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PROCEEDINGS—

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“Beyond Deregulation: Let Freedom Ring!”

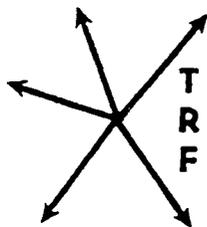
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**CANADIAN TRANSPORTATION
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Owner-Operators in Canadian Trucking: Their Role and Status and Implications of Their Use

by A. M. Clayton* and F. P. Nix**

ABSTRACT

This paper presents the results of a preliminary investigation into the role of owner-operators in Canada's trucking industry. All provinces have accommodated the use of owner-operators in one way or another. However, this accommodation has been more by default than by design. There are exceptions to this observation (e.g., Quebec), but in the main, the regulatory-registration system has not developed a well-defined status for these operators. Among other things, this poorly defined status for owner-operators results in a series of regulatory problems and/or issues. These are briefly discussed. Finally, the paper concludes with an examination of some limited data sources to develop a sense of the numbers of such operators (for-hire carrier sector only) and an examination of some other issues pertaining to the use of owner-operators.

1. INTRODUCTION

Most commentators suggest that the use of owner-operators has been on the increase in Canada. This use of owner-operators raises a number of problems, concerns, and questions. These issues often constitute some of the central concerns of the current "regulatory review" process that is being undertaken in most provinces.

The purpose of this paper is to develop a preliminary examination of *some* of these issues: given the paucity of available material (particularly data), it is difficult to make more than a preliminary effort at this stage. The specific objectives of this paper are as follows: i) to provide a description of the status of owner-operators in each of the ten provinces, and, for comparative purposes, a brief review of their status in the United States; ii) to discuss some of the regulatory (and other) implications that result from this status; and, iii) to develop and discuss the limited amount of information that is available on the nature and extent of the use of owner-operators, and the cost/rate/competitive consequences that result from their use.

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2. THE STATUS OF OWNER-OPERATORS

Over the last few years, several of the provincial reviews of trucking regulations have produced statements to the effect that "owner-operators have no legal status" or that the methods used to engage owner-operators have no legal status" or that the methods used to engage owner-operators are "legally tenuous." It is not easy to explain the basis for these statements. Nevertheless, if the issues surrounding the use of owner-operators are to be understood, it is necessary to make the attempt.

Prior to doing so, however, one of the more confusing aspects involving owner-operators—the *definition* of such entities—has to be explained. Simply put, there is no definition for the term "owner-operator" that will satisfy the common usage of this, or similar terms in various parts of the country, in various situations, or, the regulatory structures found in each of the ten provinces. Space does not permit a full explanation for this (although some of the reasons will become more apparent subsequently). For here, it can simply be noted that, in terms of common usage, the term "owner-operator" is *sometimes* used to mean the same as "leased-operator," "independent-trucker," "broker," "broker-operator," or "contractor." (Of perhaps equal importance, these terms are sometimes used to mean slightly different things.) In terms of regulatory structures in various provinces, it can be noted that entities which have the legal status of a "licensed for-hire carrier," a "lessor," and "exempt-hauler," and "illegal-lease-situation," or (sometimes) a "person who owns a truck" can sometimes encompass what are commonly regarded as "owner-operators" in *some* provinces but not in others.

There is no need here to develop a precise definition of an "owner-operator" (in any case, it may be impossible if the regulatory structures of *all* provinces have to be accommodated). Nevertheless, it will help the exposition if a non-rigorous definition is used: for here, a person who owns a truck (or trucks) and who operates that truck (usually, but not always, driving it himself) under someone else's *authority* will be considered an owner-operator. ("Authority" is being used very broadly to mean either: the conventional notion of "operating authority" as it applies to for-hire carriers; or, the "authority" to truck goods on a private carriage basis.) It is emphasized that the term is actually used more broadly than this.²

With this working definition, then, the next step is to explore the actual mechanics of how an owner-operator arranges to operate his truck under someone else's authority. This is not easy, considering the diverse regulatory structures and the numerous "grey areas" encountered in provincial regulations. In order to make the subject intelligible, it is necessary to invent three terms to describe the various mechanisms. The three mechanisms are: i) the "re-registration" mechanism—whereby an owner-operator transfers the vehicle registration to someone else's name; ii) the "vehicle-lease" mechanism—whereby the owner-operator formally leases his vehicle (this may also involve the transfer of vehicle registration, and, in some provinces, this second mechanism is the same as the first); and, iii) the "authority" mechanism—whereby the owner-operator obtains a form of his own authority, and then works under the authority of another carrier (for-hire or private).

The construction of these three mechanisms aids in the understanding of how owner-operators work in various provinces; the actual practices are more complex. In any case, Table 1 shows where these mechanisms work—or, "are believed to work"—in each province. To expand on this, the following is a brief summary of the situation in each province. (While this description touches on some of the "grey areas", it ignores the clearly illegal situations.)

- *Newfoundland*: An amendment to the legislation in (about) 1974¹ prohibits the use of vehicle leases as a mechanism for engaging owner-operators. Specifically, where vehicles are leased, the lessor is not allowed to pay or exercise any control over the driver. (In the case of an owner-operator, the lessor is generally the same person as the driver.) For this reason, the re-registration mechanism is the only process that can be used to engage an owner-operator.
- *Prince Edward Island*: There does not appear to be anything in the legislation which prevents an owner-operator from leasing a vehicle to a carrier (either for-hire or private) and driving it himself (or having another driver operate it). It is understood that the regulatory authorities would regard the owner-operator in such a situation as an "employee"—that is, in order that various other conditions of the Act were not violated.
- *Nova Scotia*: The current legislation does not provide for real regulation of owner-operators—except that an owner-operator would appear to be prohibited from working in a "private carrier" capacity if his payments (under the terms, say, of a vehicle-lease arrangement) were considered compensation for for-hire transportation. From the one known regulatory hearing on this issue,⁴ it would appear that there has to be some separation between the vehicle owner (or lessor) and the vehicle driver. (Nova Scotia is reviewing its regulatory system; no details are available on whether or not the status of owner-operators will be affected.)
- *New Brunswick*: The situation in New Brunswick is clearer than in some other provinces. In terms of for-hire licensing requirements, a vehicle owner is defined to include the person in whose name

a vehicle is registered, including a lessee where a lease agreement has been approved by the Board.³ Second, the Board's criteria for approving lease agreements does not seem to include, in the case of owner-operators, any of the prohibitions found in other provinces concerning the lessor (the owner-operator) from exercising control over the driver. It is believed that the vehicle lease mechanism (in conjunction with the re-registration mechanism) is the standard practice.

- *Quebec*: Quebec has developed a more all-encompassing regulatory system than any other province. Concerning owner-operators, Quebec is the only province to establish a true regulatory regime for such individuals. That is, owner-operators are specifically defined under the relevant legislation, and a special class of permits has been created for them—the "Haul Away Permit".⁶ These permits authorize an owner-operator to haul the trailers of a named and licensed for-hire carrier.

There are several other points to note about the Quebec system: i) there is no "public interest" test applied in the granting of these permits; ii) although owner-operators have their own "authorities", these are not independent (i.e., they are constrained by the authority of the licensed for-hire carrier); iii) there is no restriction limiting an owner-operator to "one vehicle/one driver"; iv) the application process for a permit involves the filing of the lease agreement with the regulatory agency (on a form approved by the Commission); and, v) unlike the situation in other provinces (some exceptions) the regulatory process in Quebec allows owner-operators to retain vehicle registrations in their own names.

With respect to owner-operators engaged by shippers (i.e., what might be regarded in other provinces as "private carriage"), there is some confusion about past practices. Formally, Quebec maintains that owner-operators were not allowed to work for shippers; in practice, Quebec officials might have adopted a "blind eye" to some situations. In any case, recent changes will permit owner-operators to be engaged by shippers. (This is restricted to owner-operators who own only one vehicle.)

- *Ontario*: In Ontario, there are two mechanisms whereby owner-operators can be engaged by either a for-hire carrier or a shipper. The first process, and the most common, is the re-registration mechanism. This usually entails the following:⁷ i) the owner-operator transfers the name of the vehicle registration; ii) the vehicle is subject of a "Safety Standard Certificate"; iii) most owner-operators enter into some form of written agreement—often referred to as a "contract of service"; and iv) there is no regulatory control exercised over these "contracts of service".

The second mechanism used in Ontario is a vehicle-lease process. These arrangements are subject to regulatory control,⁸ and, this control prohibits the lessor paying or exercising any control over the driver. For this reason, Ontario authorities question whether or not an owner-operator arrangement that involves a vehicle-lease (which, in the case of for-hire carriers, has to be

TABLE 1

MECHANISMS USED TO ENGAGE OWNER-OPERATORS

	Nfld	PEI	NS	NB	Que	Ont	Man	Sask	Alta	BC
A. For-Hire										
1 Re-registration	Y	Y	Y	Y	N	Y	Y	Y (b)	Y	Y
2 Vehicle-Lease	N	Y	?	Y	N	Y	N		N	Y
3 Authority	N (a)	N (a)	N (a)	N (a)	Y	N (a)	N (a)	N (a)	N	N (a)
B. Private										
4 Re-registration	Y	Y	Y	Y	N	Y	Y (b)	Y (b)	N	Y (?)
5 Vehicle-Lease	N	Y	N	Y	N	Y			N	N
6 Authority	N	N	N	N	Y	N	N	N	Y (c)	Y (d)

Notes:

Y = allowed; N = not allowed

- In the provinces indicated, there are certain commodities which are exempt from for-hire licensing requirements. In these cases, anyone can buy a truck and haul freight on a for-hire basis under what may be regarded as his own "authority", or haul these same exempt commodities under some form of arrangement with another person ("carrier", "freight broker", "shipper"). Some of these operators regard themselves as "owner-operators (or "independent truckers", etc.).
- As far as is known, there is no distinction between the re-registration mechanism and the vehicle-lease mechanism (i.e., "vehicle-lease-with-a-driver").
- Strictly, it is not possible for a person who owns a truck to "lease on" to a shipper's fleet in Alberta. However, given that intra-provincial for-hire licences are relatively easy to obtain, there may be many "one-truck, contract-for-hire-carriers" in Alberta that would be regarded as "owner-operators-engaged-by-a-shipper" in most other provinces.
- In B.C., there are what may be regarded as owner-operators engaged by shippers and hauling under their own authority. Technically, however, these are small, contract for-hire carriers (with a "limited freight-vehicle" authority).

approved by the Board) is legal.⁹

- Manitoba:* In Manitoba, the re-registration mechanism is used in the case of for-hire carriers engaging owner-operators. These are sometimes referred to as vehicle-leases, but, for a variety of reasons, they should be considered simply as transfers of registrations associated with some type of contract between carriers and owner-operators.¹⁰ (In particular, one cannot legally register a truck as a for-hire truck (or "PSV") independent of a for-hire authority: the practical implication of this is that it has to be the carrier (the "PSV" carrier) that registers the owner-

operator's vehicle.)

- With respect to private carriage in Manitoba (where the "CT" truck is the most common form of registration outside of urban areas), the situation is different. Here, an owner-operator may be engaged by a shipper if the truck is registered in the name of the owner-operator "leased to the company" and a formal lease agreement is filed.
- Saskatchewan:* Saskatchewan's regulatory system is different from other provinces. Without going into detail (which is not necessary for this discussion), the important points are: i) all registration classes encompass some notion of "authority"

(i.e., in terms of "permitted uses"); and ii) the name in which a vehicle is registered must be identical to the name in which the authority is held. ("Authority" is being used here in its broad context.) The implications of this are that, in either for-hire or private carriage situations, owner-operators can only be engaged through the re-registration mechanism.¹¹

- **Alberta:** In terms of for-hire carriage, the only permitted mechanism for a carrier to engage an owner-operator is the re-registration process. However, given that intra-provincial authorities are relatively easy to obtain (the situation is generally referred to as "unregulated"), anyone can buy a truck and obtain an authority, and then enter into some contractual relation with another for-hire carrier. These situations may or may not be regarded as carrier/owner-operator arrangements.

With respect to private carriage, Alberta authorities insist that there is no legal way for an owner-operator to "lease on" to a shipper's fleet. However, it is relatively easy—in terms of intra-provincial operation—for someone who wishes to be an "owner-operator" to obtain his own for-hire authority. These operators are probably more appropriately considered "one-truck, contract for-hire carriers" than "owner-operators".

- **British Columbia:** There are two procedures whereby a for-hire carrier in British Columbia can engage the services of an owner-operator: the re-registration mechanism—which entails no real regulatory control (although, given British Columbia's unique system of for-hire licensing, on a "vehicle-by-vehicle" basis, such a procedure would at least come to the attention of the authorities);¹² and, the vehicle-lease mechanism. In the second case, there is no formal regulation; however, an "administrative" procedure has been developed whereby a written copy of the lease agreement must be filed.¹³ Various criteria are used to judge whether the lease agreement is "acceptable" (e.g., it must state the term of the lease, the rental to be paid, and so on). Unlike some other provinces, there do not appear to be problems created where the lessor is the driver (i.e., the owner-operator).

The situation with respect to owner-operators being engaged by shippers is more confusing. It is understood that there may be some instances of the re-registration mechanism being used. (Officials in B.C. who were contacted about this were reluctant to admit that this was acceptable: they emphasized that the driver would have to ensure that he became a "regular" employee of the shipper.) However, it is also possible to use the authority mechanism to become (what amounts to) an owner-operator in B.C. That is, the vehicle owner may apply for a "limited freight-vehicle" for-hire license and, in effect, become a "one-truck, contract for-hire carrier".

To summarize, the re-registration mechanism is the most common procedure (i.e., by the number of provinces) whereby owner-operators engage themselves to a carrier (for-hire or private). The vehicle-lease mechanism is sometimes in-

distinguishable from the re-registration mechanism (e.g., Sask.) but more often—where it is allowed—is an alternative which usually entails a degree of regulatory control (e.g., N.B., Ont., Man., and B.C.). The re-registration mechanism is generally preferred as: i) it can be "simpler" in some provinces where it avoids the requirement to file a lease agreement; and, ii) the vehicle-lease mechanism is not available in other provinces—generally because there is a prohibition on lessors paying or exercising control over drivers. (The prohibition has been implemented to prevent "phony" or "unlicensed" for-hire carriage situations.)

The authority mechanism is only shown (on Table 1) to be available in a few cases (most notably, Quebec). In fact, this is not quite correct as indicated in note "a" to the Table. In most provinces, anyone can buy a truck and haul "exempt commodities" on a for-hire basis. In some situations, particularly where someone other than the truck owner provides some of the "load-procuring" services, these exempt commodity haulers are regarded as owner-operators (or "independent truckers"). Additionally (and not shown on line 6 of the Table), in all provinces there is nothing stopping owner-operators from applying for for-hire (contract) authorities which would enable them to work for a shipper on an exclusive basis.

Owner-operators are treated quite differently in the U.S. than they are in Canada. Space does not permit a full treatment of this subject here (it is well covered elsewhere).¹⁴ What follows is a brief account of the major differences between Canada and the U.S.:

- the most significant difference is that, in the U.S., there has been a deliberate encouragement of the use of owner-operators;
- owner-operators in the U.S. are generally permitted to retain vehicle registrations in their own name;
- there are rules in the U.S. which make it easier for owner-operators to "trip-lease" (i.e., rather than—as is generally the case in Canada—enter into a longer-term arrangement);¹⁵
- the rules in the U.S. are much clearer with respect to owner-operators leasing their vehicles to shippers and becoming *bona fide* full time employees of the shipper;
- the MCA of 1980 contained a number of measures designed to assist owner-operators (e.g., authorities could be obtained on the basis of a "fitness test" for certain commodities; etc.)
- ICC rules have been introduced which regulate the content of leases between owner-operators and carriers—the intent of these rules ("truth in leasing") was to protect owner-operators.

These are some of the major differences between Canada and the U.S. While the purpose of including these comparisons here is simply to show that the regulatory system in the U.S. has attempted to deal with this element of the transportation system (which is generally not the case in Canada), it would be misleading to end this discussion here. In particular, it should be noted that there are still "problems" in the U.S!¹⁶

3. REGULATORY IMPLICATIONS

The absence of a clearly defined status for owner-operators in Canada leads to a wide number of regulatory issues—both for the regulatory system designed to control for-hire trucking and a number of other areas of regulation (labour, vehicles, tax, etc.).

For-hire Trucking Regulation: General: Possibly the most fundamental regulatory issue is that the legislation which was originally introduced to regulate for-hire trucking did not anticipate the use of “intermediaries”. To elaborate, it helps to view the original intent of the legislation in terms of two “pure” types of trucking activities. On the one hand, a “for-hire” carrier owned vehicles, hired drivers, moved goods owned by someone else, received compensation for transportation services, accepted a certain degree of liability for the goods while in his possession, etc. On the other hand, a “private trucker” owned vehicles, hired drivers, and moved his *own* goods. The original legislation did not view any middle ground between these two “pure” cases: in particular, an owner-operator who owned his own vehicle, and entered into some form of contractual arrangement with a for-hire carrier or a shipper.

The problem for the regulators became, in part, classifying these “other actors”. (Could a person owning his own vehicle, moving someone else’s goods, receive some type of payment which would *not* be construed as “compensation for transportation service”?)

Inter-Provincial Differences: From the previous discussion, it is clear that the provinces have adopted different ways of accommodating the use of owner-operators. Inevitably, this has led to problems when owner-operators cross provincial boundaries. Details of where these difficulties occur, or how important these difficulties are, are hard to obtain. Nevertheless, the following examples (undocumented) demonstrate the types of problems which occur: i) in New Brunswick, where there is a requirement to file lease agreements, it has proved very difficult to enforce this with respect to out-of-province owner-operators; ii) in Quebec, it is understood that for a number of years owner-operators engaged by shippers in Ontario could not “legally” operate into the province, but (at least in some cases) were allowed in under the “blind eye” of the authorities; and iii) in Alberta, there has been at least one instance of owner-operators being deemed employees and acting in a “private carriage” capacity on the Alberta-side of the border, whereas on the British Columbia side they were required to obtain for-hire authorities.

“Contracts of Service” versus “Vehicle-Leases”: In those provinces where there is a clear distinction between the re-registration mechanism and the vehicle-lease mechanism, the contractual agreement between an owner-operator and a carrier is usually referred to as a “contract of service” (or some term *other than* a “vehicle-lease”). In some provinces (most notably Ontario) questions have been raised as to whether or not these “contracts of service” are lease arrangements as defined under the applicable statutes!⁷

Workmen’s Compensation: The subject of

workmen’s compensation is too complex to be included here. It is sufficient to merely note that the issue of whether or not owner-operators are to be considered “employees”, “independent”, or “truly independent” (or something else) has been a source of continued trouble in some provinces.

Carrier/Owner-Operator Contracts: Five (six, in the past) provinces require the filing of the contracts between owner-operators and carriers in at least *some* situations. However, this does not represent any “real” regulation of the form of the contractual relationship. (The reason for requiring these filings is to prevent unlicensed for-hire carriage from occurring, and *not* to control the bargaining process between owner-operators and carriers.) On several occasions over the past decade,⁸ regulators have considered the desirability of becoming more involved in this process.

Trip Leasing: There are few (if any) situations in Canada where owner-operators may trip lease. Some of the regulatory issues are: i) would the allowance of trip leasing lead to a more competitive, a more responsive, or a more efficient transportation system? ii) can a system of trip leasing be developed which does not jeopardize other licensing requirements of the regulatory acts or which does not make enforcement of such acts more difficult? iii) would the allowance of trip leasing improve the financial position of owner-operators?

Control of Licensed Carriers/Obligations of Carriers: It can be argued that a part of the original intent of the regulatory legislation has been circumvented through the growing use of owner-operators. In particular, the original system envisaged the granting of licenses to someone to provide a trucking service. This system depended on certain obligations on the part of the license-holder and on the ability of the regulator to impose sanctions on the license-holder for a variety of infractions.

There are some situations in Canada where the licensee has almost become a freight broker. While there may be nothing undesirable about this, it can sometimes give the regulatory system a problem. For example, it may be difficult to apply some sanctions on carriers that own no vehicles. Probably of somewhat greater concern is the fact that the power of the regulatory boards to grant authorities is partly eroded. That is, boards grant authorities to carriers; these carriers, in turn, may end up in the position—in a *de facto* sense—of granting (or not granting) the real authorities to individuals (owner-operators) who actually provide the service!⁹

Other Issues: There are a variety of other issues which have not been investigated. These include: i) the position of owner-operators who have transferred their vehicle registrations to a carrier’s name where that carrier becomes insolvent—possibly putting the owner-operator in a difficult position with respect to the continued use of his vehicle; ii) labor (hours of work, etc.) regulations where it may be difficult to monitor or exercise any control over owner-operators; iii) vehicle weight and dimension regulations where they may be an inherent conflict between carriers (who may have an incentive for heavy loads and who may, in fact, control load-size) and owner-operators (who may find themselves responsible for fines); iv) in most provinces, regulation require the

TABLE 2*

MILEAGE RATES (¢/mile) PAID TO OWNER-OPERATORS^a

<u>Source^b</u>	<u>'75</u>	<u>'76</u>	<u>'77</u>	<u>'78</u>	<u>'79</u>	<u>'80</u>	<u>'81</u>	<u>'82</u>	<u>'83</u>	<u>'84</u>
A							77			
B			43	44		60	68	74	74	
C							75			80
D	41	42	43	47	54	60	71	73	73	73
E	50				59					
F	40	40	44	58	60	63	68	73		77
G									76/86/78 ^{cd}	
H							81			88
I								80	80	80
J										80
K							81 ^d			88 ^d
L ^e	37	39	43	47	53	61	71			
M ^e	41	43	47	52	58	66	78			

* see FOOTNOTE [21] for details on sources and rates

TABLE 3

TRIMAC TRACTOR PLUS DRIVER MILEAGE COSTS (¢/mile)
(5-axle unit: 100,00 miles/year utilization)

	<u>B.C.</u>	<u>Alta.</u>	<u>Sask.</u>	<u>Man.</u>	<u>Ont.</u>	<u>Que.</u>	<u>Marit.</u>	<u>Nfld.</u>
<u>DRY FREIGHT</u>								
1972	41.3	31.3	31.4	31.1	37.1	37.1	33.8	34.6
1974	52.8	40.6	39.6	41.2	49.9	48.5	43.1	43.5
1976	67.9	57.1	56.8	56.5	64.4	64.3	56.5	57.0
1978	78.2	73.9	69.0	68.1	77.8	74.7	66.4	60.3
1980	97.0	88.4	88.7	89.8	95.8	92.5	80.3	75.8
1982	132.8	118.6	112.8	118.1	115.5	116.4	102.4	101.5
<u>BULK</u>								
1972	40.6	30.7	30.9	30.6	36.4	36.4	33.8	34.6
1974	51.7	38.9	38.3	39.9	48.6	48.0	42.6	42.4
1976	62.0	49.2	47.3	49.4	59.1	58.3	52.6	53.4
1978	70.4	59.7	56.4	55.8	71.5	68.1	61.9	56.9
1980	88.8	73.2	71.5	75.2	86.4	85.1	71.8	70.6
1982	115.1	98.2	91.1	98.0	105.2	110.7	94.3	96.6

Source: [20]

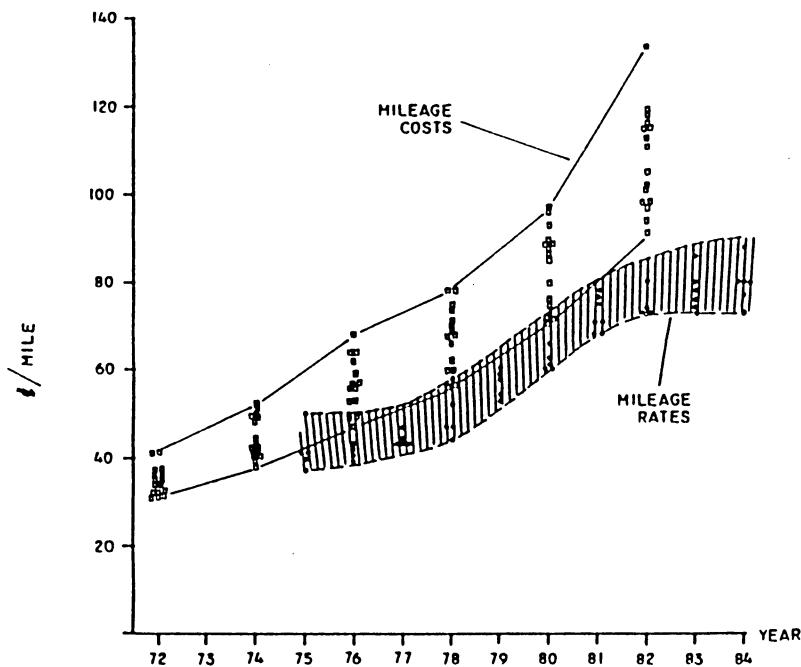


FIGURE 1. Owner operator mileage rates vs. tractor plus driver mileage costs (¢/mile)

licensed carrier to be responsible for some type of insurance—when the carriers employ owner-operators (and do not own their own vehicles), complications can arise; and, v) highway safety—the current system may encourage unsafe driving practices.

4. COST CHARACTERISTICS AND THE USAGE OF OWNER-OPERATORS

This section of the paper examines certain cost characteristics of owner-operators, and presents the results of efforts to develop statistical indicators of the extent of owner-operator activity in Canadian for-hire trucking. It is concerned only with owner-operators who own tractors (not trucks) and use them primarily in linehaul (i.e. ex-urban) trucking.

OWNER-OPERATOR COSTS

Table 2 presents results of a telephone survey of trucking officials pertaining to rates paid to owner-operators through the period 1975 to 1984. These officials were asked to provide typical mileage rates applicable in their respective organizations, where the owner-operator supplied the tractor but not the trailer(s). The rates cover a variety of detailed contractual provisions (e.g. sometimes the carrier buys the plate, while other times the owner-operator does so), a variety of carrier types (e.g. truckload bulk commodity carriers, LTL inter-city general freight carriers, etc.) and a variety of operating cir-

cumstances (as characterized by region of operation). Several of the respondents had to transform a 'percentage-of-revenue' rate into the 'equivalent mileage rate' in order to respond to the survey.

There is no basis for assigning any statistical validity as to how well this sample represents its population. All that can be said is that it is the authors' opinion that the carriers sampled include both those which would generally be viewed as paying high rates (e.g. national, unionized, inter-city general freight carriers) and low rates (i.e. prairie region, 'exempt-type' commodity haulers). Although there are undoubtedly instances of both lower and higher rates which have been paid across the country during the period examined, it is felt that this sample provides a lower and upper boundary on what would have been the actual weighted-average owner-operator mileage rate across the country for each of the years shown.

For comparative purposes, Table 3 presents a summary of tractor mileage costs as developed in the TRIMAC truck cost model²⁰ for the period 1972 to 1982. These mileage costs are based on the following considerations:

- they represent 'Tractor Total Costs' only, meaning 'Tractor Variable Costs' (i.e. driver, fuel, repairs, cleaning, transport, tires) plus 'Tractor Fixed Costs' (i.e. depreciation, licenses).

Interest charges, insurance costs, administrative costs associated with the tractor and 'profit' are excluded.

(For detailed definitions of the above terms,

and explanation of the model, see [20].)

- they apply for utilization rates of 160,000 kms/yr (or 100,000 miles/yr.)

Owner-operators would generally have to realize a utilization level of this order to cover costs and earn a decent wage. Many owner-operators are obliged to function at higher utilization levels to remain viable.

- they apply to tractor costs associated with standard 5-axle, power unit semi-trailer, combinations.

Five axle combinations dominated ex-urban trucking operations through the seventies and into the early eighties. The rapid growth in doubles (7-8 axle units) has only occurred in the last 3 or 4 years. (See [22] for an analysis of the change in fleet mix experienced in and to/from the prairie region as a result of relaxed weight and dimension regulations introduced through the seventies.)

- they distinguish between general freight and bulk carrier operations, with the former being generally 5-20% higher than the latter (depending on year and region of operation).

Figure 1 presents a comparative illustration of the range of rates paid to owner-operators (as detailed in Table 2) and the range of tractor costs developed by TRIMAC (as detailed in Table 3). The following observations are of interest:

- through the period 1976 to 1982, the highest mileage rate paid to owner-operators was more or less equal to the lowest tractor cost calculated by TRIMAC.
- rates paid to owner-operators appear to have been escalating at more or less the same rate as have costs.

Through the period 1976 to 1982, rates paid to owner-operators appear to have been in the range of 75-80% of tractor costs developed by TRIMAC.

- since the early eighties, the escalation of rates paid to owner-operators has declined rapidly.

This decline probably simply reflects an attendant stagnation in trucking rates themselves during this period. With many owner-operators being paid on a percentage-of-revenue basis, as

the revenue per trip remains more or less constant, the owner-operator earning per trip also stays more or less constant.

It is useful to consider the means by which an owner-operator could and apparently does function at a rate which is about 75-80% of the costs of a tractor and driver as developed in the TRIMAC model. To do so, and for illustrative purposes only, consider the following detailed cost elements of the TRIMAC model¹⁹ for a tractor and driver involved in general freight trucking using a 5-axle unit, in Manitoba in 1982, with a utilization level of 160,000 km/year:

labor	31.1¢/km
fuel	19.4¢/km
repairs	9.4¢/km
cleaning	0.9¢/km
transport	1.6¢/km
tires	1.9¢/km
depreciation	7.9¢/km
licenses	1.2¢/km

TOTAL TRACTOR COST 73.4¢/km

Of these items, it is suggested that an owner-operator could do little to reduce the cost of fuel, tires or licenses indicated, and probably could do little to reduce the capital cost indicated (particularly in that it already excludes interest on debt). Thus, about 30¢ of the above kilometer cost is really beyond the influence of the owner-operator (albeit, in the short term, the consumption of capital represented by the depreciation charge may not be fully appreciated). Given that the owner-operator would typically be paid only 75-80% of the total cost shown, total earned revenue/kilometer would be (say) 57¢, thus leaving (57¢ minus 30¢), or 27¢, to cover the cost of labor, repairs, cleaning and transport. Assuming that the owner-operator could, by ingenuity and sweat, half the TRIMAC costs of the latter three items (i.e. experience a repair, cleaning and transport expense of 6¢/km rather than (about) 12¢/km), 21¢/km remains for wages (vs. the 31¢/km labor cost indicated by TRIMAC). Thus, in this case, by receiving a kilometer rate of 75-80% of the TRIMAC kilometer cost, it would appear that

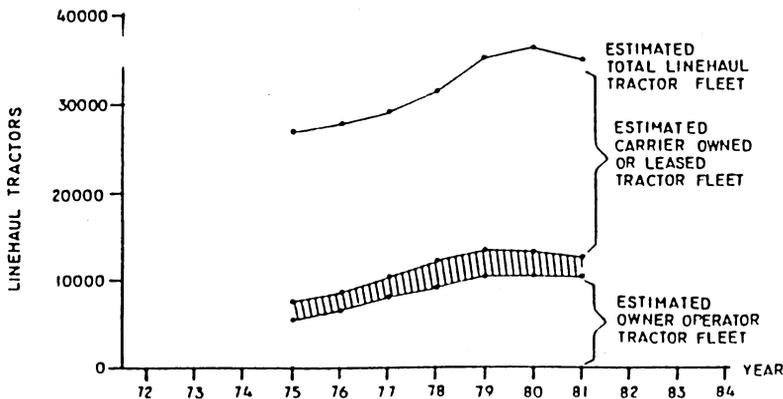


FIGURE 2. Comparison of owner operator fleet with total linehaul tractor fleet.

the owner-operator is obliged to work for a wage which is about two-thirds of the wage cost indicated by TRIMAC.

It is suggested that the acceptance of this substantially reduced wage rate, possibly often coupled with an inadequate appreciation for the consumption of capital and the opportunity cost on invested capital, is the means by which the owner-operator is able to function at the rate levels indicated in Figure 1.

EXTENT TO OWNER OPERATOR USAGE

Statistics Canada publication 53-222 ('Motor Carriers: Freight and Household Goods Movers')²³ provides basic data useful for assessing the extent of owner-operator activity in for-hire trucking in Canada. This section references only the general freight trucking component of this survey; data pertaining to household goods carrier activity is ignored.

Detailed qualifications respecting this data base, and the definitions of terminology, are explained in the source material. The following points, however, are of particular importance to the data presented and analyzed below:

- the statistics presented pertain to the sum of Class I, II and III carrier activity (i.e. carriers earning a gross operating revenue of more than \$100,000/year in the year prior to the actual survey year) across Canada.
- it is assumed here that data reported under the term 'payments to lessor (or broker) operators' represents payments made to 'owner-operators' as defined for this paper.

(To this effect, Statistics Canada defines broker or lessor operators as those who 'by means of owned or leased vehicles, haul trailers or other equipment for another carrier'.)

Table 4 presents a summary of payments made by Class I, II and III carriers to owner-operators, total expenses reported by these carriers, and the resultant ratio of owner-operator expense to total expense, through the period 1975 to 1981, for all Canada. Of particular interest in this table is the following observation:

- payments to owner-operators as a percentage of total carrier expenses has steadily increased from 11% in 1975 to 16% in 1981, indicating an apparently growing dependence on owner-operators in for-hire trucking in Canada.

To translate this relative indicator into an absolute indicator of the importance of owner-operators in for-hire trucking in Canada, the following methodology was used:

- (i) the 'highs' and 'lows' of the mileage rate range paid to owner-operators (as presented in Figure 1) were divided into total payments made to owner-operators (as presented in Table 4) for each year through the period 1975 to 1981, to obtain an estimated range of total owner-operator miles operated in each year.
- (ii) the resulting estimated range of total owner-operator mileage for each year was then divided by 100,000 miles/unit (as noted earlier, an assumed typically-required utilization level for owner operators), to provide an estimate of the range of the number of owner-operator

units in Canada's for-hire fleet through the period 1975 to 1981.

Detailed calculations based on this methodology are presented in Table 5. The following observation is of particular interest:

- the number of owner-operators in for-hire trucking in Canada has apparently increased from (in the order of) 6,600 in 1975 to (in the order of) 11,800 in 1981, or about 10%/year.

Assuming that the vast majority of these owner-operator units were (primarily) engaged in linehaul trucking, and were 'tractors', it is useful to compare this estimate of the range of the number of owner-operators to the number of linehaul tractors reported to be owned or leased (without driver) by carriers responding to the Statistics Canada Survey. Estimates of this latter number (for 1975-1981 inclusive) are also presented in Table 5.

This comparison of the owner operator fleet relative to the carrier owned (or leased) fleet is shown in Figure 2. The following observations are of interest:

- the total linehaul tractor fleet (i.e. carrier owned (or leased) plus owner-operator units) has increased from (in the order of) 26,900 in 1975 to (in the order of) 35,300 in 1981, an increase of about 5%/year.
- the owner-operator component of this total fleet has increased from (in the order of) 25% in 1975 to (in the order of) 33% in 1981.

5. OBSERVATIONS AND COMMENTARY

The following observations are of particular relevance:

- owner-operators comprise a significant component of the total linehaul tractor fleet employed by for-hire truckers in Canada.

It has been estimated that as of 1981, owner-operators accounted for one-third of a total fleet of about 35,300 linehaul tractors. No estimate of owner-operator usage in private trucking has been possible.

- as of 1981, owner-operators in the for-hire sector were apparently working at an effective wage rate of in the order of two-thirds of that paid to equivalent salaried employee drivers.

It is also possible (and it is suggested, likely) that there is a substantial amount of capital 'loss' associated with the owner-operator sector of the trucking industry. This presumably translates into lower rates than would otherwise be the case, at least in the short term.

- with the exception of Quebec, no Canadian jurisdiction has really recognized the place of owner-operators in their regulatory system governing truck transport.

This failure to do so, to a great extent, accounts for many of the regulatory problems in Canadian trucking. Problems of particular interest include: status of leased vehicles; definition of for-hire carriage and definition of private carriage, and; a resultant difficulty in distinguishing between permitted and unpermitted ('illegal') for-hire carriage.

As a final comment, it is of interest to observe

TABLE 4

**PAYMENTS TO OWNER-OPERATORS vs. TOTAL CARRIER EXPENSES
1975-1981**

Year	Payments to Owner Operator (in millions \$)	Total Carrier Expenses (in millions \$)	Ratio Payments: Total
1975	280.7	2459.2	0.11
1976	339.4	2746.9	0.12
1977	418.7	3133.5	0.13
1978	530.6	3854.9	0.14
1979	688.7	4470.0	0.15
1980	801.6	5060.1	0.16
1981	872.4	5498.0	0.16

Source: [23]

TABLE 5

**ESTIMATES OF THE OWNER OPERATOR FLEET
1975-1981**

	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>
Payments to O/O ^a (millions \$)	280.7	339.4	418.7	530.6	688.7	801.6	872.4
'LOW' Rate ^b	37	39	41	44	51	60	68
'HIGH' Miles ^c	759	870	1021	1206	1350	1336	1283
'HIGH' Estimate ^d	7.6	8.7	10.2	12.1	13.5	13.4	12.8
'HIGH' Rate ^b	50	50	52	58	65	74	81
'LOW' Miles ^c	561	679	805	915	1060	1083	1077
'LOW' Estimate ^d	5.6	6.8	8.1	9.2	10.6	10.8	10.8
MEAN of LOW & HIGH Estimates ^b	6.6	7.7	9.1	10.6	12.1	12.1	11.8
Estimated Linehaul Tractors Owned or Leased by Carriers ('000) ^e	<u>20.3</u>	<u>20.1</u>	<u>19.9</u>	<u>21.9</u>	<u>23.4</u>	<u>24.8</u>	<u>23.5</u>
Estimated Total Tractor Fleet ('000)	26.9	27.8	29.0	32.5	35.4	36.9	35.3
O/O as % Total	25	28	31	33	34	33	33

FOOTNOTES:

a See Table 4

b See Figure 1: rates paid to owner-operators (¢/mile)

c annual distance travelled by lessors (million miles)

d estimated number of owner-operators ('000) assuming 100,000 mile/-unit/year

e See [24]

that the great 'regulation' debate in Canada tends to concentrate on the question of the controls on carrier authorities and carrier rates, and related carrier obligations. With the large amount of owner-operator activity, and its apparent growth, within for-hire (and probably private) trucking, one wonders if the focus of this debate is well-directed. Is it possible that the issues and concerns which initially gave rise to the regulation of motor carriers are now re-appearing with respect to owner-operators?

ACKNOWLEDGMENTS

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FOOTNOTES

1. The Task Force review of Motor Carrier Regulation in Manitoba, *Manitoba Motor Carrier Industry: Background Information*, "Economic Regulation of the Motor Carrier Industry in Manitoba: Motor Freight Carrier Industry Structure and Performance", June, 1983, p. 27; Ontario Ministry of Transportation and Communications, "Discussion Paper: Owner-Operators of Trucks and Truck Transportation Brokers in Ontario", May 1980.
2. In particular, persons owning a truck and hauling "exempt commodities" are also referred to as "owner-operators" (or "independent truckers") in some situations.
3. Section 4A of the Motor Carrier Act.
4. Decision of the Board of Commissioners of Public Utilities, April 8, 1981, concerning the application of Marcel Montgrain.
5. Section 1 of the Motor Carrier Act.
6. Section 1(d) of the Act defines "carrier" as (among other things) a person who uses a truck-tractor to pull a trailer.
7. Ont. Ministry of Transportation and Communications, *op. cit.*, pp. 7-10. Also, Ontario Trucking Association, "Owner-Operator Survey: Summary Report", Aug. 1980, p. 7. (Sixty of the 64 companies included in the survey reported that owner-operators registered their vehicles in the carrier's name.)
8. Sect. 16(4) of the PCVA states that no one can operate a licensed trucking operation unless he is the registered owner of the vehicle or unless "he has entered into an agreement for a lease of the vehicle in accordance with this Act and the regulations". Sect. 4 specifies what constitutes a valid lease. In addition, the Board has adopted administrative procedures which further define the form and/or contents of leases.
9. Ont. Ministry of Transportation and Communications, *op. cit.*, p. 9.
10. The Manitoba Task Force discusses owner-operators working for for-hire carriers under the general heading of "Leasing" (The Task Force Review of Motor Carrier Regulations in Manitoba, *Manitoba Motor Carrier Industry: Problems, Issues, Options*, pp. 17-27.) However, the authors write: "The agreements between trucking companies and so-called owner-operators are technically not lease agreements but simply 'agreements' or 'contracts'. By the terms of the agreement the company does not lease or buy the vehicle and does not assume any financial obligations pertaining to the ownership of the vehicle." (p. 20).
11. In the past, this re-registration mechanism required that a lease agreement be filed with the regulatory authorities.
12. D.H. Maister and W. Behrenbruck, "The owner Operator Study: Phase One: A Review of Current Laws", Nov. 1978, describe these procedures.
13. Maister and Behrenbruck, *op. cit.*, pp. 4-5.
14. There is a large number of articles available. For example, the Ont. Ministry of Transportation and Communications, *op. cit.*; or, the (U.S.) Office of Transportation Analysis, "Owner-Operators and the Motor Carrier Act of 1980", mimeograph paper, Feb., 1982; or, T.M. Corsi and J.M. Tuck, "The ICC and Owner-Operators: Leasing Rule Modifications", mimeograph paper, April, 1982.
15. To elaborate, owner-operators are permitted to trip lease for licensed for-hire carriers; as licensed for-hire carriers can trip lease for other carriers, owner-operators who are on long-term leases for one carrier can temporarily work for another carrier; and, owner-operators who haul exempt commodities can trip lease with licensed carriers under certain conditions.
16. T.M. Corsi and J.M. Tuck, *op. cit.*, ("...Leasing Rule Modifications"); or, by the same authors, "Owner-Operator Turnover Between 1977-1980", mimeographed paper, June, 1982 (there was a turnover rate of roughly 50%); or, a report by the Secretary of Transportation Neil Goldschmidt, *Problems of Truck Owner Operators*, U.S. Department of Transportation, Washington, Oct., 1979; or, a report by the Owner-Operators Independent Drivers Association of America, *The Economic Status of Owner-Operator Truckers: A Preliminary Investigation*, Nov., 1983.
17. Ont. Ministry of Transportation and Communications, *op. cit.*, p. 10.
18. See, for example, the recommendations made by the Select Committee of the (Ontario) Legislature on Highway Transportation of Goods. (*A Public Policy Direction for the Highway Transportation of Goods, 1977*, p. VI-94.)
19. This, in part, is the concern of the Task Force Review in Manitoba (*op. cit.*, . . . *Problems, Issues, Options*, p. 21) discussed in the broader context of vehicle leasing.
20. "Operating Costs of Trucks in Canada", prepared by TRIMAC Consulting Services Ltd., published by Transport Canada: 1972, 1974, 1976, 1978, 1980, 1982.
21. a Several of these rates were estimated by the respondents from a conversion of a 'percentage-of-revenue' rate to an equivalent mileage rate.
 - b Notes on Sources
 - A Manitoba-based carrier, operating nationally
 - B Saskatchewan-based carrier, operating in western region
 - C Saskatchewan-based carrier, operating intra-Saskatchewan
 - D Saskatchewan-based carrier, operating in prairie region
 - E Saskatchewan-based carrier, operating in prairies and to/from U.S.
 - F Saskatchewan-based carrier, operating in prairies and to/from Ont./Que.
 - G Alberta-based carrier, operating in western region
 - H national carrier, rates applicable in Ontario
 - I national carrier, rates applicable in prairie region
 - J national carrier, rates applicable on Toronto-Winnipeg lane
 - K national carrier, rates applicable in Ontario
 - L national carrier, rates applicable in prairie region
 - M carrier L, rates applicable in Ontario
 - c 76¢ (Sask.); 86¢ (Man.); 78¢ (Alberta)
 - d averages of quoted rates for 'loaded' and 'M/T' haul
 - e average of quoted rates for 1 and 2 drivers.
 22. "Truck Industry Technological Response to the Western Canada Highway Strengthening Program", [A. Clayton, G. Sparks and R. Mak,] R.T.A.C. Annual Conference, Edmonton, September, 1983.
 23. "Motor Carriers: Freight and Household Goods Movers", Statistics Canada, Catalogue 53-222, Annual: 1975 to 1981 inclusive.
 24. The number of linehaul tractors owned or leased by Class I carriers are presented directly in [23]. Equivalent numbers for Class II and Class III carriers were estimated by multiplying 'total tractors' for these classes by the ratio of (linehaul: total) tractors for Class I carriers in each of the respective year.