

SENATE BILL 303

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71r1631

By: **Senator Forehand**

Introduced and read first time: January 31, 2007

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Carrier Transportation Contracts – Indemnity Agreements Void**

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

9 BY repealing and reenacting, without amendments,
10 Article – Transportation
11 Section 11–134.2
12 Annotated Code of Maryland
13 (2006 Replacement Volume and 2006 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Courts and Judicial Proceedings
16 Section 5–401
17 Annotated Code of Maryland
18 (2006 Replacement Volume)

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

21 **Article – Transportation**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 11-134.2.

2 (a) "Motor carrier" means a common carrier by motor vehicle, a contract
3 carrier by motor vehicle, or a private carrier of persons or property by motor vehicle.

4 (b) "Motor carrier" includes a motor carrier's owners, agents, officers,
5 representatives, and employees.

6 **Article - Courts and Judicial Proceedings**

7 5-401.

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

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

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

21 (3) "MOTOR CARRIER TRANSPORTATION CONTRACT" MEANS A
22 CONTRACT, AGREEMENT, OR UNDERSTANDING CONCERNING:

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

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

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

1 (4) **“PROMISEE” INCLUDES AN AGENT, EMPLOYEE, SERVANT, OR**
2 **INDEPENDENT CONTRACTOR WHO IS DIRECTLY RESPONSIBLE TO THE**
3 **PROMISEE, OTHER THAN A MOTOR CARRIER THAT IS A PARTY TO A MOTOR**
4 **CARRIER TRANSPORTATION CONTRACT WITH THE PROMISEE, AND AN AGENT,**
5 **EMPLOYEE, SERVANT, OR INDEPENDENT CONTRACTOR DIRECTLY RESPONSIBLE**
6 **TO THAT MOTOR CARRIER.**

7 (5) **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A**
8 **PROVISION, CLAUSE, COVENANT, OR AGREEMENT CONTAINED IN, COLLATERAL**
9 **TO, OR AFFECTING A MOTOR CARRIER TRANSPORTATION CONTRACT THAT**
10 **PURPORTS TO INDEMNIFY, DEFEND, OR HOLD HARMLESS, OR HAS THE EFFECT**
11 **OF INDEMNIFYING, DEFENDING, OR HOLDING HARMLESS, THE PROMISEE**
12 **AGAINST LIABILITY FOR LOSS OR DAMAGE RESULTING FROM THE NEGLIGENCE**
13 **OR INTENTIONAL ACTS OR OMISSIONS OF THE PROMISEE IS AGAINST PUBLIC**
14 **POLICY AND IS VOID AND UNENFORCEABLE.**

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