

4843

2011-2012 Regular Sessions

I N S E N A T E

April 27, 2011

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:

1 Section 1. The transportation law is amended by adding a new section
2 182 to read as follows:
3 S 182. INDEMNITY PROVISION IN MOTOR CARRIER TRANSPORTATION CONTRACTS.
4 1. FOR THE PURPOSES OF THIS SECTION:
5 (A) "MOTOR CARRIER TRANSPORTATION CONTRACT" MEANS A CONTRACT, AGREE-
6 MENT OR UNDERSTANDING COVERING:
7 (I) THE TRANSPORTATION OF PROPERTY FOR COMPENSATION OR HIRE BY THE
8 MOTOR CARRIER;
9 (II) ENTRANCE ON PROPERTY BY THE MOTOR CARRIER FOR THE PURPOSE OF
10 LOADING, UNLOADING OR TRANSPORTING PROPERTY FOR COMPENSATION OR HIRE; OR
11 (III) A SERVICE INCIDENTAL TO ACTIVITY DESCRIBED IN SUBPARAGRAPH (I)
12 OR (II) OF THIS PARAGRAPH, INCLUDING, BUT NOT LIMITED TO, STORAGE OF
13 PROPERTY.
14 (B) "PROMISEE" MEANS THE PROMISEE AND ANY AGENTS, EMPLOYEES, SERVANTS
15 OR INDEPENDENT CONTRACTORS WHO ARE DIRECTLY RESPONSIBLE TO THE PROMISEE
16 EXCEPT FOR MOTOR CARRIERS PARTY TO A MOTOR CARRIER TRANSPORTATION
17 CONTRACT WITH THE PROMISEE AND SUCH MOTOR CARRIER'S AGENTS, EMPLOYEES,
18 SERVANTS OR INDEPENDENT CONTRACTORS DIRECTLY RESPONSIBLE TO SUCH MOTOR
19 CARRIER.
20 2. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A PROVISION,
21 CLAUSE OR AGREEMENT CONTAINED IN, COLLATERAL TO OR AFFECTING A MOTOR
22 CARRIER TRANSPORTATION CONTRACT THAT PURPORTS TO INDEMNIFY, DEFEND OR
23 HOLD HARMLESS, OR HAS THE EFFECT OF INDEMNIFYING, DEFENDING OR HOLDING
24 HARMLESS, THE PROMISEE FROM OR AGAINST ANY LIABILITY FOR LOSS OR DAMAGE
25 RESULTING FROM THE NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS OF THE

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

LBD11007-01-1

1 PROMISEE IS AGAINST THE PUBLIC POLICY OF THIS STATE AND IS VOID AND
2 UNENFORCEABLE.

3 3. "MOTOR CARRIER TRANSPORTATION CONTRACT," AS DEFINED IN THIS
4 SECTION, SHALL NOT INCLUDE THE UNIFORM INTERMODAL INTERCHANGE AND FACIL-
5 ITIES ACCESS AGREEMENT ADMINISTERED BY THE INTERMODAL ASSOCIATION OF
6 NORTH AMERICA OR OTHER AGREEMENTS PROVIDING FOR THE INTERCHANGE, USE OR
7 POSSESSION OF INTERMODAL CHASSIS, CONTAINERS OR OTHER INTERMODAL EQUIP-
8 MENT.

9 S 2. This act shall take effect immediately.