

§ 478. Generally

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Carriers

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Part Two. Carriage of Property

XV. Charges by Carriers of Property

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1. In General

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West's Key Number Digest

- West's Key Number Digest, [Carriers](#) 100(.5) to 100(2)

While demurrage in maritime law refers to the amount charged for the delay of a vessel beyond the time allowed for loading, unloading, or

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sailing,¹ the term is also used in reference to charges for the detention of railroad cars beyond the time reasonably required for their loading or unloading.² Such demurrage charges are designed to secure compensation for the use of cars and the tracks occupied by the cars and to permit car efficiency by deterring undue detention.³

A rail carrier providing transportation subject to the jurisdiction of the Surface Transportation Board must compute demurrage charges and establish rules related to those charges in a way that fulfills the national needs related to freight car use and distribution, as well as the maintenance of an adequate supply of freight cars to be available for the transportation of property.⁴ Even if the contract of carriage does not so stipulate, railroad companies generally have the right to make reasonable charges for the detention of their cars beyond a reasonable time in loading or unloading or for the failure to give shipping instructions.⁵ The theory is that shippers and consignees implicitly contract to submit to all reasonable rules adopted by a railroad company for the regulation of shipments⁶ and that only strict enforcement of rules or regulations providing for demurrage can secure promptness, uniformity, and safety in the railroad business.⁷

The right of a railroad company to impose a reasonable charge for the delay or detention of cars beyond a reasonable time is not limited to its own cars but may be imposed for cars belonging to another railroad company⁸ or for privately owned cars in the railroad's service.⁹

The section of the Interstate Commerce Commission Termination Act requiring rail carriers to establish reasonable rules and practices on

matters related to transportation or service ¹⁰
applies to demurrage charges. ¹¹

CUMULATIVE SUPPLEMENT

49 C.F.R. Pt. 1333 (49 C.F.R. §§ 1333.1 to 1333.3), as added effective July 15, 2014, provides that demurrage will be assessed (49 C.F.R. § 1333.2) by the serving rail carrier, that is, the rail carrier providing rail cars to a shipper at an origin point or delivering them to a receiver at an end-point or intermediate destination; any person receiving rail cars from a rail carrier for loading or unloading who detains the cars beyond the period of free time set forth in the governing demurrage tariff may be held liable (49 C.F.R. § 1333.3) for demurrage if the carrier has provided that person with actual notice of the demurrage tariff providing for such liability prior to the placement of the rail cars.

[END OF SUPPLEMENT]

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Footnotes

- 1 [Baltimore & O.R. Co. v. Luella Coal & Coke Co.](#), 74 W. Va. 289, 81 S.E. 1044 (1914).
- 2 [St. Louis, Southwestern Ry. Co. v. Mays](#), 177 F. Supp. 182 (E.D. Ark. 1959); [Louisville & N.R. Co. v. Camody](#), 203 Ala. 522, 84 So. 824 (1919).
- 3 [I. C. C. v. Oregon Pac. Industries, Inc.](#), 420 U.S. 184, 95 S. Ct. 909, 43 L. Ed. 2d 121 (1975).
- 4 [49 U.S.C.A. § 10746](#).

- 5 [Turner, Dennis & Lowry Lumber Co. v. Chicago, M. & St. P. Ry. Co., 271 U.S. 259, 46 S. Ct. 530, 70 L. Ed. 934 \(1926\).](#)
- 6 [Louisville & N.R. Co. v. Camody, 203 Ala. 522, 84 So. 824 \(1919\); Atchison, T. & S. F. Ry. Co. v. Johnson, 1924 OK 491, 99 Okla. 72, 225 P. 939 \(1924\).](#)
- A railroad's imposition of storage and demurrage charges for empty private freight cars remaining on the railroad's tracks beyond a base "free time" period was reasonable under the section of the Interstate Commerce Commission Termination Act requiring rail carriers to establish reasonable rules and practices on matters related to transportation or service, as recovering the cost of empty private car storage from the suppliers of those cars allowed the demand for services to establish rates in an environment of higher traffic and tighter capacity, fostered sound economic conditions in transportation by eliminating cross-subsidies and compensating the railroad for the use of its track, encouraged efficient management of railroads by discouraging shippers from holding cars on the railroad's track for extended periods of time, and encouraged individualized ratemaking reflecting the costs each customer caused the railroad. [North America Freight Car Ass'n v. Surface Transp. Bd., 529 F.3d 1166 \(D.C. Cir. 2008\).](#)
- 7 [Turner, Dennis & Lowry Lumber Co. v. Chicago, M. & St. P. Ry. Co., 271 U.S. 259, 46 S. Ct. 530, 70 L. Ed. 934 \(1926\).](#)
- 8 [Penn Oil Co. v. Triangle Petroleum & Gasoline Co., 136 Md. 559, 111 A. 482 \(1920\); Erie R. Co. v. Waite, 62 Misc. 372, 114 N.Y.S. 1115 \(Sup 1909\).](#)
- 9 [Swift & Co. v. Hocking Valley Ry. Co., 243 U.S. 281, 37 S. Ct. 287, 61 L. Ed. 722 \(1917\).](#)
- 10 [49 U.S.C.A. § 10702\(2\).](#)
- 11 [North America Freight Car Ass'n v. Surface Transp. Bd., 529 F.3d 1166 \(D.C. Cir. 2008\).](#)

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