

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

**Introduced by Senators Marleau, Emmons, Kowall, Casperson, Jones, Brandenburg, Hansen, Pavlov and
Nofs**

ENROLLED SENATE BILL No. 873

AN ACT to amend 1933 PA 254, entitled "An act to promote safety upon and conserve the use of public highways of the state; to provide for the supervision, regulation, and control of the use of such highways by all motor vehicles operated by carriers of property for hire upon or over such highways; to preserve, foster, and regulate transportation and permit the coordination of motor vehicle transportation facilities; to provide for the supervision, regulation, and control of the use of such highways by all motor vehicles for hire for such purposes; to classify and regulate carriers of property by motor vehicles for hire upon such public highways for such purposes; to give the Michigan Public Service Commission jurisdiction and authority to prevent evasion of this act through any device or arrangement; to insure adequate transportation service; to give the commission jurisdiction and authority to fix, alter, regulate, and determine rates, fares, charges, classifications, and practices of common motor carriers for such purposes; to give the commission jurisdiction and authority to require registration, conduct audits, and assess fees for motor carriers for unified carrier registration; to require filing with the commission of rates, fares, and charges of contract carriers and to authorize the commission to prescribe minimum rates, fares, and charges, and to require the observance thereof; to prevent unjust discrimination; to prescribe the powers and duties of said commission with reference thereto; to provide for appeals from the orders of such commission; to confer jurisdiction upon the circuit court for the county of Ingham for such appeals; to provide for the levy and collection of certain privilege fees and taxes for such carriers for such purposes and the disposition of such fees and taxes; and to provide for the enforcement of this act; and to prescribe penalties for its violations," (MCL 475.1 to 479.43) by adding section 21 to article V.

The People of the State of Michigan enact:

ARTICLE V

Sec. 21. (1) A provision, clause, covenant, or agreement contained in, collateral to, or affecting a motor carrier transportation contract that purports to indemnify, defend, or hold harmless, or has the effect of indemnifying, defending, or holding harmless, the promisee from or against any liability for loss or damage resulting from the negligence 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 the uniform intermodal interchange and facilities access agreement administered by the intermodal association of North America or other agreements providing for the interchange, use, or possession of intermodal chassis or other intermodal equipment.

(3) As used in this section:

- (a) "Motor carrier transportation contract" means a contract, agreement, or understanding for any of the following:
 - (i) The transportation of property for compensation or hire by a motor carrier.

(ii) Entrance on property by a motor carrier for the purpose of loading, unloading, or transporting property for compensation or hire.

(iii) A service incidental to activity described in subparagraphs (i) and (ii), including, but not limited to, the storage of property.

(b) "Promisee" means a party to a motor carrier transportation contract who is not a motor carrier or, if the promisee is a motor carrier, a party to a motor carrier transportation contract who is not transporting property for compensation or hire. Promisee includes agents, employees, servants, and independent contractors who are directly responsible to the promisee.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor