call in by 10 a.m.			
Special agreement between consignor and carrier, advise here			
DECLARED VALUATION \$ _____			
Maximum liability of \$2.00 per lb / \$4.41 per kg unless declared valuation states otherwise. (conditions 8 and 16 on back)			
*Note carefully terms and conditions on back hereof which are an integral part of this Bill of Lading.			
NOTICE OF CLAIM			
(a) No carrier is liable for loss, damage or delay to any goods under the Bill of Lading unless noted on the carriers receipt at the time of delivery and 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 originating carrier or the delivering carrier within 48 hours after the delivery of the goods, or, in the case of failure to make delivery, within 7 days from the date of shipment.			
(b) The final statement of the claim must be filed within 7 days from the date of shipment together with a copy of the paid freight bill.			
10 Point Inspection: ☐ Yes ☐ No Note carefully conditions on reverse back hereof which are hereby accepted.			
Shipper <u>EWNB</u>	Carrier <u>[REDACTED]</u>	Consignee _____	
Per <u>[Signature]</u>	Print Name <u>PAUG [Signature]</u>	Print Name _____	
Date <u>May 23/12</u>	Date <u>MAY 25/12</u>	Date _____	
WHITE - BILLING DEPARTMENT	PINK - CUSTOMER	GREEN - SHIPPER	CANARY - BOOK

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BILL OF LADING		
Phone: 00 8301		
Fax:		
Date Loaded: _____	Customer's Name: _____	Trip #: _____
Shipper's Name: _____		Order #: _____
Shipped From: _____		Shipment #: _____
Receiver's Name: _____		Truck & Trailer #: _____
Shipped To: _____		Driver: _____
Quantity	Description of Product	Weight
Received in good order: (Sign & Print Name) _____		Date: _____
Received at the point of origin on the date specified, from the consignor mentioned herein, the property herein described, in apparent good order, except as noted (contents and conditions of package unknown) marked, consigned and destined as indicated below, which the carrier agrees to carry and to deliver to the consignee at the said destination, if on its own authorization route or otherwise to cause to be carried by another carrier on the route said destination, subject to the rates and classification in effect on the date of shipment.		
It is mutually agreed as to each carrier of all or any of the goods over all or any portion on the route to destination, and as to each party of any time interested in all or any of the goods, that every service to be performed hereunder shall be subject to all conditions not prohibited by law, whether printed or written, hereby incorporated by reference herein, which are hereby agreed by the consignor and accepted for himself and his assigns. All claims must be made within 14 days		
White - Office • Yellow - Receiver • Pink - Shipper		
Tarp: Yes No		Declared Valuation \$
		Maximum liability of \$2.00 per pound, unless declared valuation states otherwise.

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BILL OF LADING
NOT NEGOTIABLE

SHIPPER			
Name:		B / L #:	
Address:			
City:	Prov/State:	Shipper #:	
Postal/Zip:	Country:	Order #:	
Phone:	Contact:	P.O. #:	

CONSIGNEE		FREIGHT CHARGES
Name:		Collect ☐ Prepaid ☐
Address:		DECLARED VALUE \$ _____
City:	Prov/State:	Maximum Liability is \$2.00 per lb. Unless Declared Value States Otherwise
Postal/Zip:	Country:	
Phone:	Contact:	C.O.D. AMOUNT \$ _____

SPECIAL NOTES

PIECES	DESCRIPTION OF GOODS	WEIGHT

TERMS AND CONDITIONS
Received at the point shown on the date specified of the date specified, from the consignor mentioned herein, the property herein described, in apparent good order, except as noted (contents and conditions of contents in package unknown) marked, consigned and destined as indicated above, which the carrier agrees to carry and to deliver to the consignee at the said destination, if on its own authorized route or otherwise to cause to be carried by another carrier on the route to said destination, subject to the rates and classification in effect on the date of the shipment. It is mutually agreed, as to each carrier of all or any of the goods over all or any portion of the route to destination, and as to each party at any time interested in all or any goods, that every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, including conditions on back hereof, which are hereby agreed to by the consignor and accepted for himself and his assigns.

TERMS AND CONDITION ACCEPTANCE	RECEIVED IN GOOD ORDER AND CONDITION	RECEIVED IN GOOD ORDER AND CONDITION
Shipper: (Print Name)	Carrier Name:	Consignee: (Print Name)
	Date:	Date:
Signature:	Signature:	Signature:

White - Office / Yellow - Consignee / Pink - Shipper

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Any Questions?



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Thank you.

For more information, please visit our website at
www.wt.ca

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