

**§ 80113. Liability for nonreceipt, misdescription, and improper loading**

(a) **LIABILITY FOR NONRECEIPT AND MISDESCRIPTION.**—Except as provided in this section, a common carrier issuing a bill of lading is liable for damages caused by nonreceipt by the carrier of any part of the goods by the date shown in the bill or by failure of the goods to correspond with the description contained in the bill. The carrier is liable to the owner of goods transported under a nonnegotiable bill (subject to the right of stoppage in transit) or to the holder of a negotiable bill if the owner or holder gave value in good faith relying on the description of the goods in the bill or on the shipment being made on the date shown in the bill.

(b) **NONLIABILITY OF CARRIERS.**—A common carrier issuing a bill of lading is not liable under subsection (a) of this section—

- (1) when the goods are loaded by the shipper;
- (2) when the bill—

(A) describes the goods in terms of marks or labels, or in a statement about kind, quantity, or condition; or

(B) is qualified by “contents or condition of contents of packages unknown”, “said to contain”, “shipper’s weight, load, and count”, or words of the same meaning; and

- (3) to the extent the carrier does not know whether any part of the goods were received or conform to the description.

(c) **LIABILITY FOR IMPROPER LOADING.**—A common carrier issuing a bill of lading is not liable for damages caused by improper loading if—

- (1) the shipper loads the goods; and
- (2) the bill contains the words “shipper’s weight, load, and count”, or words of the same meaning indicating the shipper loaded the goods.

(d) **CARRIER’S DUTY TO DETERMINE KIND, QUANTITY, AND NUMBER.**—(1) When bulk freight is loaded by a shipper that makes available to the common carrier adequate facilities for weighing the freight, the carrier must determine the kind and quantity of the freight within a reasonable time after receiving the written request of the shipper to make the determination. In that situation, inserting the words “shipper’s weight” or words of the same meaning in the bill of lading has no effect.

(2) When goods are loaded by a common carrier, the carrier must count the packages of goods, if package freight, and determine the kind and quantity, if bulk freight. In that situation, inserting in the bill of lading or in a notice, receipt, contract, rule, or tariff, the words “shipper’s weight, load, and count” or words indicating that the shipper described and loaded the goods, has no effect except for freight concealed by packages.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1351.)

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
80113(b) .....	49 App.:101 (1st sentence).	Aug. 29, 1916, ch. 415, §§20, 21, 39 Stat. 541.
80113(c) .....	49 App.:101 (last sentence words before proviso).	
80113(d)(1) ..	49 App.:101 (last sentence proviso).	
80113(d)(2) ..	49 App.:100.	

In subsection (a), the words “a common carrier issuing a bill of lading” are substituted for “If a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the receiving of goods and issuing bills of lading therefor for transportation in commerce among the several States and with foreign nations” to eliminate unnecessary words and for consistency with section 80102 of the revised title. The words “at the time of its issue” are omitted as surplus.

In subsection (b), before clause (1), the words “A common carrier issuing a bill of lading is not liable under subsection (a) of this section” are substituted for “such statements, if true, shall not make liable the carrier issuing the bill of lading” for clarity. In clause (1), the word “goods” is substituted for “package freight or bulk freight” for consistency in this chapter. In clause (2)(B), the quoted words are placed in quotation marks for consistency and to conform to section 7-301 of the Uniform Commercial Code. The words “shipper’s weight, load, and count” are added for consistency in this section.

In subsection (d)(1), the words “makes available to the common carrier adequate facilities for weighing the freight” are substituted for “installs and maintains adequate facilities for weighing such freight, and the same are available to the carrier . . . when given a reasonable opportunity so to do” to eliminate unnecessary words. The words “In that situation, inserting the words ‘shipper’s weight’ or other words of the same meaning in the bill of lading has no effect” are substituted for “and the carriers shall not in such cases insert in the bill of lading the words ‘Shipper’s weight’, or other words of like purport, and if so inserted contrary to the provisions of this section, said words shall be treated as null and void and as if not inserted therein” for clarity and to eliminate unnecessary words.

In subsection (d)(2), the words “and such carrier shall not, in such cases” are omitted as surplus. The words “In that situation . . . has no effect” are substituted for 49 App.:100 (last sentence) for clarity and to eliminate unnecessary words. The words “except for freight concealed by packages” are substituted for “or in case of bulk freight and freight not concealed by packages the description made by him” for clarity and to eliminate unnecessary words.

**§ 80114. Lost, stolen, and destroyed negotiable bills**

(a) **DELIVERY ON COURT ORDER AND SURETY BOND.**—If a negotiable bill of lading is lost, stolen, or destroyed, a court of competent jurisdiction may order the common carrier to deliver the goods if the person claiming the goods gives a surety bond, in an amount approved by the court, to indemnify the carrier or a person injured by delivery against liability under the outstanding original bill. The court also may order payment of reasonable costs and attorney’s fees to the carrier. A voluntary surety bond, without court order, is binding on the parties to the bond.

(b) **LIABILITY TO HOLDER.**—Delivery of goods under a court order under subsection (a) of this section does not relieve a common carrier from liability to a person to whom the negotiable bill

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
80113(a) .....	49 App.:102.	Aug. 29, 1916, ch. 415, §22, 39 Stat. 542; restated Mar. 4, 1927, ch. 510, §6, 44 Stat. 1450.