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## Understanding the Bill of Lading

A Bill of Lading (BOL) is arguably the most important document involved in the shipment of goods. During medieval times, when merchants needed a way to track the condition of goods and where and when they were loaded, the idea of the BOL was born.

As trade and mercantilism grew, this document also began to serve as the title of goods and then further evolved into the BOL that is used today.

A BOL is legally binding, and includes all the information needed to process a shipment and invoice it. A BOL should be completed and issued by the shipper but can also be issued by a carrier or agent (load broker). To be valid, a BOL must be signed by the shipper (consignor/seller), driver and when delivered, signed by the receiver (consignee/buyer).

### THESE THINGS SHOULD BE INCLUDED ON THE BOL:

- Shipper's (consignor's) name and address
  - Receiver's (consignee's) name and address
  - Name of the originating carrier and connecting carriers, if any
  - Special instructions for delivery
  - Date of shipment
  - The particulars of the goods comprising the shipment, including weight and description
- A note identifying the goods as Dangerous/Hazardous if applicable (shipping requirements may vary jurisdiction)
  - A provision stipulating whether the goods are received in apparent good order and condition
  - A space for a Declared Value of the shipment
  - Spaces for signatures (to be considered complete and binding a BOL must be signed by the shipper, carrier and receiver)
  - An indication that freight charges are Prepaid, Collect or C.O.D. and what those charges are if C.O.D (prepaid or collect)
  - A space in which to note any special agreement between the consignor and the carrier
  - A statement in conspicuous form indicating that the carrier's liability is limited by a term or condition of the applicable schedule of rates or by other agreement, if such a limitation exists (Specified Conditions of Carriage).
  - While not required it is advisable that Free On Board (FOB) advice is also stated. An FOB statement outlines ownership and responsibilities related to the goods carried. (see below for more information)

### PURPOSE OF THE BOL

The BOL serves 3 purposes:

1. **Evidence of Contract of Carriage:** When a buyer places an order with a seller, they either discuss the transaction verbally or in writing. A contract between the shipper and carrier is made when the shipper books the carrier to bring the shipment of goods from point A to point B. The BOL serves as the evidence of this contract between the shipper and the carrier.
2. **Receipt of Goods:** When the shipment of goods is delivered to the carrier from the shipper, a BOL is given to the carrier. It serves as proof that the shipment of goods arrived safe and intact. Issues such as damage can be documented on the BOL by the consignee at delivery if required.
3. **Document of Title to the Goods:** When the



BOL is in the hands of the carrier, it gives the carrier responsibility of the goods or the right to transfer the goods on to someone else. Essentially, the carrier is in possession of the “title” to the goods because of the BOL.

There are several types of a BOL. The standard, the one discussed here, is the “Straight Bill of Lading” which outlines a specific consignee and is not negotiable.

Goods may also be transported on a Waybill which serves as a document that accompanies goods during their transit, providing details about the shipment and its destination port.

A Waybill functions as a receipt and contract between the shipping company and the carrier but doesn’t identify ownership of the goods. It is proof that there’s an agreement to transport the goods but doesn’t transfer ownership.

## RISKS OF AN INACCURATE OR MISSING BILL OF LADING

An incomplete, unsigned or incorrect BOL can cause a breakdown in the transportation of the goods, and they may never be received by the intended party. Additionally, you can open yourself up to claims of damage.

The BOL is an indication that the shipment of goods is safe and intact, if the consignee receives the goods in a damaged state, the consignee can make a claim of damage against the carrier. If the information on the BOL is not accurate, and no one documented when the goods became “damaged,” you may not get your full freight claim paid because the necessary information that would allow you to recover the entire cost of damage is missing. You may also:

- Lose the right to limit liability (see Specified Conditions of Carriage)
- Lose your protection and indemnity coverage
- Lose your right of indemnity from the charterer
- Be criminally prosecuted

## PRACTICAL APPLICATION AND THE SPECIFIED CONDITIONS OF CARRIAGE

### “CARGO LIABILITY”

If a Declared Value for the shipment is not recorded on the BOL when the shipment is picked up, the maximum liability that the carrier will be responsible for is limited to \$2.00 per pound or \$4.41 per kilogram. This is calculated on the total weight of the shipment unless the declared valuation states otherwise. This standard is applied in Canada and, generally, to shipments to the United States. Shipments from the United States to Canada fall to under the Carmack Amendment (see below)

Cargo coverage is subject, first, to Actual Cash Value/Fair Market Value then \$2.00 per lb and/or declared value limitations.

**Note:** The \$2.00 per pound limitation applies to the total actual weight of the entire shipment and not just for the missing or damaged goods. It will not include projected weights when using calculations for charging by cube volume weight.

### DECLARED VALUE

If a Declared Value (greater than \$2/lb) is recorded at the point of shipment, then additional cargo insurance is required. There are several ways coverage can be handled, please contact your Lloyd Saddle representative to discuss which option best suits your needs.

**Note:** Accepting a Declared Value without ensuring you have adequate coverage may leave you liable for the difference in value. Values stated on Customs documents are not considered “Declared Values” in a cargo claim.

### EXCLUSIONS

There are a number of goods that are considered excluded from the Specified Conditions of Carriage. They include goods owned by the carrier, used buildings, luggage or parcels on a bus, gravel and other aggregates, coal etc.

## GOODS THAT ARE NOT “GENERAL FREIGHT”

There are separate options (BOL / Specified Conditions) for Household Goods, Livestock, Express shipments on a bus and some Point-to-Point Oilfield hauling

## OTHER CONSIDERATIONS

### CARMACK AMENDMENT – SHIPMENTS FROM THE UNITED STATES

A liable carrier would assume “actual loss or injury to the property” transported which may include repairs, downtime and legal expenses.

Generally, the carrier is considered responsible unless they can show Shipper Error/Omission, Inherent Vice, Act of War/Public Enemy, Act of God or Public Authority (Government controlled inconveniences)

A carrier has the authority to limit its liability by agreement with a shipper for an amount less than the value of the goods, in exchange for lower freight charges.

Carmack requires a carrier to issue a BOL, failure to do so does not limit liability.

### PREPAID, COLLECT & COD

If a BOL does not identify the shipment as Prepaid, the shipment is to be considered as Collect. Collect means the person receiving the shipment is responsible for all freight charges. They also assume all risks and are responsible for filing claims in the case of loss or damage.

Prepaid is the opposite. The shipper accepts responsibility for all freight charges and risks. If the intention is Cash On Delivery (COD) then it must be noted as Prepaid or Collect COD and the amount must be stated on the BOL.

### NOTICE OF CLAIM

Any freight claim must be accompanied by a notice outlining the origin, destination, date of shipment, estimated amount claimed for the loss. It must be given in writing to the to the originating or delivering carrier within 60 days of the delivery or 9 months following a failed delivery. It must be accompanied by a copy of the **Paid** freight bill.

### LOST REVENUE / DOWN TIME

Cargo claims in Canada are governed by the transport regulations, accordingly their policies provide direct physical damage coverage only and are without consideration for consequential loss and or delay costs unless special agreements are obtained and are agreed to by the Carrier and Insurer in writing, with signatures. In addition, BOLs are only valid if completed in their entirety and signed by all parties involved.

## “NO CLAIM TO CARRIER”

If transporting used equipment or machinery, this statement used on the BOL and signed by the shipper and carrier, will hold the carrier as not responsible because equipment is used and potentially damaged. In such a case, the entire claim would be denied. However, in the event of a rollover, or some other type of serious loss caused by the carrier, the \$2.00 per pound limitation would be applied.

## “NO SIGNATURE REQUIRED”

To deliver a shipment without having a receiver sign for the shipment, even if instructed verbally or through fax or email to do so, the carrier remains responsible for the shipment. Receipt of the shipment could be denied and as the carrier was the last one to sign acceptance for the shipment, they remain responsible for the shipment.

## “SHIPPED AT OWNER'S RISK OF DAMAGE”

Carriers cannot use this to remove themselves from responsibility for the shipment.

## DAMAGES WHILE LOADING OR UNLOADING

Generally, the carrier assumes responsibility when they take possession of the cargo and until delivery is complete. This includes risk while loading and unloading if they have agreed to those tasks.

## FOB

Free On Board (occasionally Freight On Board) outlines the point at which obligations, risks and costs transfer from the consignor to the consignee.

FOB origin, freight prepaid - The seller bears all the costs of shipping, while the buyer takes on the risk of the goods at the shipping point (or point of origin)

FOB origin, freight collect - The buyer is responsible for everything, including freight and shipping costs, as well as liability for the cargo.

FOB destination, freight prepaid - The seller pays all shipping costs

FOB destination, freight collect - The buyer pays the freight charges when the goods arrive on his or her loading dock

The first part (origin or destination) determines where the buyer assumes title of the goods and the risk of damage. The second part indicates responsibility for freight charges. Prepaid is the shipper and collect the receiver.

FOB origin means the buyer assumes ownership of the shipment when the carrier picks up and signs the bill of lading while FOB destination means the seller retains ownership of the goods until they are delivered. This leaves no ambiguity in responsibility of shipment.



## WHY DOES FOB MATTER?

FOB is important for a number of reasons, but most importantly, shippers and carriers need to understand FOB designations in damage situations. Some receiving docks will refuse delivery of obviously damaged goods, rather than accept with a damage notation for future claim against the carrier. However, a shipment designated FOB Origin technically belongs to the buyer/consignee at the time that it is shipped. In this case the consignee would be refusing delivery of goods it legally owns and bears the risk for. The seller has no legal obligation to accept those goods back.

### “SHIPPERS LOAD AND COUNT”

This statement will only apply if the shipper and driver both sign, and it is indicated on the bill of lading that the carrier is not responsible for shortages or hidden damages.

Note: This can be applied only if the shipment has not been cross-docked prior to delivery.

### “SUBJECT TO INSPECTION”

Typically written on the BOL by the receiver when the shipment is being delivered. This has very little effectiveness because the receiver is expected to look for apparent physical damage of shipment or packaging of shipments prior to acceptance. Once signed, ownership of goods transfers to the receiver.

### SPECIAL HANDLING INSTRUCTIONS - E.G. “TARPS REQUIRED”

The shipper is responsible for any defect or inherent vice in the goods which means, as example, if a tarp must be used then they must inform the carrier of the need for this or any other special handling, it must be clearly marked on the BOL. The carrier signs the BOL acknowledging those instructions and takes responsibility, if they determine that they cannot accommodate then they must refuse the shipment.

### LOAD REFUSED

If a consignee identifies damage to part of, or the entire shipment, they could refuse to receive the damaged portion. Refusal could also occur if the wrong product was shipped, it did not arrive as scheduled, or for various other reasons. In these instances, the carrier would contact the shipper. In some instances, it could be shipper error whereby the carrier could be compensated for returning the shipment to the shipper or delivering it to another destination.

If a consignee were willing to accept a damaged shipment, they would identify the damage BOL. They could then determine what if any portion of the damaged shipment was salvageable.

Note: obligations vary based on FOB instructions that may be outlined on the BOL

## BROKERED LOADS

If shipments are awarded to a carrier by a third party and the third party wants the load delivered on their documentation, there will typically be no documentation identifying that the carrier actually transported the load. This could create difficulty for a carrier to receive compensation as there is no documentation where signatures have been provided that indicate they actually picked up and delivered the shipment. This practice should be avoided, by regulation all goods are to be transported based on a BOL identifying (and signed by) the shipper, originating carrier and the receiver.

Whoever holds the original documents with shipper and receiver signatures is the one who will be compensated for transporting the shipment. Brokers will request these documents so that they may be compensated for transporting the shipment. It is recommended that the carrier provide the broker with a photocopy of the original signed documents. The broker can then compensate the carrier for transporting the shipment, and when this has been done, the original documents could be forwarded to them. Should the broker fail to compensate the carrier, the carrier could then approach the shipper with the original signed documents and attempt to receive the agreed-on compensation.

## MORE THAN ONE CARRIER

If transporting a shipment on another carrier's bill of lading, whoever owns, or has possession of the BOL, is responsible for the shipment. Though a carrier may pick up a shipment for another carrier, and use that other carrier's BOL, the carrier that picked up the shipment is responsible for the shipment, regardless of documentation.

When shipments are interlined between carriers, settlements for concealed damage shall be prorated on the basis of revenue received.



## CONTAINER SHIPMENT CROSS DOCKING

Containers are typically picked up at an inter-modal location through an assigned Release Number. A Manifest could be provided with the container or sent by the person requesting the service. A Manifest is a summary of what is in the container. A Pro Bill is a BOL that has a carrier number assigned to it for tracking purposes.

If the container is cross-docked for delivery, shortages and damages will be marked on the Manifest with the original copy being emailed or faxed back to the original shipper. The carrier would retain a copy of this document. To then deliver the shipment, the carrier would deliver based on the Pro Bill that came with the container. The receiver would then sign for delivery and note damages, shortages, etc.

Note: When cross docking shipments from the container to another vehicle for furtherance, damaged freight cannot be removed. It is to go to the customer who will have the option of refusing any or all of the shipment. Dangerous Goods shipments that are damaged would require special consideration before being reloaded for delivery.

## CONTRACTS

Contracts such as Master Shipping Agreements may take precedence over BOL's and associated regulations. It is always advisable to reach out to a team member at Lloyd Sadd for assistance prior to signing.

## THE FINE PRINT:

The information provided here is not an exhaustive study and is intended only as a guide to understanding the bill of lading and related issues. This is intended as industry interpretation only and not considered as legal standard.

For a greater understanding the Bill Of Lading and the Specified Conditions of Carriage please refer to Alberta Regulation 313/2002.



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*With more than 40 years experience in the transportation industry and over 20 of those years in Safety, Risk Management and Loss Control, Kim is well positioned to offer support and resource to clients with any type of commercial auto exposure. Kim's principal responsibility is to help fleets understand and control the risks they face in a diverse and dynamic market.*

*Kim's experience in transportation is broad. Starting his career at a truck depot at 14, he worked his way up through most aspects of the industry, including directing Partners In Compliance, and ultimately moving to Fleet Risk Specialist with an insurer and a now a member of the Lloyd Sadd team*

**If you have questions specific to your business, or would like additional information, please reach out to your Lloyd Sadd Advisor.**

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