S T A T E O F N E W Y O R K

1087

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the transportation law, in relation to proscribing indemnity agreements in motor carrier transportation contracts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The transportation law is amended by adding a new section 182 to read as follows:

S 182. INDEMNITY PROVISION IN MOTOR CARRIER TRANSPORTATION CONTRACTS.

1. FOR THE PURPOSES OF THIS SECTION:

(A) "MOTOR CARRIER TRANSPORTATION CONTRACT" MEANS A CONTRACT, AGREEMENT OR UNDERSTANDING COVERING:

(I) THE TRANSPORTATION OF PROPERTY FOR COMPENSATION OR HIRE BY THE MOTOR CARRIER;

(II) ENTRANCE ON PROPERTY BY THE MOTOR CARRIER FOR THE PURPOSE OF LOADING, UNLOADING OR TRANSPORTING PROPERTY FOR COMPENSATION OR HIRE; OR

(III) A SERVICE INCIDENTAL TO ACTIVITY DESCRIBED IN SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH, INCLUDING, BUT NOT LIMITED TO, STORAGE OF PROPERTY.

(B) "PROMISEE" MEANS 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 SUCH MOTOR CARRIER'S AGENTS, EMPLOYEES, SERVANTS OR INDEPENDENT CONTRACTORS DIRECTLY RESPONSIBLE TO SUCH MOTOR CARRIER.

2. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A PROVISION, CLAUSE 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

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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RESULTING FROM THE NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS OF THE PROMISEE IS AGAINST THE PUBLIC POLICY OF THIS STATE AND IS VOID AND UNENFORCEABLE.

3. "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 OR OTHER INTERMODAL EQUIPMENT.

S 2. This act shall take effect immediately.