

CS FOR HOUSE BILL NO. 366(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/22/10

Referred: Rules

Sponsor(s): REPRESENTATIVES JOHNSON, Gruenberg

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to indemnification agreements that relate to motor carrier**
2 **transportation contracts."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 45.45 is amended by adding a new section to read:

5 **Sec. 45.45.905. Indemnification prohibited.** (a) A motor carrier and a
6 shipping person may not, with regard to a transportation services contract, agree that

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

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

1 (b) An agreement that violates (a) of this section is against public policy and is
2 void and unenforceable.

3 (c) This section does not apply to the Uniform Intermodal Interchange and
4 Facilities Access Agreement administered by the Intermodal Association of North
5 America or to another agreement that provides for the interchange, use, or possession
6 of intermodal chassis, intermodal containers, or other intermodal equipment.

7 (d) In this section,

8 (1) "motor carrier" means a person who is engaged in the
9 transportation of property for compensation by motor vehicle, and includes an agent,
10 employee, servant, or independent contractor of the motor carrier if the agent,
11 employee, servant, or independent contractor provides services in connection with the
12 particular transportation services contract to which (a) of this section is being applied;

13 (2) "motor vehicle" has the meaning given in AS 28.90.990, except
14 that the motor vehicle must have a gross weight rating or gross combination weight
15 rating that is greater than 10,000 pounds;

16 (3) "shipping person" means a person who enters into a transportation
17 services contract to use the services of a motor carrier, and includes an agent,
18 employee, servant, or independent contractor of the shipping person if the agent,
19 employee, servant, or independent contractor provides services in connection with the
20 particular transportation services contract to which (a) of this section is being applied;

21 (4) "transportation services" means

22 (A) the transportation of property;

23 (B) entry on property to load, unload, or transport property; or

24 (C) providing a service, including the packing or storage of
25 property, incidental to (A) or (B) of this paragraph.

26 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 **APPLICABILITY.** This Act does not apply to an agreement to indemnify, defend, or
29 hold a shipping person or a motor carrier harmless unless the agreement is entered into on or
30 after the effective date of this Act. In this section, "shipping person" and "motor carrier" have
31 the meanings given in AS 45.45.905.