

Pt. 376

49 CFR Ch. III (10-1-03 Edition)

SUBPART I—RESOLVING DISPUTES WITH MY MOVER

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WHAT MAY I DO TO RESOLVE DISPUTES WITH MY MOVER?

The Federal Motor Carrier Safety Administration does not help you settle your dispute with your mover.

Generally, you must resolve your own disputes with your mover. You enter a contractual arrangement with your mover. You are bound by each of the following three things:

- (1) The terms and conditions you negotiated before your move.
- (2) The terms and conditions you accepted when you signed the bill of lading.
- (3) The terms and conditions you accepted when you signed for delivery of your goods.

You have the right to take your mover to court. We require your mover to offer you arbitration to settle your disputes with it.

The Federal Motor Carrier Safety Administration does not have the resources to seek a court injunction on your behalf to obtain your household goods if your mover is holding your goods "hostage."

PART 376—LEASE AND INTERCHANGE OF VEHICLES

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AUTHORITY: 49 U.S.C. 13301 and 14102; and 49 CFR 1.73.

SOURCE: 44 FR 4681, Jan. 23, 1979, unless otherwise noted. Redesignated at 61 FR 54707, Oct. 21, 1996.

Subpart A—General Applicability and Definitions

§ 376.1 Applicability.

The regulations in this part apply to the following actions by motor carriers registered with the Secretary to transport property:

- (a) The leasing of equipment with which to perform transportation regulated by the Secretary.
- (b) The leasing of equipment to motor private carrier or shippers.
- (c) The interchange of equipment between motor common carriers in the performance of transportation regulated by the Secretary.

[44 FR 4681, Jan. 23, 1979. Redesignated at 61 FR 54707, Oct. 21, 1996, as amended at 62 FR 15423, Apr. 1, 1997]

§ 376.2 Definitions.

- (a) *Authorized carrier.* A person or persons authorized to engage in the transportation of property as a motor carrier under the provisions of 49 U.S.C. 13901 and 13902.
- (b) *Equipment.* A motor vehicle, straight truck, tractor, semitrailer, full trailer, any combination of these and any other type of equipment used by authorized carriers in the transportation of property for hire.
- (c) *Interchange.* The receipt of equipment by one motor common carrier of property from another such carrier, at a point which both carriers are authorized to serve, with which to continue a through movement.
- (d) *Owner.* A person (1) to whom title to equipment has been issued, or (2) who, without title, has the right to exclusive use of equipment, or (3) who has lawful possession of equipment registered and licensed in any State in the name of that person.
- (e) *Lease.* A contract or arrangement in which the owner grants the use of equipment, with or without driver, for a specified period to an authorized carrier for use in the regulated transportation of property, in exchange for compensation.
- (f) *Lessor.* In a lease, the party granting the use of equipment, with or without driver, to another.

(g) *Lessee*. In a lease, the party acquiring the use of equipment with or without driver, from another.

(h) *Sublease*. A written contract in which the lessee grants the use of leased equipment, with or without driver, to another.

(i) *Addendum*. A supplement to an existing lease which is not effective until signed by the lessor and lessee.

(j) *Private carrier*. A person, other than a motor carrier, transporting property by motor vehicle in interstate or foreign commerce when (1) the person is the owner, lessee, or bailee of the property being transported; and (2) the property is being transported for sale, lease, rent, or bailment, or to further a commercial enterprise.

(k) *Shipper*. A person who sends or receives property which is transported in interstate or foreign commerce.

(l) *Escrow fund*. Money deposited by the lessor with either a third party or the lessee to guarantee performance, to repay advances, to cover repair expenses, to handle claims, to handle license and State permit costs, and for any other purposes mutually agreed upon by the lessor and lessee.

(m) *Detention*. The holding by a consignor or consignee of a trailer, with or without power unit and driver, beyond the free time allocated for the shipment, under circumstances not attributable to the performance of the carrier.

[44 FR 4681, Jan. 23, 1979, as amended at 49 FR 47850, Dec. 7, 1984; 62 FR 15424, Apr. 1, 1997]

Subpart B—Leasing Regulations

§ 376.11 General leasing requirements.

Other than through the interchange of equipment as set forth in § 376.31, and under the exemptions set forth in subpart C of these regulations, the authorized carrier may perform authorized transportation in equipment it does not own only under the following conditions:

(a) *Lease*. There shall be a written lease granting the use of the equipment and meeting the requirements contained in § 376.12.

(b) *Receipts for equipment*. Receipts, specifically identifying the equipment to be leased and stating the date and

time of day possession is transferred, shall be given as follows:

(1) When possession of the equipment is taken by the authorized carrier, it shall give the owner of the equipment a receipt. The receipt identified in this section may be transmitted by mail, telegraph, or other similar means of communication.

(2) When possession of the equipment by the authorized carrier ends, a receipt shall be given in accordance with the terms of the lease agreement if the lease agreement requires a receipt.

(3) Authorized representatives of the carrier and the owner may take possession of leased equipment and give and receive the receipts required under this subsection.

(c) *Identification of equipment*. The authorized carrier acquiring the use of equipment under this section shall identify the equipment as being in its service as follows:

(1) During the period of the lease, the carrier shall identify the equipment in accordance with the FMCSA's requirements in 49 CFR part 390 of this chapter (Identification of Vehicles).

(2) Unless a copy of the lease is carried on the equipment, the authorized carrier shall keep a statement with the equipment during the period of the lease certifying that the equipment is being operated by it. The statement shall also specify the name of the owner, the date and length of the lease, any restrictions in the lease relative to the commodities to be transported, and the address at which the original lease is kept by the authorized carrier. This statement shall be prepared by the authorized carrier or its authorized representative.

(d) *Records of equipment*. The authorized carrier using equipment leased under this section shall keep records of the equipment as follows:

(1) The authorized carrier shall prepare and keep documents covering each trip for which the equipment is used in its service. These documents shall contain the name and address of the owner of the equipment, the point of origin, the time and date of departure, and the point of final destination. Also, the authorized carrier shall carry papers with the leased equipment during its operation containing this information and