

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 1163  
Committee Substitute Favorable 6/1/05

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, but not limited to, storage of property.

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

1 servants, or independent contractors directly responsible to the motor  
2 carrier.

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

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

16 **SECTION 2.** This act is effective when it becomes law and applies to contracts  
17 entered into on or after that date.