

SENATE BILL NO. 158—SENATORS SETTELMAYER,
GUSTAVSON; HARDY AND MANENDO

FEBRUARY 18, 2013

JOINT SPONSORS: ASSEMBLYMEN PAUL ANDERSON,
HAMBRICK, HARDY, HOGAN AND KIRNER

Referred to Committee on Transportation

SUMMARY—Revises provisions relating to motor carriers.
(BDR 58-466)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to motor carriers; providing that certain agreements entered into in connection with a contract concerning motor carrier transportation are against public policy, void and unenforceable under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill provides, with certain exceptions, that an agreement
2 entered into in connection with a contract concerning motor carrier transportation is
3 against public policy, void and unenforceable to the extent that it requires one party
4 to the agreement to indemnify, defend or hold harmless another party against
5 liability for loss or damage resulting from the negligent or intentional acts or
6 omissions of the latter party and any agent, employee or independent contractor
7 who is directly responsible to the latter party. That provision does not apply to a
8 contract concerning motor carrier transportation if the party to be indemnified,
9 defended or held harmless is a motor carrier. In addition, that provision does not
10 apply to an agreement that provides for the interchange, use or possession of certain
11 intermodal equipment, such as freight containers that are transported sequentially
12 by truck and rail.



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 706 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section and notwithstanding any other provision of law, a provision, clause, covenant or other agreement contained in, collateral to or affecting a contract concerning motor carrier transportation that purports to indemnify, defend or hold harmless, or has the effect of indemnifying, defending or holding harmless, a promisee from or against any liability for loss or damage resulting from the negligent or intentional acts or omissions of the promisee is against the public policy of this State and is void and unenforceable.

2. This section does not apply to agreements, including, without limitation, the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America, providing for the interchange, use or possession of intermodal chassis or other intermodal equipment.

3. As used in this section:

(a) "Contract concerning motor carrier transportation" means a contract, agreement or understanding covering:

(1) The transportation of property for compensation or hire by a motor carrier;

(2) The entrance onto property by a motor carrier for the purpose of loading, unloading or transporting property for compensation or hire; or

(3) A service incidental to the activity described in subparagraph (1) or (2), including, without limitation, storage of property.

(b) "Promisee" means a party to a contract concerning motor carrier transportation with a promisor and any agent, employee or independent contractor of the promisee, or of any other person, who is directly responsible to the promisee. The term does not include a motor carrier that is a party to a contract concerning motor carrier transportation with a promisee and any agent, employee or independent contractor of the motor carrier who is directly responsible to the motor carrier.

Sec. 2. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.



Sec. 3. NRS 706.158 is hereby amended to read as follows:

706.158 The provisions of NRS 706.011 to 706.791, inclusive, *and section 1 of this act* relating to brokers do not apply to any person whom the Authority determines is:

1. A motor club which holds a valid certificate of authority issued by the Commissioner of Insurance;

2. A bona fide charitable organization, such as a nonprofit corporation or a society, organization or association for educational, religious, scientific or charitable purposes; or

3. A broker of transportation services provided by an entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421.

Sec. 4. NRS 706.163 is hereby amended to read as follows:

706.163 The provisions of NRS 706.011 to 706.861, inclusive, *and section 1 of this act* do not apply to vehicles leased to or owned by:

1. The Federal Government or any instrumentality thereof.

2. Any state or a political subdivision thereof.

Sec. 5. NRS 706.736 is hereby amended to read as follows:

706.736 1. Except as otherwise provided in subsection 2, the provisions of NRS 706.011 to 706.791, inclusive, *and section 1 of this act* do not apply to:

(a) The transportation by a contractor licensed by the State Contractors' Board of the contractor's own equipment in the contractor's own vehicles from job to job.

(b) Any person engaged in transporting the person's own personal effects in the person's own vehicle, but the provisions of this subsection do not apply to any person engaged in transportation by vehicle of property sold or to be sold, or used by the person in the furtherance of any commercial enterprise other than as provided in paragraph (d), or to the carriage of any property for compensation.

(c) Special mobile equipment.

(d) The vehicle of any person, when that vehicle is being used in the production of motion pictures, including films to be shown in theaters and on television, industrial training and educational films, commercials for television and video discs and tapes.

(e) A private motor carrier of property which is used for any convention, show, exhibition, sporting event, carnival, circus or organized recreational activity.

(f) A private motor carrier of property which is used to attend livestock shows and sales.

(g) The transportation by a private school of persons or property in connection with the operation of the school or related school activities, so long as the vehicle that is used to transport the persons



1 or property does not have a gross vehicle weight rating of 26,001
2 pounds or more and is not registered pursuant to NRS 706.801 to
3 706.861, inclusive.

4 2. Unless exempted by a specific state statute or a specific
5 federal statute, regulation or rule, any person referred to in
6 subsection 1 is subject to:

7 (a) The provisions of paragraph (d) of subsection 1 of NRS
8 706.171 and NRS 706.235 to 706.256, inclusive, 706.281, 706.457
9 and 706.458.

10 (b) All rules and regulations adopted by reference pursuant to
11 paragraph (b) of subsection 1 of NRS 706.171 concerning the safety
12 of drivers and vehicles.

13 (c) All standards adopted by regulation pursuant to
14 NRS 706.173.

15 3. The provisions of NRS 706.311 to 706.453, inclusive,
16 706.471, 706.473, 706.475 and 706.6411 which authorize the
17 Authority to issue:

18 (a) Except as otherwise provided in paragraph (b), certificates of
19 public convenience and necessity and contract carriers' permits and
20 to regulate rates, routes and services apply only to fully regulated
21 carriers.

22 (b) Certificates of public convenience and necessity to operators
23 of tow cars and to regulate rates for towing services performed
24 without the prior consent of the owner of the vehicle or the person
25 authorized by the owner to operate the vehicle apply to operators of
26 tow cars.

27 4. Any person who operates pursuant to a claim of an
28 exemption provided by this section but who is found to be operating
29 in a manner not covered by any of those exemptions immediately
30 becomes liable, in addition to any other penalties provided in this
31 chapter, for the fee appropriate to the person's actual operation as
32 prescribed in this chapter, computed from the date when that
33 operation began.

34 5. As used in this section, "private school" means a nonprofit
35 private elementary or secondary educational institution that is
36 licensed in this State.

37 **Sec. 6.** This act does not apply to a contract concerning motor
38 carrier transportation, as defined in section 1 of this act, entered into
39 before October 1, 2013.

