



Reprinted
April 7, 2005

ENGROSSED HOUSE BILL No. 1230

DIGEST OF HB 1230 (Updated April 6, 2005 6:13 pm - DI 96)

Citations Affected: IC 8-2.1.

Synopsis: Indemnity agreements in motor carrier contracts. Provides that certain indemnity agreements in a motor carrier transportation contract are against public policy and are void and unenforceable.

Effective: July 1, 2005.

Friend, Stilwell, Davis, Buck

(SENATE SPONSORS — SERVER, LEWIS, CLARK, LANANE, SIMPSON)

January 6, 2005, read first time and referred to Committee on Roads and Transportation.
January 24, 2005, reported — Do Pass.
February 3, 2005, read second time, amended, ordered engrossed.
February 4, 2005, engrossed.
February 7, 2005, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 14, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
March 31, 2005, amended, reported favorably — Do Pass.
April 6, 2005, read second time, amended, ordered engrossed.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1230

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-2.1-26 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2005]:

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

6 **Sec. 1. As used in this chapter, "motor carrier transportation**
7 **contract" means a contract, an agreement, or an understanding**
8 **covering:**

9 (1) **the transportation of property for compensation or hire by**
10 **a motor carrier as defined under this article or by 49 U.S.C.**
11 **13102(12);**

12 (2) **the entrance on real property by a motor carrier to:**

13 (A) **load;**

14 (B) **unload; or**

15 (C) **transport property for compensation or hire; or**

16 (3) **a service incidental to an activity described in subdivision**
17 **(1) or (2), including storage of property.**

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1 **Sec. 2. As used in this chapter, "promisee" means a person to**
2 **whom a promise is made or an agent, a servant, or an independent**
3 **contractor who is directly responsible to the promisee. The term**
4 **does not include:**

- 5 **(1) a motor carrier that is a party to a motor carrier**
- 6 **transportation contract with a promisee or an agent, an**
- 7 **employee, a servant, or an independent contractor directly**
- 8 **responsible to the motor carrier;**
- 9 **(2) a person that operates a facility that transfers intermodal**
- 10 **freight between a railroad and a motor carrier;**
- 11 **(3) a person (including an agent or a subcontractor acting on**
- 12 **behalf of the person) principally engaged in the business of**
- 13 **transporting intermodal freight containers or other**
- 14 **intermodal equipment used or to be used as part of an**
- 15 **intermodal movement; or**
- 16 **(4) a person that is an energy utility (as defined in**
- 17 **IC 8-1-2.5-2).**

18 **Sec. 3. (a) This section does not apply to a contract provision in**
19 **which a motor carrier indemnifies a promisee when and only to the**
20 **extent of loss or damage that results directly from the negligence,**
21 **omission, or intentional act of the motor carrier or the agent,**
22 **employee, servant, or independent contractor that is directly**
23 **responsible to the motor carrier.**

24 **(b) Notwithstanding any other law, a provision, a clause, a**
25 **covenant, or an agreement contained in, collateral to, or affecting**
26 **a motor carrier transportation contract that purports to**
27 **indemnify, defend, or hold harmless, or has the effect of**
28 **indemnifying, defending, or holding harmless, the promisee against**
29 **liability for loss or damage resulting from:**

- 30 **(1) negligence;**
- 31 **(2) intentional acts; or**
- 32 **(3) omissions;**

33 **of the promisee is against public policy and is void and**
34 **unenforceable.**

35 **Sec. 4. This chapter applies to a motor carrier transportation**
36 **contract entered into or renewed after June 30, 2005.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1230, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DUNCAN, Chair

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1230 be amended to read as follows:

Page 1, line 10, delete "carrier;" and insert "**carrier as defined under this article or by 49 U.S.C. 13102(12);**".

Page 1, line 17, after "person" insert "**, other than a person that operates a railroad intermodal facility,**".

Page 2, line 17, delete "unenforceable." and insert "**unenforceable, except when and only to the extent that the loss or damage results directly from the negligence, intentional acts, or omissions of the motor carrier or agents, employees, servants, or independent contractors directly responsible to the motor carrier.**".

(Reference is to HB 1230 as printed January 25, 2005.)

FRIEND

SENATE MOTION

Madam President: I move that Senators Lanane and Simpson be added as cosponsors of Engrossed House Bill 1230.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1230, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 5, after "include" insert ":

(1)".

Page 2, line 8, delete "." and insert ";

(2) a person that operates a facility that transfers intermodal freight between a railroad and a motor carrier;

(3) a person (including an agent or a subcontractor acting on behalf of the person) principally engaged in the business of transporting intermodal freight containers or other intermodal equipment used or to be used as part of an intermodal movement; or

(4) a person that is an energy utility (as defined in IC 8-1-2.5-2)."

Page 2, line 9, after "Sec. 3." insert "**(a) This section does not apply to a contract provision in which a motor carrier indemnifies a promisee only for loss or damage that results directly from the negligence, omission, or intentional act of the motor carrier or the agent, employee, servant, or independent contractor that is directly responsible to the motor carrier.**

(b)".

and when so amended that said bill do pass.

(Reference is to HB 1230 as reprinted February 4, 2005.)

LONG, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1230 be amended to read as follows:

Page 2, line 1, delete "person," and insert "**person**".

Page 2, line 2, delete "other than a person that operates a railroad intermodal facility,".

Page 2, line 20, delete "only for" and insert "**when and only to the extent of**".

Page 2, line 35, delete ", except when and only to the extent that the loss or" and insert ".".

Page 2, delete lines 36 through 38.

(Reference is to EHB 1230 as printed April 1, 2005.)

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