

1.1 A bill for an act

1.2 relating to transportation; regulating contracts; prohibiting indemnification
1.3 provisions; proposing coding for new law in Minnesota Statutes, chapter 221.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. **[221.87] INDEMNITY PROVISION IN MOTOR CARRIER**
1.6 **TRANSPORTATION CONTRACTS.**

1.7 Subdivision 1. **Void.** Notwithstanding any provision of law to the contrary, a
1.8 provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor
1.9 carrier transportation contract that purports to indemnify, defend, or hold harmless, or
1.10 has the effect of indemnifying, defending, or holding harmless, the promisee from or
1.11 against any liability for loss or damage resulting from the negligence or intentional acts
1.12 or omissions of the promisee is against the public policy of this state and is void and
1.13 unenforceable. This subdivision is limited to the extent provided in subdivision 2.

1.14 Subd. 2. **Agreements to insure.** (a) Subdivision 1 does not affect the validity
1.15 of agreements whereby a promisor agrees to provide specific insurance coverage for
1.16 the benefit of others.

1.17 (b) If:

1.18 (1) a promisor agrees to provide specific types and limits of insurance; and

1.19 (2) a claim arises within the scope of the specified insurance; and

1.20 (3) the promisor did not obtain and keep in force the specified insurance;

1.21 then, as to that claim and regardless of subdivision 1, the promisee shall have
1.22 indemnification from the promisor to the same extent as the specified insurance.

1.23 (c) The indemnification stated in paragraph (b) is not available if:

1.24 (1) the specified insurance was not reasonably available in the market; and

2.1 (2) the promisor so informed the other party to the agreement to insure before
2.2 signing the agreement, or signed the agreement subject to a written exception as to the
2.3 nonavailable insurance.

2.4 (d) If:

2.5 (1) a promisor agrees to provide specific types and limits of insurance; and

2.6 (2) a claim arises within the scope of the specified insurance; and

2.7 (3) the insurance provided by the promisor includes a self-insured retention or a
2.8 deductible amount;

2.9 then, as to that claim and regardless of subdivision 1, the promisee shall have
2.10 indemnification from the promisor to the full extent of the deductible amount or
2.11 self-insured retention.

2.12 (e) A promisor's obligation to provide specified insurance is not waived by either
2.13 or both of the following:

2.14 (1) a promisee's failure to require or insist upon certificates or other evidence
2.15 of insurance;

2.16 (2) a promisee's acceptance of a certificate or other evidence of insurance that shows
2.17 a variance from the specified coverage.

2.18 Subd. 3. **Definitions.** For the purposes of this section:

2.19 (1) "motor carrier transportation contract" means a contract, agreement, or
2.20 understanding covering:

2.21 (i) the transportation of property for compensation or hire by the motor carrier;

2.22 (ii) entrance on property by a motor carrier or a private carrier for the purpose of
2.23 loading, unloading, or transporting property; or

2.24 (iii) a service incidental to activity described in item (i) or (ii), including, but not
2.25 limited to, storage of property; and

2.26 (2) "promisee" means the promisee and any agents, employees, servants, or
2.27 independent contractors who are directly responsible to the promisee except for motor
2.28 carriers party to a motor carrier transportation contract with promisee, and such motor
2.29 carrier's agents, employees, servants, or independent contractors directly responsible
2.30 to the motor carrier.

2.31 Subd. 4. **Exclusion.** "Motor carrier transportation contract," as defined in this
2.32 section, shall not include the Uniform Intermodal Interchange and Facilities Access
2.33 Agreement administered by the Intermodal Association of North America or other
2.34 agreements providing for the interchange, use or possession of intermodal chassis,
2.35 containers, or other intermodal equipment.

3.1 Sec. 2. **EFFECTIVE DATE; APPLICATION.**

3.2 Section 1 is effective the day following final enactment and applies to existing
3.3 contracts on that date and contracts entered into or renewed on or after that date.