

1 HB339  
2 136005-1  
3 By Representative Johnson (R)  
4 RFD: Transportation, Utilities and Infrastructure  
5 First Read: 16-FEB-12

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8 SYNOPSIS: This bill would prohibit the enforcement in  
9 this state of any contract provision requiring a  
10 party to a motor vehicle transportation contract to  
11 indemnify, defend, or hold harmless or having the  
12 effect, of indemnifying, defending or holding  
13 harmless another party against loss or damage  
14 caused by the other party's own negligence,  
15 intentional acts, or omissions.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT

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21 To make unenforceable any contract provision  
22 requiring a party to a motor vehicle transportation contract  
23 to indemnify, defend, or hold harmless or having the effect of  
24 indemnifying, defending or holding harmless another party  
25 against loss or damage caused by the other party's own  
26 negligence, intentional acts, or omissions.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

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

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

17           b. Entrance on property by the motor carrier for the  
18 purpose of loading, unloading, or transporting property for  
19 compensation or hire.

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

22           (3) SHIPPER. An entity that enters into a motor  
23 carrier transportation contract to use the services of a motor  
24 carrier and includes an agent, employee, servant, or  
25 independent contractor of the shipper if the agent, employee,  
26 servant, or independent contractor provides services in

1 connection with the particular motor vehicle transportation  
2 contract to which subsection (b) applies.

3 (b) Notwithstanding any provision of law to the  
4 contrary, a motor carrier and a shipper, in a motor carrier  
5 transportation contract, may not agree to any provision,  
6 clause, covenant, or agreement contained in, collateral to, or  
7 affecting a motor carrier transportation contract that does  
8 either of the following:

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

14 (2) Purports to indemnify, defend, or hold harmless,  
15 or has the effect of indemnifying, defending, or holding  
16 harmless, the motor carrier from or against any liabilities  
17 for loss or damage resulting from the negligence or  
18 intentional acts or omissions of the motor carrier.

19 (c) An agreement that violates this section is  
20 against public policy and is void and unenforceable.

21 (d) This section does not apply to the Uniform  
22 Intermodal Interchange and Facilities Access Agreement  
23 administered by the Intermodal Association of North America or  
24 any other agreement providing for the interchange, use, or  
25 possession of intermodal chassis, containers, or other  
26 intermodal equipment.

1                   (e) The protections of this section extend to every  
2 bill of lading, contract, agreement, or other understanding  
3 made in this state or to be performed in whole or in part in  
4 this state notwithstanding any choice-of-law provision or  
5 provision of similar import therein.

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

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