

CHAPTER 228

UNIFORM BILLS OF LADING

228.01 BILLS GOVERNED BY THIS CHAPTER.

The origin of Chapter 228 is the Uniform Bills of Lading Act, L. 1917, c. 399.

The following states have adopted the Uniform Bills of Lading Act: Alabama, Alaska, Arizona, Arkansas, California, Connecticut, Delaware, District of Columbia, Idaho, Indiana, Illinois, Iowa, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Washington, Wisconsin.

See federal bills of lading act. 39 US St. at Large 415.

For decisions in other states, see *Uniform Laws Annotated*, Vol. IV.

Construction of uniform laws, see section 645.22.

228.02 FORM OF BILLS; ESSENTIAL TERMS.

The defendant, a common carrier, safely carried and made delivery of a shipment of berries to the consignee, but in the freight or expense bill erroneously inserted the name of "Monstad" as consignor instead of "Cohen," the owner of the shipment. The consignee paid Monstad for the berries. Before action for recovery was begun, Monstad refunded the erroneous payment. The court held no damage resulted to plaintiff from defendant's carelessness. *Cohen v Mpls. St. P. & Sault*, 133 M 298, 158 NW 334.

This case is one of fraud. The fraud was not wilful. The shipper, however, may be relieved of the terms of his bill of lading if fraud exists. *Duholm v Chgo. Milwaukee & St. P.* 146 M 1, 177 NW 772.

Terms and conditions of the uniform bill of lading prescribed by the interstate commerce commission for an interstate shipment governs the rights and obligations of the shipper and carrier in respect thereto. This includes delivery; and a subsequent promise of the carrier to spot the car upon a certain track for delivery does not add to or modify the bill of lading. *Allegrezza v Gt. Northern*, 175 M 374, 221 NW 428.

Upon delivery to and acceptance by consignee of establishment under uniform bill of lading containing a "no records" clause, carrier agrees to look to the consignee for any charges remaining unpaid, and the consignee in accepting the shipment agrees to pay any lawful charges. *Chgo. Gt. Western v Hopkins*, 48 F. Supp. 60.

228.03 WHAT MAY BE INSERTED.

The clause in the uniform bill of lading limiting the time within which a claim against the carrier in case of loss of shipment may be made, may be waived by the carrier. *Welch v Chgo. Milwaukee & St. P.* 144 M 471, 175 NW 100.

228.05 NEGOTIABLE BILL.

Federal bills of lading act; negotiability of a bill of lading. 1 MLR 68.

228.09 INSERTION OF NAME OF PERSON TO BE NOTIFIED.

Rights of parties and duties of carriers under order notify bills of lading. 6 MLR 271.

228.11 OBLIGATION OF CARRIER TO DELIVER.

When a shipper, in an action to recover the value of grain lost in transit, introduces in evidence a bill of lading calling for a delivery of a certain specified amount of grain at the point of destination, and then proves that a less amount has been delivered, the presumption arises that the loss was caused by the negligence of the carrier, and it then becomes necessary for the carrier to prove the contrary by a fair preponderance of evidence. *Nat'l Elevator v Gt. Northern*, 137 M 217, 163 NW 164.

If a carrier delivers the goods to the true owner without a surrender of an order bill of lading, and the shipper who retained the bill was paid for the goods, the carrier is not liable to the shipper merely because it failed to get the bill before it delivered the goods. *Vanik v Chgo. Milwaukee & St. P.* 147 M 175, 179 NW 899; *Weinstein v Davis*, 158 M 44, 196 NW 933.

Rights of parties and duties of carriers under order notify bills of lading. 6 MLR 271.

228.12 JUSTIFICATION OF CARRIER IN DELIVERING.

In response to a call by telephone received at defendant's office, a man came to plaintiff's store, said "express," took packages of valuable skins and placed them in a wagon labeled "American Express," after writing his initials upon a receipt for the skins in a book furnished by the defendant to the plaintiff. Such evidence supports a verdict that the man was defendant's agent and had authority to receive the skins for the defendant. *Licht v Am. Ry. Exp.* 152 M 154, 188 NW 219.

The bill of lading read: "Deliver only on surrender of written order from E. Bernier & Sons, Inc." The shipper was the consignee. The advise party accepted the goods and signed the bill without recourse statement. This does not excuse the consignor from payment of the undercharges. *Chicago, Burlington v Bernier*, 56 F. Supp. 691.

228.13 CARRIER'S LIABILITY FOR MISDELIVERY.

In an action by consignor against the carrier for the value of shipment from a point in Minnesota to a point in Montana, it is a good defense if defendant proved that the shipment was taken under a writ of replevin and the legal process under which the property was seized was regular and valid upon its face. *Burkee v Gt. Northern*, 133 M-200, 158 NW 41.

228.21 CARRIER HAS REASONABLE TIME TO DETERMINE VALIDITY OF CLAIMS.

Where, upon arrival at destination, property is demanded from a carrier by the consignee and also by an adverse claimant, the carrier is entitled to a reasonable time for investigation, upon its request therefor, before an action will lie against it. *Taylor v Dul. So. Shore & Atlantic*, 139 M 216, 166 NW 128.

228.23 LIABILITY FOR NON-RECEIPT OR MISDESCRIPTION OF GOODS.

This action is by an endorsee of certain bills of lading to recover the value of the property therein described for the reason that the carrier failed to deliver it to plaintiff. A carrier, even as to an innocent endorsee, is not estopped by statements in a bill of lading issued by his agents from showing that no goods in fact were received for transportation, unless by his usual mode of doing business the carrier has given his agents authority to issue bills of lading for goods not received. The evidence is not sufficient to sustain a finding that the defendant had authorized its agents to issue bills of lading for goods not received; and judgment must be given for the defendant. *Natl. Bank of Com. v C. B. & N.* 44 M 224, 46 NW 342; *Swed. Am. Bank v C. B. & Q.* 96 M 436, 105 NW 69.

Liability of principal for fraudulent representations of agent within scope of his authority. 13 MLR 626.

Protection of a holder of a warehouse receipt. 15 MLR 292.

Synthesis of the law of misrepresentation. 22 MLR 939.

228.25 ATTACHMENT; GARNISHMENT; LIMITATION.

Goods in transit; bill of lading; attachment; garnishment. 7 MLR 236.

228.32 WHO MAY NEGOTIATE A BILL.

Federal bill of lading act; negotiability of a bill of lading. 1 MLR 68.

Trust receipts. 8 MLR 144.

Non-negotiable instruments. 8 MLR 526.

228.33 RIGHTS OF PERSON TO WHOM A BILL HAS BEEN NEGOTIATED.

L. 1909, c. 414, making a bill of lading acquired in good faith and for value, conclusive that the carrier issuing the same received the goods therein specified for transportation, has no application and no effect where the liability of the common carrier arises out of the issuance of an interstate bill of lading. *Lowitz v Chicago, M. & Omaha Ry.* 136 M 227, 161 NW 411.

228.41 FORM OF BILL INDICATIVE OF RIGHTS OF BUYER AND SELLER.

The rule that the form in which a bill of lading is taken is indicative of the title to the goods is not conclusive. *Banik v Chicago, M. & St. P. Ry.* 147 M 175, 179 NW 899.

Measure of damages for loss of goods in transit. 9 MLR 141.

228.42 TITLE OF BILL IN PRESENTATION OR ACCEPTANCE OF DRAFT.

If a carrier delivers the goods to the true owner without a surrender of an order bill of lading, and the shipper who retained the bill was paid for the goods, the carrier is not liable to the shipper merely because it failed to get the bill before it delivered the goods. *Banik v Chicago, M. & St. P. Ry.* 147 M 175, 179 NW 899; *Weinstein v Davis*, 158 M 44, 196 NW 933.

228.45 ISSUE OF BILL FOR GOODS NOT RECEIVED; PENALTY.

In an action to recover the value of wheat alleged to have been lost in transit, plaintiff made a prima facie case by introducing in evidence the bill of lading, the weighmaster's certificate and proof of the market price of the wheat. *Great Western Grain Co. v Chicago, M. & St. P. Ry.* 163 M 371, 204 NW 47.