

Indemnification Agreements and Motor Carrier Transportation Contracts

This Act voids contractual provisions in motor carrier transportation contracts that require the motor carrier to indemnify the shipper for the shipper's own negligent or intentional acts or omissions. The bill also prohibits motor carriers from forcing shippers to indemnify and hold the carriers harmless against their negligence. It exempts certain uniform intermodal (sea, land, rail, and air) access agreements to ensure uniformity in those agreements and the continuation of existing insurance policies within that industry.

Submitted as:

Alaska

[HB 366 \(Enrolled version\)](#)

Status: Enacted into law in 2010.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Address Indemnification
2 Agreements and Motor Carrier Transportation Contracts.”

3
4 Section 2. [*Indemnification Prohibited.*]

5 (A) A motor carrier and a shipping person may not, with regard to a transportation
6 services contract, agree that:

7 (1) the motor carrier will indemnify, defend, or hold the shipping person
8 harmless, or agree to a provision that has the effect of indemnifying, defending, or holding a
9 shipping person harmless, from claims or liability for the negligence, intentional acts, or
10 intentional omissions of the shipping person; or

11 (2) the shipping person will indemnify, defend, or hold the motor carrier
12 harmless, or agree to a provision that has the effect of indemnifying, defending, or holding a
13 motor carrier harmless, from claims or liability for the negligence, intentional acts, or intentional
14 omissions of the motor carrier.

15 (B) An agreement that violates (A) of this section is against public policy and is void and
16 unenforceable.

17 (C) This section does not apply to the Uniform Intermodal Interchange and Facilities
18 Access Agreement administered by the Intermodal Association of North America or to another
19 agreement that provides for the interchange, use, or possession of intermodal chassis, intermodal
20 containers, or other intermodal equipment.

21 (D) In this section:

22 (1) “motor carrier” means a person who is engaged in the transportation of
23 property for compensation by motor vehicle, and includes an agent, employee, servant, or
24 independent contractor of the motor carrier if the agent, employee, servant, or independent
25 contractor provides services in connection with the particular transportation services contract to
26 which (A) of this section is being applied;

27 (2) “motor vehicle” has the meaning given in [insert citation], except that the
28 motor vehicle must have a gross weight rating or gross combination weight rating that is greater
29 than [10,000] pounds;

30 (3) “shipping person” means a person who enters into a transportation services
31 contract to use the services of a motor carrier, and includes an agent, employee, servant, or
32 independent contractor of the shipping person if the agent, employee, servant, or independent
33 contractor provides services in connection with the particular transportation services contract to
34 which (A) of this section is being applied;

35 (4) “transportation services” means:

36 (a) the transportation of property;

37 (b) entry on property to load, unload, or transport property; or

38 (c) providing a service, including the packing or storage of property,
39 incidental to (A) or (B) of this paragraph.

40 (E) This Act does not apply to an agreement to indemnify, defend, or hold a shipping
41 person or a motor carrier harmless unless the agreement is entered into on or after the effective
42 date of this Act.

43

44 Section 3. [*Severability.*] [Insert severability clause.]

45

46 Section 4. [*Repealer.*] [Insert repealer clause.]

47

48 Section 5. [*Effective Date.*] [Insert effective date.]