

SENATE BILL 303

D3

71r1631

By: ~~Senator Forehand~~ **Senators Forehand and Middleton**

Introduced and read first time: January 31, 2007

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2007

CHAPTER _____

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)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Transportation**

4 11–134.2.

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

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

9 **Article – Courts and Judicial Proceedings**

10 5–401.

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

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

22 ~~(2)~~ (II) “MOTOR CARRIER” HAS THE MEANING STATED IN §
23 11–134.2 OF THE TRANSPORTATION ARTICLE.

24 ~~(3)~~ (III) 1. “MOTOR CARRIER TRANSPORTATION CONTRACT”
25 MEANS A CONTRACT, AGREEMENT, OR UNDERSTANDING CONCERNING:

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

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

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

4 2. “MOTOR CARRIER TRANSPORTATION CONTRACT”
5 DOES NOT INCLUDE:

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

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

13 ~~(4)~~ (IV) “PROMISEE” INCLUDES AN AGENT, EMPLOYEE,
14 SERVANT, OR INDEPENDENT CONTRACTOR WHO IS DIRECTLY RESPONSIBLE TO
15 THE PROMISEE, OTHER THAN A MOTOR CARRIER THAT IS A PARTY TO A MOTOR
16 CARRIER TRANSPORTATION CONTRACT WITH THE PROMISEE, AND AN AGENT,
17 EMPLOYEE, SERVANT, OR INDEPENDENT CONTRACTOR DIRECTLY RESPONSIBLE
18 TO THAT MOTOR CARRIER.

19 ~~(5)~~ (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
20 PROVISION, CLAUSE, COVENANT, OR AGREEMENT CONTAINED IN, COLLATERAL
21 TO, OR AFFECTING A MOTOR CARRIER TRANSPORTATION CONTRACT THAT
22 PURPORTS TO INDEMNIFY, DEFEND, OR HOLD HARMLESS, OR HAS THE EFFECT
23 OF INDEMNIFYING, DEFENDING, OR HOLDING HARMLESS, THE PROMISEE
24 AGAINST LIABILITY FOR LOSS OR DAMAGE RESULTING FROM THE NEGLIGENCE
25 OR INTENTIONAL ACTS OR OMISSIONS OF THE PROMISEE IS AGAINST PUBLIC
26 POLICY AND IS VOID AND UNENFORCEABLE.

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