

VIRGINIA ACTS OF ASSEMBLY -- 2006 SESSION

CHAPTER 423

An Act to amend the Code of Virginia by adding a section numbered 11-4.5, relating to the validity of indemnification provisions in motor carrier transportation contracts.

[H 701]

Approved March 31, 2006

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 11-4.5, as follows:

§ 11-4.5. Certain indemnification provisions in motor carrier transportation contracts declared void.

A. As used in this section:

"Motor carrier transportation contract" means a contract, agreement, or understanding covering:

- 1. The transportation of property for compensation or hire by the motor carrier;*
- 2. The entrance on property by the motor carrier for the purpose of loading, unloading, or transporting property for compensation or for hire; or*
- 3. A service incidental to activity described in subdivision 1 or 2 including, but not limited to, storage of property.*

For the purposes of this section, the term "motor carrier transportation contract" shall not include the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America, as that agreement may be amended by the Intermodal Interchange Executive Committee, or other agreements providing for the interchange, use or possession of intermodal chassis, containers or other intermodal equipment.

B. A provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, or hold harmless, or has the effect of indemnifying, or holding harmless, either party from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of other party, or any agents, employees, servants, or independent contractors who are directly responsible to the other party, is against the public policy and is void and unenforceable.

C. Nothing contained in this section affects a provision, clause, covenant, or agreement where the motor carrier indemnifies or holds harmless the other party against liability for damages to the extent that the damages were caused by and resulting from the negligence of the motor carrier, its agents, employees, servants, or independent contractors who, in whole or in part are directly responsible to the motor carrier.