

IC 8-2.1-26

Chapter 26. Invalidity of Indemnity Agreements in Motor Carrier Transportation Contracts

IC 8-2.1-26-1

Application of chapter

Sec. 1. This chapter applies to an indemnity provision entered into or renewed after June 30, 2006.

As added by P.L.31-2006, SEC.1.

IC 8-2.1-26-2

"Indemnity provision"

Sec. 2. As used in this chapter, "indemnity provision" means a provision, a clause, a covenant, or an agreement that:

- (1) is contained in, collateral to, or affecting a motor carrier transportation contract; and
- (2) purports to indemnify, defend, or hold harmless, or has the effect of indemnifying, defending, or holding harmless, a promisee against liability for loss or damage resulting from:
 - (A) negligence;
 - (B) intentional acts; or
 - (C) omissions;

of the promisee or an agent, employee, servant, or independent contractor that is directly responsible to the promisee.

As added by P.L.31-2006, SEC.1.

IC 8-2.1-26-3

"Motor carrier transportation contract"

Sec. 3. As used in this chapter, "motor carrier transportation contract" means a contract, an agreement, or an understanding covering:

- (1) the transportation of property for compensation or hire by a motor carrier as defined under this article or by 49 U.S.C. 13102(12);
- (2) the entrance on real property by a motor carrier to:
 - (A) load;
 - (B) unload; or
 - (C) transport property for compensation or hire; or
- (3) a service incidental to an activity described in subdivision (1) or (2), including storage of property.

As added by P.L.31-2006, SEC.1.

IC 8-2.1-26-4

"Promisee"

Sec. 4. As used in this chapter, "promisee" means a person that an indemnity provision:

- (1) purports to indemnify, defend, or hold harmless; or
- (2) has the effect of indemnifying, defending, or holding harmless.

As added by P.L.31-2006, SEC.1.

IC 8-2.1-26-5

Indemnity provisions; exceptions; enforcement

Sec. 5. (a) This section does not apply to any of the following:

(1) An indemnity provision in which a motor carrier indemnifies a promisee for and only to the extent of loss or damage that results directly from the negligence, omission, or intentional act of the motor carrier or an agent, employee, servant, or independent contractor that is directly responsible to the motor carrier.

(2) An indemnity provision contained in, collateral to, or affecting a motor carrier transportation contract with a regulated public utility, including an energy utility (as defined in IC 8-1-2.5-2) or an affiliate of an energy utility, if the contract relates to a utility product, service, or business operation. For purposes of this subdivision, a contract relates to a utility product, service, or business operation if it involves an activity necessary for or ancillary to the production or delivery of heat, power and light, or a product or service under the jurisdiction of the Indiana utility regulatory commission (as described by IC 8-1-1).

(3) The Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America.

(b) Notwithstanding any other law, an indemnity provision under this chapter is:

(1) against public policy; and

(2) void and unenforceable.

As added by P.L.31-2006, SEC.1.