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SERVICE DATE – MAY 23, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Ex Parte No. 662

REVIEW OF LIABILITY OF MOTOR COMMON CARRIERS
OF HOUSEHOLD GOODS

AGENCY: Surface Transportation Board.

ACTION: Notice and request for comments.

SUMMARY: In the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. No. 109-59, §4215, 119 Stat. 1144 (2005), Congress directed the Surface Transportation Board (Board) to review the current Federal regulations regarding the level of liability protection provided by motor carriers that provide transportation of household goods (HHG) and revise the regulations, if necessary, to provide enhanced protection in the case of loss or damage. The Board seeks public comment on the issue.

DATES: Comments are due June 22, 2006.

ADDRESS: Send an original and 10 copies of any comments, referring to STB Ex Parte No. 662, to: Surface Transportation Board, 1925 K Street, N.W., Washington DC 20423-0001.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Herzig, (202) 565-1578. [Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339].

SUPPLEMENTARY INFORMATION: Prior to the enactment of SAFETEA-LU on August 10, 2005, under 49 U.S.C. 14706, motor carriers of HHG were generally held liable for the actual loss or injury they caused to the property they transported and, because most HHG are “used,” the carrier’s liability historically extended to the depreciated value of the goods. However, under 49 U.S.C. 14706(f), HHG carriers could, with the Board’s permission, limit their liability by offering “released rates” (rates under which the carrier is released from the statutory level of cargo liability, and the carrier’s liability for a shipment of property is limited to a value established by written declaration of the shipper or by a written agreement). The Board has

issued orders authorizing HHG carriers to adopt released rates that follow a certain format.

In section 4207 of SAFETEA-LU, Congress changed the statutorily prescribed, standard liability of HHG carriers for loss or damage to the replacement value of the goods, up to the pre-declared total value of the shipment, unless the shipper waives in writing that level of protection. In addition to making that statutory change, Congress also directed the Board, in section 4215, to review the current Federal regulations regarding the level of liability protection provided by HHG carriers and revise the regulations, if necessary, to provide enhanced protection in the case of loss or damage.

The current regulations at 49 CFR 375.201-203, promulgated by the Federal Motor Carrier Safety Administration of the Department of Transportation, provide generally that a HHG carrier is liable for loss or damage to HHG to the extent provided in the Board's current released rates order. 49 CFR 375.201(b). There are additional provisions concerning limitations on HHG carriers' liability for perishable, dangerous, or hazardous articles in a shipment and for items valued at more than \$100 per pound. 49 CFR 375.203.

The Board's current released rates orders—Released Rates of Motor Common Carriers of Household Goods, 5 S.T.B. 1147 (2001), and Released Rates of Motor Common Carriers of Household Goods, Amendment No. 4 to Released Rates Decision No. MC-999 (STB served Apr. 22, 2002)¹—authorize HHG carriers to limit their liability for damage or loss of the goods in their care through a written declaration of the shipper. Under these orders, HHG carriers may offer their shippers two options concerning the level of cargo liability to be assumed by the carrier, depending upon the level of the rate that the shipper wishes to pay for the transportation of its goods. Under one option, the carrier's cargo liability may be limited to 60 cents per pound, per article, if the shipper writes a valuation of "60 cents per pound" on the bill of lading. In that event, the shipper pays only a base rate for the shipment. Alternatively, for an additional charge, the shipper may obtain "full value protection" for the shipped goods, meaning that the carrier is liable for the replacement value of the lost or damaged goods (up to the pre-declared value of the shipment) or, at the carrier's option, for restoring damaged goods to their prior condition.

¹ Board decisions and notices are available on the Board's website at "WWW.STB.DOT.GOV". The Board recently sought comments on a proposed change to the current released rates orders. See Released Rates of Motor Common Carriers of Household Goods, Amendment No. 4 to Released Rates Decision No. MC-999 (STB served and published Apr. 13, 2006) (71 FR 19234-35).

In directing a review of the current liability protection for shippers of HHG, Congress asked the Board to address:

- (1) whether the current regulations provide adequate protection;
- (2) the benefits of purchase by a shipper of insurance to supplement the carrier's limitations on liability; and
- (3) whether there are abuses of the current regulations that leave the shipper unprotected in the event of loss and damage to a shipment of HHG.

The Board seeks public comment on these issues.

Decided: May 16, 2006.

By the Board, Chairman Buttrey and Vice Chairman Mulvey.

Vernon A. Williams
Secretary