Rollin' On . . . ®

A Facsimile Newsletter for the Transportation Industry

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PIGS AND CANS:
OVERWEIGHT OR WHAT?

Whatever else may be true, life in the transportation industry has its moments. After all, how many other industries can boast of pigs, cans, sleeper cabs, sleeper teams, skids, shrink wrap, stretch wrap, glad wrap (just kidding), dollies, doing the turn and lumpers? I get tingly all over just thinking about it.

Well we are about to have a new facet in our lives which will make us the envy of the civilized world. And that new facet is the Intermodal Safe Container Transportation Amendments Act of 1996 (are they teaching that stuff in our public schools?), a topic which has been previously reported here ***(Rollin' On, May 1995*** and ***February 1997).*** Let's call it Safeweight.

The idea behind Safeweight is to protect our highways from damage due to overweight containers, which is of course a worthy cause. As it is, our public infrastructure is deteriorating faster than we (the taxpayers) are spending to maintain the status quo. Historically, some of the "cans", especially imported cans, are stuffed way beyond their legal limits by shippers who consider such overstuffing a badge of honor. Hopefully, those rascals (I can't say morons since they have gotten away with it) will be forced to change their ways.

Now let's pretend that we are habitual overweight violators intent on continuing our misdeeds. (At the recent ATA seminar in Portland a woman candidly mentioned that she had been instructed to report back to management with the "loopholes".)

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Here are some scenarios.

First, the shipper can give the carrier (trucker for now) the required prior notice that it has a can over 29,000 lbs. but is still acceptable for over-the-road transportation. The trucker shows up and is handed, as the can is loaded onto his chassis, a document stating a new weight that will put the trucker over the legal limit. The prior notice will probably not help the trucker because the shipper has now come clean (through a dirty trick) by correcting the "mistake", and Safe-weight puts the burden on the carrier.

A variation on the above is if a motor carrier dispatches an owner-operator with the same intentions. The only obligation is to inform the o/o "prior" to tender, which means that the required written notice could be furnished to the driver at the coffee counter as the o/o's equipment is about to be loaded. Since many of these o/os maintain an operating ratio of 99.9 (or worse), what is an o/o to do, especially if he/she is not in a position to reposition the equipment?

Another problem is if no certification is received, meaning that the carrier can assume that the can weighs <29,000 lbs. That won't work as a defense when the trucker gets pulled over. Sure he has lien rights, but will he get another load if he asserts it? And if it's perishables, the trucker is spared that decision as there are no lien rights. Safeweight? Not exactly.

Rollin' On Rerun

Due to a family emergency, I am unable to send you a new issue of ***Rollin' On*** this month. So some you will remember the prior discussion from an earlier issue (***Rollin' On,*** Vol. III, Issue 4, April 1997). I eliminated impertinent material, leaving the following blank.

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(This makes me feel like a carrier.)

That's all for now. To shippers, carriers, agents and other third parties, keep the cargo rollin'!!

Short Bio
Admitted to the state bars of Oregon, Alaska, Florida and Massachusetts. Practicing law for over 20 years and emphasizing transportation law, business law and related litigation.