

**OTH-24.1 Uniform Shipment Law Proposal
Chapter III Draft**

Item Under Consideration

Adopt a new Handbook 130 Uniform Shipment Law as follows:

III. Uniform Laws

D. Uniform Shipment Law

Section 1. Purpose

The purpose of this Act is to ensure transparent, equitable, and accountable shipment practices concerning the weight, measure, quantity, dimension, volume, density, classification, and documentation of shipped freight.

Section 2. Scope

This Act:

- (a) establishes an enforcement program for shipment-related representations of weight, measure, quantity, dimension, volume, density, classification, and related documentation;
- (b) empowers the state to promulgate regulations as needed to carry out the provisions of the Act;
- (c) authorizes requirements for records and documentation necessary to determine compliance; and
- (d) provides for civil and criminal penalties.

Section 3. Definitions

As used in this Act:

- 3.1. Bill of Lading (BOL) / Waybill. - A legal instrument or shipping document used in the transportation and shipment industries that lists the freight being shipped and the terms under which it will be delivered.
- 3.2. Carrier. - A person engaged in handling, transporting, or delivering freight as part of a commercial transaction.
- 3.3. Director. - The _____ of the Department of _____.
- 3.4. Freight. - Goods or cargo transported by truck, train, ship, or aircraft for commercial purposes.
- 3.5. Freight Quote. — Documentation provided by a carrier, logistics service provider, or other responsible party that states or estimates the cost of transporting freight based on shipment information, including weight, measure, quantity, dimensions, volume, density, classification, distance, service level, or shipping method.
- 3.6. Handling Unit. - A single item or group of items that are packaged together and handled as a single unit throughout the shipping process.
- 3.7. Inspection Certificate. - A document used to signify that shipped freight has been inspected concerning weight, measure, quantity, dimensions, volume, density, classification, or related shipment information.
- 3.8. Logistics Service Provider. — A person that offers logistics-related services such as transportation, warehousing, freight forwarding, or supply chain coordination on behalf of another party. This includes, but is not limited to, a carrier, third-party logistics provider, freight forwarder, broker, shipper, or broker agent.

3.9. Person. – Any natural individual, corporation, partnership, association, organization, or other legal entity.

3.10. Shipment. - A quantity of goods shipped with a logistics service provider.

3.11. Shipper. - A person that sends or requests goods using a logistics service provider.

3.12. Unique Identifier. - A distinct code or number assigned by a logistics service provider to identify an individual, entity, document, item, or shipment within a specific operational or shipment tracking system.

3.13. Weighing or Measuring System. - A device or combination of devices, including equipment and software, used to determine or record the density, weight, volume, quantity, dimension, or measure of freight, as approved by the jurisdiction where the system is used.

Section 4. Enforcing Official: Rules and Regulations

The Director is authorized to:

- (a) enforce the provisions of this Act;
- (b) issue reasonable regulations for the enforcement of this Act that shall have the force and effect of law; and
- (c) adopt rules that include, but are not limited to, requirements for:
 - (1) freight quote documentation and related shipment information used to determine shipment charges, including requirements for accurate information provided by a shipper, carrier, logistics service provider, or other responsible party;
 - (2) shipment weighing, measuring, quantity, dimensions, volume, density, and classification practices when related to shipment representations, documentation, or charges;
 - (3) inspection certificates and related shipment documentation;
 - (4) recordkeeping and record retention;
 - (5) access to records by the Director or authorized agents;
 - (6) correction disclosures when shipment charges or shipment documentation are affected by corrected weight, measure, quantity, dimensions, volume, density, classification, rounding method, or related shipment information;
 - (7) use of approved weighing, measuring, or automated measuring systems; and
 - (8) information required on bills of lading, waybills, freight quotes, or other shipping documents.

Section 5. Required Compliance

(a) Any person or entity subject to this Act shall comply with this Act and any regulation promulgated under this Act.

(b) Transportation Contracts and Commercial Terms. — Nothing in this Act establishes, regulates, or requires a transportation rate, discount, tariff, classification, accessorial charge, or other commercial term of a transportation contract. No transportation contract, tariff, bill of lading, arbitration agreement, or other private agreement shall limit, waive, conflict with, or excuse compliance with this Act or any regulation promulgated under this Act, including requirements concerning accurate shipment representations, required records, correction documentation, access to records, or enforcement by the Director or an authorized agent.

Section 6. Records and Documentation

Any person or entity subject to this Act shall make, keep, and preserve records and documentation as required by the Director by regulation. Required records and documentation shall be made available for inspection by the Director or authorized agent in the manner prescribed by regulation.

Section 7. Prohibited Acts

It shall be unlawful for any person or entity to:

- (a) violate any provision of this Act or any regulation promulgated under this Act;
- (b) knowingly or with intent to defraud provide false or misleading shipment information, whether oral, written, electronic, or otherwise recorded;
- (c) knowingly or with intent to defraud provide a false commodity description, classification, density, weight, measurement, quantity, dimension, volume, shipment identifier, or related shipment representation;
- (d) provide incomplete or inaccurate information for a freight quote, bill of lading, waybill, or other shipping document when the information affects the shipment charge, classification, weight, measure, quantity, dimension, volume, density, or related shipment representation;
- (e) fail to make, keep, preserve, or provide records or documentation required under this Act or any regulation promulgated under this Act;
- (f) hinder or obstruct in any way the Director or an authorized agent in the performance of official duties under this Act; or
- (g) use or have in possession a weighing or measuring system, or any component of such system, that has been designed, modified, or used to facilitate fraud, or that has not been approved for commercial use by a weights and measures agency or official, or other authorized regulatory authority having jurisdiction.
- (h) use a reweigh, remeasure, reclassification, density determination, or other correction process in a manner that selectively applies, suppresses, disregards, or withholds corrected shipment information based on whether the result increases or decreases a shipment charge.

Section 8. Civil Penalties

8.1. Assessment of Penalties. - Any person or entity who by themselves, by their servant or agent, or as the servant or agent of another person or entity commits any of the acts enumerated in Section 7. Prohibited Acts may be punished for the violation with a written warning and/or assessed by the _____ a civil penalty, as deemed appropriate upon consideration of the nature, circumstances, extent, gravity of the violation, and history of prior offenses.

- (a) a warning or fine of not less than \$_____ nor more than \$_____ for a first violation;
- (b) a warning or fine of not less than \$_____ nor more than \$_____ for a second violation within _____ from the date of the first violation; and
- (c) a fine of not less than \$_____ nor more than \$_____ for a third violation within _____ from the date of the first violation.

8.2. Administrative Hearing. - Any person or entity subject to a civil penalty shall have a right to request an administrative hearing within _____ days of receipt of the notice of the penalty. The Director or their designee shall be authorized to conduct the hearing after giving appropriate notice to the respondent. The decision of the Director shall be subject to appropriate judicial review.

8.3. Collection of Penalties. - If the respondent has exhausted their administrative appeals and the civil penalty has been upheld, the respondent shall pay the civil penalty within _____ days after the effective date of the final decision. If the respondent fails to pay the penalty, a civil action may be brought by the Director in any court of competent jurisdiction to recover the penalty. Any civil penalty collected under this Act shall be transmitted to _____.

Section 9. Criminal Penalties

9.1. Misdemeanor. - Any person or entity who by themselves, by their servant or agent, or as the servant or agent of another person or entity commits any of the acts enumerated in Section 7. Prohibited Acts or violates any other provision of this Act shall be guilty of a Class _____ misdemeanor and upon conviction shall be punished by a fine not less than \$ _____ nor more than \$ _____, or by imprisonment for not less than _____ nor more than _____, or both fine and imprisonment.

9.2. Felony. - Any person or entity who by themselves, by their servant or agent, or as the servant or agent of another person or entity intentionally commits any of the acts enumerated in Section 7. Prohibited Acts or repeatedly violates any other provision of this Act shall be guilty of a Class _____ felony and upon conviction shall be punished by a fine not less than \$ _____ and/or by imprisonment for not less than _____ nor more than _____.

Section 10. Restraining Order and Injunction

The Director is authorized to apply to any court of competent jurisdiction for a restraining order, or a temporary or permanent injunction, restraining any person from violating any provision of this Act.

Section 11. Validity of Prosecutions

Prosecutions for violation of any provision of this Act are declared to be valid and proper notwithstanding the existence of any other valid general or specific Act of this state dealing with matters that may be the same as or similar to those covered by this Act.

Section 12. Severability Provision

If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected.

Section 13. Repeal of Conflicting Laws

All laws and parts of laws contrary to or inconsistent with the provisions of this Act, and specifically _____, are repealed insofar as they might operate in the future; but as to offenses committed, liabilities incurred, and claims now existing thereunder, the existing law shall remain in full force and effect.

Section 14. Citation

This Act may be cited as the "Shipment Act of _____."

Section 15. Effective Date

This Act shall become effective on _____.

Simple Notes for Task Group Review

- This draft keeps the proposed Uniform Shipment Law in Handbook 130 Chapter III as a model law.
- The operational details removed from the law draft are not deleted from the project; they are intended to be handled in the companion Uniform Shipment Regulation.
- This draft avoids relying on industry-specific terms such as NMFC Code or Pro Number in the law text. Broader terms such as classification, unique identifier, and shipment documentation are used instead.
- The draft does not include a transportation contract exemption.