

Trucking Rate, Payment, and Collection Rules of the Road

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Payment and collection practices are under renewed scrutiny in the transportation business. Legitimate providers and shippers are suffering from the growth of unlawful double brokering, insolvent service providers, and other facts leading to double payment risk or joint-and-several liability for freight charges. The FMCSA also recently issued its proposed “Broker Transparency” rule that may require all brokers to disclose their financials on any given load to carriers and shippers (see 89 FR 91648).

Rules of the road do exist for freight payment and collection. This article summarizes common statutory rules.

18 Month Rule - Carriers may pursue collection of undercharged amounts within 18 months after the claim accrues. Likewise, those owing carriers may pursue recovery of overcharges within 18 months after the claim accrues. The rule is found at 49 USC § 14705. Many transportation agreements will include this principle.

180 Day Rule - Carriers may issue bills for any additional charges beyond what was originally billed within 180 days of the payor party’s receipt of the original bill. Likewise, those receiving bills from carriers must contest the original or subsequent bill within 180 days of receipt. This rule is found at 49 USC § 13710. The principle also appears in many transportation agreements.

False or Misleading Information Rule - Carriers that present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction violate federal statute at 49 USC § 13708.

Reasonable Rate and Tariff Rule - Certain carriers and forwarders are subject to a reasonable rate rule, although its application is very limited. Reasonable rates are required for household goods carriers, water carriers in the noncontiguous domestic trade, and certain motor carriers under collective agreements. This rule is found at 49 USC § 13701. Like many of these rules this harkens back to the era of rate regulation under the now-disbanded ICC. Today publishing rate tariffs is only strictly required for household goods or traffic in the noncontiguous domestic trade under 49 USC § 13702. A perfect example of strong rate regulation today is the requirement that a household goods carrier must release shipments upon collection of 100% of binding estimate charges or upon collection of not more than 110% of non-binding estimate charges under 49 USC § 13707.

Payment and collection disputes are not fun but they can be won. Facts matter regardless of which side of the demand we find ourselves. It is always key to understand what happened, how the rules apply, and the pragmatic path forward toward resolution or settlement.

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