

1 HB339
2 141619-3
3 By Representative Johnson (R)
4 RFD: Transportation, Utilities and Infrastructure
5 First Read: 16-FEB-12

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ENROLLED, An Act,

To make unenforceable certain contract provisions regarding motor vehicle transportation contracts that indemnify, defend, or hold harmless or which have the effect of indemnifying, defending, or holding harmless another party against certain losses or damages.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 37-3-23.1 is added to the Code of Alabama 1975, to read as follows:

(a) In this section, the following words shall have the following meanings:

(1) MOTOR CARRIER. The same meaning ascribed in subdivision (10) of Section 37-3-2, or any successor provision and includes an agent, employee, servant, or independent contractor of the motor carrier if the agent, employee, servant, or independent contractor provides services in connection with the particular motor vehicle transportation contract to which subsection (b) applies.

(2) MOTOR CARRIER TRANSPORTATION CONTRACT. A bill of lading, contract, agreement, or other understanding covering the following:

a. The transportation of property for compensation or hire by the motor carrier.

1 b. Entrance on property by the motor carrier for the
2 purpose of loading, unloading, or transporting property for
3 compensation or hire.

4 c. A service incidental to a. or b., including, but
5 not limited to, storage of property.

6 (3) MOTOR VEHICLE. A motor vehicle, as defined in
7 Section 32-1-1.1, having a gross weight or gross combination
8 weight of 10,000 pounds or more.

9 (4) SHIPPER. An entity that enters into a motor
10 carrier transportation contract to use the services of a motor
11 carrier and includes an agent, employee, servant, or
12 independent contractor of the shipper if the agent, employee,
13 servant, or independent contractor provides services in
14 connection with the particular motor vehicle transportation
15 contract to which subsection (b) applies.

16 (b) Notwithstanding any provision of law to the
17 contrary, a motor carrier and a shipper, in a motor carrier
18 transportation contract, may not agree to any provision,
19 clause, covenant, or agreement contained in, collateral to, or
20 affecting a motor carrier transportation contract that does
21 any of the following:

22 (1) Purports to indemnify, defend, or hold harmless,
23 or has the effect of indemnifying, defending, or holding
24 harmless, the shipper from or against any liability for loss
25 or damage resulting from the criminal acts of the shipper.

1 (2) Purports to indemnify, defend, or hold harmless,
2 or has the effect of indemnifying, defending, or holding
3 harmless, the shipper from or against any liability for loss
4 or damage resulting from the intentionally wrongful acts or
5 omissions of the shipper.

6 (3) Purports to indemnify, defend, or hold harmless,
7 or has the effect of indemnifying, defending, or holding
8 harmless, the shipper from or against any liability for loss
9 or damage resulting from the wantonness of the shipper.

10 (4) Purports to indemnify, defend, or hold harmless,
11 or has the effect of indemnifying, defending, or holding
12 harmless, the shipper from or against any liability for loss
13 or damage resulting solely from the negligence of the shipper.

14 (5) Purports to indemnify, defend, or hold harmless,
15 or has the effect of indemnifying, defending, or holding
16 harmless, the shipper from or against any liability for claims
17 of loss or damage resulting where: (i) the property in the
18 trailer is loaded and sealed by the shipper and the motor
19 carrier is not able to inspect the trailer, and (ii) the
20 manner in which the trailer is loaded and sealed is the
21 proximate cause of the loss or damage.

22 (6) Purports to indemnify, defend, or hold harmless,
23 or has the effect of indemnifying, defending, or holding
24 harmless, the motor carrier from or against any liabilities

1 for loss or damage resulting from the negligence or
2 intentional acts or omissions of the motor carrier.

3 (7) Purports to indemnify, defend, or hold harmless,
4 or has the effect of indemnifying, defending, or holding
5 harmless, the shipper where: (i) the property being
6 transported or the packaging of the property being transported
7 has a latent defect that the motor carrier is not able to
8 discover, and (ii) the latent defect is the proximate cause of
9 the loss or damage.

10 (c) If any part of a provision of a motor carrier
11 transportation contract violates this section then that part
12 only is void and unenforceable to the extent of the violation.
13 Nothing in this section affects any provision, clause,
14 covenant, or agreement contained in, collateral to, or
15 affecting a motor carrier transportation contract whereby
16 either: (i) a motor carrier indemnifies, defends, or holds
17 harmless a shipper against liability for loss or damage to the
18 extent the loss or damage did not result from the negligence,
19 wantonness, intentionally wrongful acts or omissions of the
20 shipper, or (ii) a motor carrier is required to maintain
21 policies of liability insurance and to include a shipper as an
22 additional insured on those policies, provided that the
23 policies are not workers' compensation policies.

24 (d) This section does not apply to the Uniform
25 Intermodal Interchange and Facilities Access Agreement

1 administered by the Intermodal Association of North America or
2 any other agreement providing for the interchange, use, or
3 possession of intermodal chassis, containers, or other
4 intermodal equipment.

5 Section 2. This act shall apply only to motor
6 carrier transportation contracts entered into after the
7 effective date of this act.

8 Section 3. This act shall become effective
9 immediately following its passage and approval by the
10 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 05-APR-12.

Greg Pappas
Clerk

Senate	24-APR-12	Amended and Passed
House	24-APR-12	Concurred in Senate Amendment