



*everything you need to know
about freight claims*

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To most shippers, “claim” is a dirty word. Also known as cargo claims, shipping claims, or transportation claims, a freight claim is a legal demand by a shipper, consignee, or product owner to a carrier for financial reimbursement for a loss or damage to a shipment.

No one wants to deal with a freight claim but sometimes ship happens. By arming yourself with knowledge of the filing process, liability, and best practices, you can save yourself from wasting time and money. This guide contains everything you need to know about claims.



types of freight claims

Starting with the basics, there are four main types of freight claims you are likely to encounter:

- **Damage**
This is one of the more common forms of freight claims. This is when you receive freight with damage that is visible upon delivery.
- **Loss**
A loss freight claim occurs when freight is lost in the void – picked up but never delivered.
- **Shortage**
A shortage occurs when you only receive part of the freight you were expecting. Product could have fallen out or pieces have gone missing.
- **Concealed**
When loss or damage is discovered after delivery and reported after the driver leaves, it is considered concealed.

dealing with concealed damages


If you discover damages to your freight after the driver has left and you've signed the delivery receipt, you're not completely out of luck – but you need to act fast. You only have 5 days to file a concealed damage claim. Prior to April 18, 2015, you had 15 days. Since people can communicate via email rather than snail mail these days, a longer timeframe isn't as necessary as it used to be. Now after 5 days, if you try to file a concealed damage claim, you will have to prove that the damage did not occur after delivery or at the destination. Within the 5 day window, you only have to prove that it didn't happen at the destination.

To get ahead of the curve on concealed damages, note on the delivery receipt that something may be damaged if there is any question. Document as much as possible and notate on the Proof of Delivery anything that looks awry with the packaging, pallet, or shrink-wrap. Unfortunately, writing "subject to inspection" will not help you in case you need to file a claim. Also make sure to inspect your freight and break the shipment down right away. Getting a resolution for concealed damage/loss claims may be more challenging, but it's not impossible if you take the right steps.

the carmack amendment

Another fundamental piece of understanding freight claims is the Carmack Amendment. This law addresses the issue of liability between shippers and carriers. Under the Carmack Amendment, the carrier has strict liability for cargo damage. However, the claimant needs to establish three basic elements in order to meet their burden of proof. The claimant must establish that the goods were:

- Picked up in good condition
- Delivered in damaged condition
- Resulted in a specific amount of damage



**RECEIVED IN
DAMAGED
CONDITION**

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Once the claimant is able to prove that these requirements were met, the carrier is held liable unless it proves that it was not negligent and that one of five exceptions was the cause of the damage:

- 1. Acts of God:** This is an occurrence that happens without the intervention of man. This includes natural disasters and unpredictable events like if the driver experiences a medical emergency or if a flood prevents the truck from reaching its destination. It's important to note that if the carrier could've taken reasonable protective action against one of these events and didn't, they may still be found liable.
- 2. Public Enemy:** If damage is caused by enemy military forces, the carrier can't be held liable. This includes acts during wartime. It does not include hijackers, criminals, or rioters.
- 3. Act or Default of Shipper:** As a shipper, this is an important exception to note. If the carrier can prove that the damage was caused by the shipper, including poor packaging or improper loading, the exception is met.



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- 4. Public Authority:** This refers to the intervention of a lawful authority. If the government is responsible for the freight damage, the carrier can't be held liable. This includes government actions such as trade embargoes, recalls, quarantines, etc.
- 5. The Inherent Vice or Nature of the Goods:** For goods that are naturally subject to defects, diseases, or decay, the carrier can deny liability as long as they prove the deterioration wasn't caused by its negligence. The natural shrinkage or deterioration of a product is something that a carrier cannot control. However, if the carrier's own negligence leads to speeding up that natural process, the carrier will be held liable.

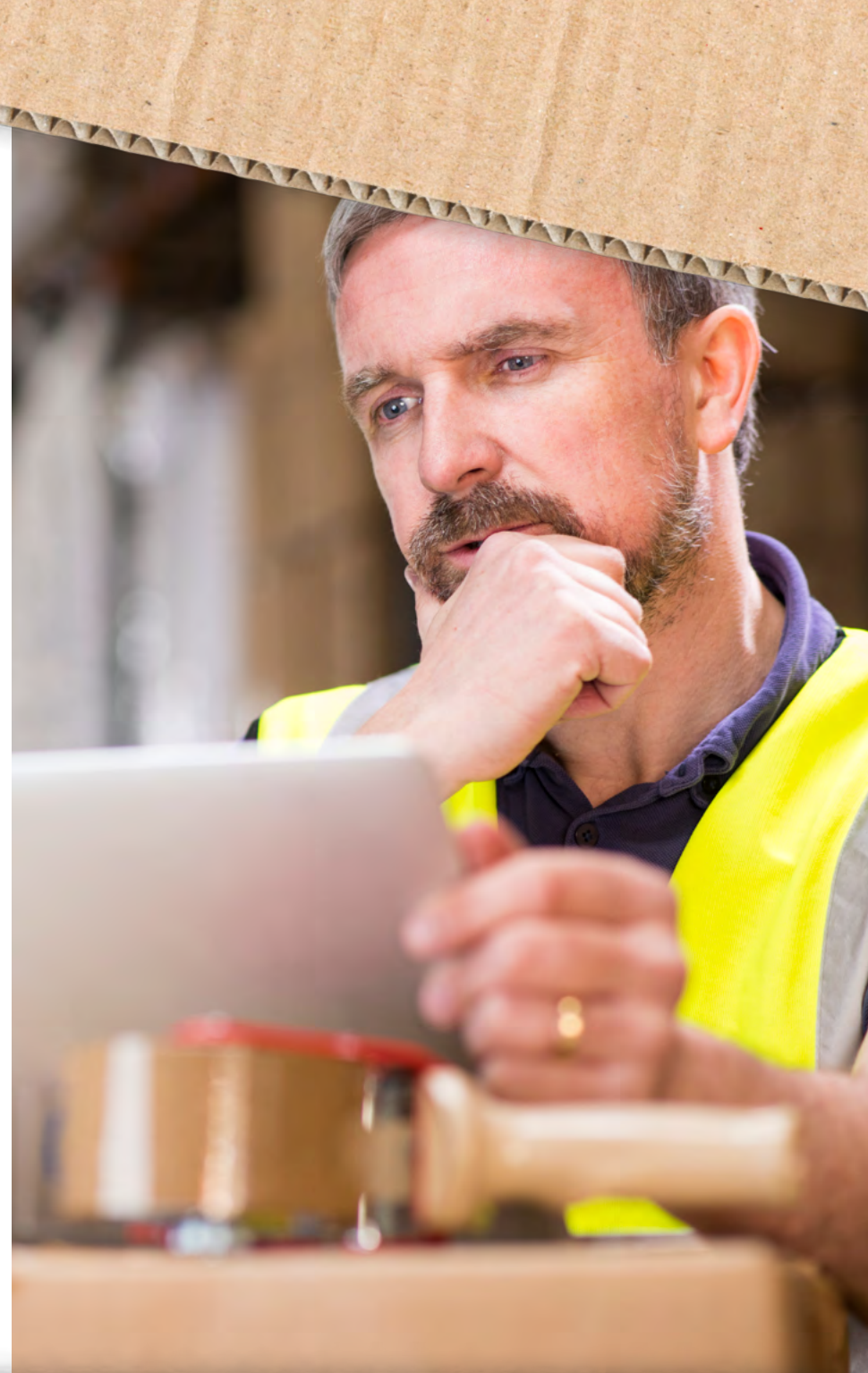
Even if these exceptions aren't met and the carrier isn't able to prove it wasn't negligent, there are still a few roadblocks to look out for. The Carmack Amendment only requires up to \$500 in a claim payout, so if your freight has a higher value, you could still be out a lot of money. Also, if you don't file your claim promptly, you run a higher risk of your claim being denied.

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the difference between insurance and liability

Every freight shipment is covered by limited liability, meaning the carrier is responsible for loss and damage under the Carmack Amendment. The amount of coverage is a set dollar amount per pound of freight determined by the carrier and based on the commodity. The shipper is responsible for proving that the freight was delivered to the carrier in good condition and packaged correctly. It is then the burden of the carrier to prove it was not negligent and one of the exceptions under the Carmack Amendment applies.

Freight insurance provides more protection and the shipper doesn't have to worry about proof of fault. The liability amount per pound a carrier provides may be less than the value of the freight. In that case, purchasing additional freight insurance can bring added peace of mind. While insurance is redeemable under all types of loss, there are still some exceptions. It's important to read and understand your freight insurance policy before you ship.



properly packaging your shipment

Preventing loss and damages starts with proper packaging. Shipments must be properly packed to ensure damage-free transportation. While there are many nuances to different items that may be shipped, use common sense when packing your specific commodity. You wouldn't package ball-bearings the same as you would package glassware. Don't be afraid to spend an extra couple of bucks on packaging to ensure you're not spending more after the fact.

Be conscious of your chosen container's maximum weight capacity and choose quality materials. Avoid packaging with dents, holes, tears, or water damage at all costs. Then choose packaging that is sized right – with just enough room for the contents and necessary padding.

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Impact protection is also an important part of packaging your freight, especially for liquids or fragile goods. Materials like Styrofoam, bubble wrap, and paper will work to defend against damage during transit.

If you're palletizing your shipment, the pallet will give the shipment a solid base to sit on and make movement on and off the truck easy and safe. When stacking your pallet, be sure your items sit squarely on the skid with no overhang. Weight should be evenly distributed with heavier boxes on the bottom, and packages stacked as closely together as possible. Box flaps and corrugations should face up. Make the top surface as flat as possible and secure cartons to the skid with banding, stretch-wrap, or breakaway adhesive.



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Your freight also needs to be labeled appropriately and it should be easy to identify. Always follow these guidelines:

- Remove or completely cover old labels
- Place labels on each box and each side of the overall shipment
- Do not place labels over a seam or closure on top of sealing tape
- Indicate the content's ability to withstand added weight
- Place a duplicate form of address information inside the container for added protection
- Include a full return address

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best practices for receiving freight

For consignees, following the proper procedures when receiving freight can make a huge difference in the resolution of a claim.

1. Inspect your freight immediately

Before you sign the delivery receipt, you'll want to count your boxes and check for any damages. Writing "subject to inspection" doesn't protect you in the case of a claim, so don't skip this important step. Take the time to make sure everything looks okay.

2. Document any damages or shortages

If you do find damages or a shortage in your shipment, it's important to document them for your claim. Take pictures of the damaged products and notate any damages or shortages on the delivery receipt. Be as specific as possible and note each of the identified issues.



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3. Save your damaged freight

Even if you document your damages, an inspector from the carrier may need to come to your location to inspect the shipment. Be sure to save your freight in case this situation arises.

4. Pay your freight charges

It may seem unfair, but paying your freight charges without delay for a damaged shipment is essential. If you refuse to pay the freight charges, it could hold up the resolution of your claim.

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filing a claim

First rule for filing claims is to file them as soon as possible. You typically have 9 months from the delivery date to file a claim. If your delivery receipt is not noted as damaged or short, you only have 5 days to file a concealed claim.

Here's what you'll need to file the claim:

- Proof of Delivery (POD)
- The original Bill of Lading (BOL)
- Freight bill
- Merchandise invoice illustrating the value of the damaged commodity
- Replacement invoice or repair bill
- Pictures of the damaged freight (if you have them)



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The carrier should acknowledge the receipt of the claim and assign its claim number within 30 days of receiving it, according to D.O.T. regulations. Every situation is different and the time required for resolving the claim may vary, but the claim should be paid, compromised, or disallowed within 120 days.

If your claim is denied, you have the right to file a lawsuit against the carrier. Should you choose to go this route, you will need to file within 2 years and one day from the date the carrier disallowed the claim. There are some exceptions to look out for that requires you to file sooner. It's best to file as soon as possible to avoid any issues.

reasons your claim could be denied

When you file a claim, you hope to get a fair resolution. However, there are a few issues that could get in your way. Here are some of the common reasons your claim may be denied:

- **There's an issue with your documentation.** You may be missing some essential paperwork (like the invoice, etc.) or the paperwork contains an error. Luckily, in this case you can re-open the file by submitting the correct paperwork.
- **You didn't mitigate the damage.** You may not meet the measure of damage set by the carrier's limit of liability. As the claimant, you are responsible for mitigating the damage within a reasonable amount by having the item repaired or selling it at a discount, for example. If mitigation is not possible, you can submit an explanation for why it's not possible.
- **Your proof of delivery didn't have any notation of loss or damage.** This is why it's incredibly important to inspect your freight upon delivery and notate any damages on the delivery receipt. Also, check the inside contents as soon as possible to recognize any concealed damage.
- **Your shipment was not packaged properly.** This may be the most common defense raised by carriers. If the shipper does not meet the packaging standards for a particular commodity, the carrier will do everything in its power to prove it's not responsible.
- **You didn't list a piece count.** If you ship something that is short a piece, but you only listed the number of pallets, you could be out of luck. Since there was no documentation of the pieces you're missing existing in the first place, proving loss becomes much more difficult.

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making freight claims easier

The risk shippers are forced to take with their freight has resulted in many shippers turning to freight brokers. Freight brokers can often offer you additional coverage, make sure there are no errors on your BOL, and keep you in accordance with the law. If you do have to file a claim, brokers can also handle the process for you and defend your liability on your behalf.



about us

As a freight broker, PartnerShip® offers full claims assistance and acts as your personal advocate. When you ship with PartnerShip and your shipment has been lost or damaged, we can save you from a giant headache. Our claims specialist will make sure you have all of the necessary paperwork and documentation and then file your claim with the carrier. We follow-up with the carrier throughout the whole process and make sure everything is moving along smoothly. PartnerShip also offers freight insurance through Roanoke Trade, for when you need added peace-of-mind. No matter what you need, we have your back.

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