MEDICALADVISORS, INC
TECHNICAL NETWORK CONSULTING SERVICE®

THE SAME THING ONLY DIFFERENT

How can it be the same thing only different?
by Registered Transportation Practitioner

Who loads a cargo carrying vehicle can make the difference in establishing liability for loss or damage to the cargo, for injuries during transport, or during the delivery process.

Loading or unloading a truck seems like a straight forward and simple process and, in most cases, it is. After all, it happens thousands of times everyday in every corner of the country. From a litigation prospective it has a number of twists and turns that will affect liability issues. Trucking industry safety is largely regulated by the U.S. Department of Transportation. According to those regulations, the trucking company and the driver bear the ultimate responsibility for the safe operations of the truck but those regulations generally do not apply to people that ship or receive freight on trucks (consignors and consignees). OSHA Standards apply to them.

Frequently, the shipper will load the trailer, secure the freight, and apply a seal to the trailer doors. The driver is likely not to be present at the time of loading, and many times, even if he/she is, the shipper may not permit drivers on the loading dock. In the trucking industry this is known as a Shipper Load and Count shipment. Usually "Shipper Load and Count" or "SLC" is noted on the face of the bill of lading. If it is not there, it really does not change the facts of the loading process. The implications of transporting a "SLC" shipment are significant. Trucking companies are usually liable for the full value of the goods they transport (with some exceptions). Liability for loss or damage to goods on a "SLC" shipment are limited to proven carrier negligence. By contrast, on shipments observed by the driver during loading that are lost or damaged during transportation, the trucking company is liable for the loss or damage with very few exceptions.

Another major facet of loading liability is when someone gets injured because of shifting or falling freight either while the cargo is in transit or during the unloading process. If the shipper loaded the freight, secured the cargo, and sealed the trailer doors or the trailer was loaded in a manner that makes inspection of its cargo impracticable, thetruckingcompanygenerallyis not liable for injuries caused by shifting or falling freight. Cargo trailer doors do not qualify as securement devices. Freight must be secured by some other acceptable means. If the cargo vehicle's doors are opened and freight rains down on an unsuspecting driver or cargo handler, it too can be litigation in the making. Liability for injuries of this nature usually fall on the people that loaded the truck/trailer. If a trucking company driver witnesses and/or participates in the loading process, secures the freight for transport and could have made changes to the load to make it safe for movement, then the trucking company and driver could be liable for any shifting or falling freight damages. If the shipper assumes responsibility for the loadingprocess,without thedriver observing or his/her input, then they may be liable for any shifting or falling freight damages.

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Chemical Carcinogens in the Workplace
Industries and Trades with Proven Excess Cancers

AGENT	EXPOSURE	PRIMARY AFFECTED SITE
ESTABLISHED CARCINOGENS		
p-aminobiophenyl	Chemical manufacturing	Urinary bladder
Asbestos	Construction, asbestos mining & milling, production of friction products, cement	Pleura, peritoneum, bronchus
Arsenic	Copper mining & smelting	Skin, bronchus, liver
Alkylating agents - bis[chloromethyl]ether, etc.	Chemical manufacturing	Bronchus
Benzene	Chemical/rubber manufacturing, petroleum refining	Bone marrow (leukemia)
Benzidine, 2-naphthylamine, and derived dyes	Dye & textile production	Urinary bladder
Chromium & chromates	Tanning, pigment making	Nasal sinus, bronchus
Isopropyl alcohol synthesis	Chemical manufacturing	Cancer of paranasal sinus
Nickel	Nickel refining	Nasal sinus, bronchus
Polynuclear aromatic hydrocarbons (PAH) from coke, coal tar, mineral oils, oil shale, creosote	Steel making, roofing, chimney cleaning, combustion sources	Skin, scrotum, bronchus, lung
Vinyl chloride monomer	Chemical manufacturing	Liver
Wood dust	Cabinet making, carpentry	Nasal sinus
SUSPECTED CARCINOGENS		
Acrylonitrile	Chemical and plastics manufacture	Lung, colon, prostate
Beryllium manufacture, electronics, sec. smelting	Beryllium processing, aircraft	Bronchus
Cadmium	Smelting, battery plants, welding	Bronchus
Ethylene oxide supplies	Hospitals, sterilization of hospital	Bone marrow
Formaldehyde production, health care	Plastic, textile, & chemical	Nasal sinus, bronchus
Synthetic mineral fibers, e.g. glass fibers	Manufacturing, insulation	Bronchus
Phenoxyacetic acid	Farming, herbicide application	Soft tissue sarcoma
Polychlorinated biphenyls and maintenance	Electrical equipment production	Liver
Organochlorine pesticides	Pesticide manufacture & application agriculture	Bone marrow
Silica	Casting, mining, refracting	Bronchus

Source: Pitot and Dragon, 2001