

CHAPTER 83

(House Bill 898)

AN ACT concerning

Motor Carrier Transportation Contracts – Indemnity Agreements Void

FOR the purpose of providing that certain indemnity agreements, collateral to, or affecting certain motor carrier transportation contracts that purport to indemnify the promisee against certain liability resulting from certain conduct by the promisee are against public policy and are void and unenforceable; defining certain terms; and generally relating to certain indemnity agreements in certain motor carrier transportation contracts.

BY repealing and reenacting, without amendments,
Article – Transportation
Section 11–134.2
Annotated Code of Maryland
(2006 Replacement Volume and 2006 Supplement)

BY repealing and reenacting, with amendments,
Article – Courts and Judicial Proceedings
Section 5–401
Annotated Code of Maryland
(2006 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Transportation

11–134.2.

(a) “Motor carrier” means a common carrier by motor vehicle, a contract carrier by motor vehicle, or a private carrier of persons or property by motor vehicle.

(b) “Motor carrier” includes a motor carrier’s owners, agents, officers, representatives, and employees.

Article – Courts and Judicial Proceedings

5-401.

(A) A covenant, promise, agreement or understanding in, or in connection with or collateral to, a contract or agreement relating to the construction, alteration, repair, or maintenance of a building, structure, appurtenance or appliance, including moving, demolition and excavating connected with it, purporting to indemnify the promisee against liability for damages arising out of bodily injury to any person or damage to property caused by or resulting from the sole negligence of the promisee or indemnitee, his agents or employees, is against public policy and is void and unenforceable. This section does not affect the validity of any insurance contract, workers' compensation, or any other agreement issued by an insurer.

(B) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

~~(2)~~ (II) "MOTOR CARRIER" HAS THE MEANING STATED IN § 11-134.2 OF THE TRANSPORTATION ARTICLE.

~~(3)~~ (III) 1. "MOTOR CARRIER TRANSPORTATION CONTRACT" MEANS A CONTRACT, AGREEMENT, OR UNDERSTANDING CONCERNING:

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

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

~~(III)~~ C. A SERVICE INCIDENTAL TO AN ACTIVITY DESCRIBED IN ITEM (I) OR (II) OF THIS PARAGRAPH, INCLUDING STORAGE OF PROPERTY.

2. "MOTOR CARRIER TRANSPORTATION CONTRACT" DOES NOT INCLUDE:

A. THE UNIFORM INTERMODAL INTERCHANGE AND FACILITIES ACCESS AGREEMENT ADMINISTERED BY THE INTERMODAL ASSOCIATION OF NORTH AMERICA, AS AMENDED BY THE INTERMODAL INTERCHANGE EXECUTIVE COMMITTEE; OR

B. OTHER AGREEMENTS PROVIDING FOR THE INTERCHANGE, USE, OR POSSESSION OF INTERMODAL CHASSIS, CONTAINERS, OR OTHER INTERMODAL EQUIPMENT.

~~(4)~~ (IV) "PROMISEE" INCLUDES AN AGENT, EMPLOYEE, SERVANT, OR INDEPENDENT CONTRACTOR WHO IS DIRECTLY RESPONSIBLE TO THE PROMISEE, OTHER THAN A MOTOR CARRIER THAT IS A PARTY TO A MOTOR CARRIER TRANSPORTATION CONTRACT WITH THE PROMISEE, AND AN AGENT, EMPLOYEE, SERVANT, OR INDEPENDENT CONTRACTOR DIRECTLY RESPONSIBLE TO THAT MOTOR CARRIER.

~~(5)~~ (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, 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 AGAINST LIABILITY FOR LOSS OR DAMAGE RESULTING FROM THE NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS OF THE PROMISEE IS AGAINST PUBLIC POLICY AND IS VOID AND UNENFORCEABLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, April 10, 2007.