

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

HOUSE BILL 1163
RATIFIED BILL

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

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

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

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

In the General Assembly read three times and ratified this the 5th day of July, 2005.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2005