

Regular Session, 2014

SENATE BILL NO. 518

BY SENATOR MARTINY

COMMERCIAL REGULATIONS. Provides relative to indemnification of motor carrier transportation contracts and construction contracts. (8/1/14)

1 AN ACT

2 To enact R.S. 9:2780.1(J), relative to motor carrier transportation contracts and construction  
3 contracts; to provide relative to certain provisions of motor carrier transportation  
4 contracts and construction contracts concerning indemnification; to provide relative  
5 to the effect of such provisions; to provide for certain claims as frivolous; to provide  
6 for attorney fees, court costs, and other reasonable costs; to provide for terms and  
7 conditions; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 9:2780.1(J) is hereby enacted to read as follows:

10 §2780.1. Certain contract provisions invalid; motor carrier transportation contracts;  
11 construction contracts

12 \* \* \*

13 **J. A claim or defense that an indemnity provision, covenant, or clause**  
14 **is null, void, and unenforceable under the provisions of this Section, if contested,**  
15 **shall be decided by the court prior to the trial of the case, and the prevailing**  
16 **party shall be entitled to attorney fees and costs incurred in connection with**  
17 **such determination. Any claim for indemnity based upon a provision, covenant,**

- 1            **or clause that is null, void, and unenforceable under the provisions of this**  
2            **Section shall be deemed frivolous.**

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The original instrument was prepared by Michelle Ducharme. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cathy R. Wells.

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#### DIGEST

Martiny (SB 518)

Present law provides that certain provisions in motor carrier transportation contracts that are against the public policy of this state and are null, void, and unenforceable.

Proposed law retains the provisions of present law and adds that any claim or defense that an indemnity provision, covenant, or clause is null, void, and unenforceable under the provisions of present law, if contested, shall be decided by the court prior to the trial of the case, and the prevailing party is entitled to attorney fees and costs incurred in connection with such determination.

Proposed law provides that any claim for indemnity based upon a provision, covenant, or clause that is null, void, and unenforceable under the provisions of present law shall be deemed frivolous.

Effective August 1, 2014.

(Adds R.S. 9:2780.1(J))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Removes provisions relative to the Unfair Trade Practice and Consumer Protection Law.
2. Adds that any claim for indemnity based upon a provision, covenant, or clause that is null, void, and unenforceable shall be deemed frivolous and shall subject the claimant to attorney fees, court costs, and reasonable costs incurred in the dismissal of the indemnity claim.
3. Makes technical changes.

##### Senate Floor Amendments to engrossed bill

1. Changes provisions of proposed law so that any claim or defense that an indemnity provision, covenant, or clause is null, void, and unenforceable shall be decided by the court prior to the trial of the case, and the prevailing party is entitled to attorney fees and costs incurred in connection with such determination.