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# HOUSE BILL No. 1214

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-2.1-26.

**Synopsis:** Indemnity agreements in motor carrier contracts. Provides that certain indemnity provisions contained in, collateral to, or affecting a motor carrier transportation contract are against public policy and are void and unenforceable.

**Effective:** July 1, 2006.

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**Davis, Stilwell**

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January 10, 2006, read first time and referred to Committee on Roads and Transportation.

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Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

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**HOUSE BILL No. 1214**



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, 2006]:
- 4 **Chapter 26. Invalidity of Indemnity Agreements in Motor**
- 5 **Carrier Transportation Contracts**
- 6 **Sec. 1. This chapter applies to an indemnity provision entered**
- 7 **into or renewed after June 30, 2006.**
- 8 **Sec. 2. As used in this chapter, "indemnity provision" means a**
- 9 **provision, a clause, a covenant, or an agreement that:**
- 10 **(1) is contained in, collateral to, or affecting a motor carrier**
- 11 **transportation contract; and**
- 12 **(2) purports to indemnify, defend, or hold harmless, or has the**
- 13 **effect of indemnifying, defending, or holding harmless, a**
- 14 **promisee against liability for loss or damage resulting from:**
- 15 **(A) negligence;**
- 16 **(B) intentional acts; or**
- 17 **(C) omissions;**



1 of the promisee or an agent, employee, servant, or  
2 independent contractor that is directly responsible to the  
3 promisee.

4 Sec. 3. As used in this chapter, "motor carrier transportation  
5 contract" means a contract, an agreement, or an understanding  
6 covering:

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

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

11 (A) load;

12 (B) unload; or

13 (C) transport property for compensation or hire; or

14 (3) a service incidental to an activity described in subdivision

15 (1) or (2), including storage of property.

16 Sec. 4. As used in this chapter, "promisee" means a person that  
17 an indemnity provision:

18 (1) purports to indemnify, defend, or hold harmless; or

19 (2) has the effect of indemnifying, defending, or holding  
20 harmless.

21 Sec. 5. (a) This section does not apply to any of the following:

22 (1) An indemnity provision in which a motor carrier  
23 indemnifies a promisee for and only to the extent of loss or  
24 damage that results directly from the negligence, omission, or  
25 intentional act of the motor carrier or an agent, employee,  
26 servant, or independent contractor that is directly responsible  
27 to the motor carrier.

28 (2) An indemnity provision contained in, collateral to, or  
29 affecting a motor carrier transportation contract with a  
30 utility (as defined in IC 8-1-1.1-1), if the contract relates to a  
31 product or service under the jurisdiction of the Indiana utility  
32 regulatory commission.

33 (3) The Uniform Intermodal Interchange and Facilities Access  
34 Agreement administered by the Intermodal Association of  
35 North America.

36 (b) Notwithstanding any other law, an indemnity provision  
37 under this chapter is:

38 (1) against public policy; and

39 (2) void and unenforceable.

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