

## **CHAPTER 8-03 CARRIAGE OF PROPERTY**

### **8-03-01. Definitions - Freight, freightage, consignor, and consignee.**

Property carried is called freight; the reward, if any, to be paid for its carriage is called freightage; the person who delivers the freight to the carrier is called the consignor; and the person to whom it is to be delivered is called the consignee.

### **8-03-02. Care required.**

A carrier of property for reward shall use at least ordinary care and diligence in the performance of all of the carrier's duties. A carrier of property without reward shall use at least slight care and diligence.

### **8-03-03. Carrier shall obey instructions.**

A carrier shall comply with the reasonable and lawful directions of the consignor or consignee.

### **8-03-04. Conflict of orders.**

When the directions of a consignor and consignee are conflicting, the carrier shall comply with those of the consignor in respect to all matters except the delivery of the freight. As to delivery of the freight, the carrier shall comply with the directions of the consignee, unless the consignor has specially forbidden the carrier to receive orders from the consignee inconsistent with the consignor's own.

### **8-03-05. Manner of delivery.**

A carrier of property shall deliver it to the consignee, at the place to which it is addressed, in the manner usual at that place.

### **8-03-06. Place of delivery.**

If there is no usage to the contrary at the place of delivery, freight must be delivered as follows:

1. If carried upon a railway owned and managed by the carrier, it may be delivered at the station nearest the place to which it is addressed;
2. If carried by water, it may be delivered at a wharf or other suitable landing at or within a reasonable distance from the place of address;
3. If carried by other common carrier having a fixed route, it may be delivered at the station or airport nearest to the place which it is addressed; or
4. In other cases it must be delivered to the consignee or the consignee's agent, personally, if either can with reasonable diligence be found.

### **8-03-07. Freight not delivered to consignee - Obligation of carrier.**

If for any reason a carrier does not deliver freight to the consignee or the consignee's agent personally, the carrier shall give notice to the consignee of its arrival and keep the same in safety, upon the carrier's responsibility as a warehouseman, until the consignee has had a reasonable time to remove it. If the place of residence or business of the consignee is unknown to the carrier, the carrier may give the notice by letter dropped in the nearest post office.

### **8-03-08. How carrier may terminate liability.**

If a consignee does not accept and remove freight within a reasonable time after the carrier has fulfilled the carrier's obligation to deliver or has duly offered to fulfill the same, the carrier may eliminate further liability for the carrier by placing the freight in a suitable warehouse on storage on account of the consignee and giving notice thereof to the consignee.

**8-03-09. Unclaimed property - When sale permitted.**

Whenever any trunk, valise, bundle, package, or article of property transported or coming into the possession of any railroad, or express company, or any other common carrier in the course of business as common carrier, remains unclaimed and the legal charges thereon unpaid during the space of six months after its arrival at the point to which it has been directed, and the owner or person to whom the same is consigned cannot be found upon diligent inquiry, or, being found and notified of the arrival of such article, refuses or neglects to receive the same and pay the legal charges thereon for the space of three months, it is lawful for such common carrier to sell such article at public auction after giving the owner or consignee fifteen days' notice of the time and place of sale through the post office and by advertising in a newspaper published in the county where such sale is made and out of the proceeds of such sale to pay all legal charges on such article, and the amount over, if any, must be paid to the owner or consignee upon demand.

**8-03-10. Perishable property - When sale permitted.**

A carrier, in the exercise of a reasonable discretion, may sell any perishable property which has been transported to its destination, at public or private sale without advertising, if the consignee, on being notified of its arrival, refuses or neglects to receive the same and pay the legal charges thereon, or if upon diligent inquiry, the carrier is unable to find the consignee. The proceeds of such sale, after deduction of the freight charges and expenses of sale, must be paid to the owner or consignee upon demand.