

4173--A

2015-2016 Regular Sessions

I N   S E N A T E

March 5, 2015

---

Introduced by Sen. NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business 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 general business law is amended by adding a new section  
2     398-e to read as follows:  
3     S 398-E. INDEMNITY PROVISION IN MOTOR CARRIER TRANSPORTATION  
4     CONTRACTS. 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

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

LBD09764-02-5

1 HARMLESS, THE PROMISEE FROM OR AGAINST ANY LIABILITY FOR LOSS OR DAMAGE  
2 RESULTING FROM THE NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS OF THE  
3 PROMISEE IS AGAINST THE PUBLIC POLICY OF THIS STATE AND IS VOID AND  
4 UNENFORCEABLE.

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

11 S 2. This act shall take effect immediately.