

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

3

HOUSE BILL 1163
Committee Substitute Favorable 6/1/05
Senate Judiciary I Committee Substitute Adopted 6/22/05

Short Title: Hold Harmless/Motor Carrier Contracts.

(Public)

Sponsors:

Referred to:

April 11, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT PROVISIONS IN MOTOR CARRIER FREIGHT
TRANSPORTATION CONTRACTS THAT HOLD HARMLESS THE SHIPPER
FOR THE SHIPPER'S NEGLIGENCE OR INTENTIONAL ACTS ARE VOID.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 62 of the General Statutes is amended by adding a
new section to read:

"§ 62-212. Indemnity agreements in motor carrier transportation contracts.

(a) A provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, defend, or hold harmless, or has the effect of indemnifying, defending, or holding harmless the promisee from or against any liability for loss or damage resulting from the negligence or intentional acts or omission of the promisee is against the public policy of this State and is void and unenforceable.

(b) The following definitions apply in this section:

(1) Motor carrier transportation contract. – A contract, agreement, or understanding covering at least one of the following:

a. The transportation of property for compensation or hire by the motor carrier.

b. Entrance on property by the motor carrier for the purpose of loading, unloading, or transporting property for compensation or hire.

c. A service incidental to activity described in sub-subdivision a. or b. of this subdivision, including storage of property.

(2) Promisee. – The person with whom the motor carrier enters into a motor carrier transportation contract and any agents, employees, servants, or independent contractors who are directly responsible to that person, except for motor carriers party to a motor carrier

1 transportation contract with the person, and the motor carrier's agents,
2 employees, servants, or independent contractors directly responsible to
3 the motor carrier.

4 (c) Nothing contained in this section effects a provision, clause, covenant, or
5 agreement where the motor carrier indemnifies or holds harmless the contract's
6 promisee against liability for damages to the extent that the damages were caused by
7 and resulted from the negligence of the motor carrier, its agents, employees, servants, or
8 independent contractors who are directly responsible to the motor carrier.

9 (d) Notwithstanding the other provisions contained in this section, the term
10 'motor carrier transportation contract', as defined in this section, shall not include the
11 Uniform Intermodal Interchange and Facilities Access Agreement administered by the
12 Intermodal Association of North America, or other agreements providing for the
13 interchange, use or possession of intermodal chassis, containers, trailers, or other
14 intermodal equipment that contain substantially the same indemnity provision as the
15 provision contained in the Uniform Intermodal Interchange and Facilities Access
16 Agreement."

17 **SECTION 2.** This act becomes effective October 1, 2005, and applies to
18 contracts entered into on or after that date.