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THE BASSETT BULLETIN™

PLACARD LIABILITY

Placard liability is the doctrine that imposes liability on a motor carrier when a carrier has its placard, or logo, on a truck. Under this doctrine, if an accident occurs the carrier is responsible for a driver's actions, regardless of whether the driver is doing company business at the time of the accident. However, the mere presence of the carrier's logo is not sufficient to hold the carrier responsible for the driver's actions because courts will first determine whether the driver was an actual employee of the carrier or if they were an independent contractor.

EMPLOYER LIABILITY

Liability imposed on a carrier when the driver is an employee is relatively straightforward. If a driver is an actual employee of the carrier, the carrier's liability is governed by state law theories of agency such as *respondeat superior*. This means that the carrier, as the employer of the driver, is only responsible for the driver's actions while the driver is acting within the scope of his employment. A driver is acting within the scope of his employment when his activities are related to the company's business. In these situations, the employment relationship governs the carrier's liability and the placard liability doctrine is not applicable.

LEASE LIABILITY

If a driver is an independent contractor, the question of liability becomes more complicated. In an independent contractor situation, a trucker will usually purchase their own equipment, and then lease it to a carrier company. Once the lease is signed, the carrier will place its placard on the truck to comply with federal regulations. Federal law requires that a carrier company have "exclusive possession, control and use" of a leased vehicle.¹

¹ 49 C.F.R. § 376.12(c)

Federal law also requires that authorized carriers identify leased equipment by displaying its company name and MC number on the equipment.² The carrier company then hires a driver, known as an independent contractor, to drive the leased equipment. If an accident occurs, the question will arise as to which party will be responsible for the driver's actions. To determine which party will be responsible will require an analysis of federal regulations because federal law regulates leases of equipment used in interstate commerce.³

In applying these laws, courts have developed the "statutory employee principle." Under this principle, if there is an existing lease between a carrier and an owner of the leased equipment and the equipment bears the carrier's placard, the driver of the equipment will be deemed to be the carrier's statutory employee. It is the lease between the owner and the carrier that imposes liability on the carrier, not the presence of the carrier's placards. Consequently, the carrier will be held vicariously liable for injuries from the use of the leased equipment.

There is a split in authority as to whether a carrier may avoid liability for a driver's actions by showing that the driver was acting outside the scope of his employment relationship when a lease is in effect at the time of the accident. Most jurisdictions, including Texas, follow the strict view that a carrier is always responsible for a driver's operation of a leased vehicle for the duration of the lease, regardless of whether the driver is carrying out the carrier's business at the time of the accident. The reasoning is that if a carrier knows it will be held accountable for its leased equipment, it will be forced to supervise the use of that equipment.

The minority of states hold a carrier responsible for a driver's actions only when the driver is acting within the scope of his employment. The view is that federal regulations create a rebuttable presumption that the driver is an employee of the carrier, and the carrier's liability is determined by common law principles of respondeat superior. Under this view, the Plaintiff must show that the driver was an employee of the carrier and acting within the scope of his employment at the time of the wreck to recover from the motor carrier.

TAKE AWAYS

1. Under the doctrine of placard liability, the mere presence of a carrier's placard is not sufficient to hold a carrier responsible for the driver's actions when an accident happens.
2. The first question is this – Is the driver an employee of a carrier or is the driver an independent contractor?

² 49 C.F.R. § 107.11(C) I, 1058.2

³ 49 U.S.C. 14102

3. If the driver is an *employee* of the trucking company, then the trucking company is on the hook for the driver's actions.
4. If the driver is an *independent contractor*, most jurisdictions – ***including Texas*** – consider the driver the carrier's statutory employee.
5. If the driver is considered a statutory employee, then the trucking company is responsible for the driver's actions at the time of an accident.
6. There are a few jurisdictions in which a trucking company can avoid liability for an independent contractor by showing that the driver's actions were not within the scope of the employment at the time of the accident.

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