

2011 DRAFTING REQUEST

Bill

Received: 02/07/2011

Received By: agary

Wanted: As time permits

Companion to LRB:

For: Mary Lazich (608) 266-5400

By/Representing: Andrew

May Contact:

Drafter: agary

Subject: Transportation - motor vehicles
Transportation - other

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Lazich@legis.wisconsin.gov

Carbon copy (CC:) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Motor carrier indemnification agreements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 02/08/2011	jdye 02/08/2011		_____			
/1			rschluet 02/08/2011	_____	sbasford 02/08/2011	mbarman 03/16/2011	

FE Sent For: *none*

<END>

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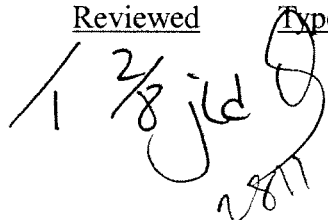
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/?	agary	1 2/8 jld		_____	_____		

FE Sent For:

<END>

Gary, Aaron

From: Hanus, Andrew
Sent: Monday, February 07, 2011 2:39 PM
To: Gary, Aaron
Subject: RE: Companion to LRB-0427

Hi Aaron,

Yes, go ahead and enter the request.

Thanks,

Andrew

From: Gary, Aaron
Sent: Monday, February 07, 2011 2:30 PM
To: Hanus, Andrew
Cc: OBrien, Kyle
Subject: Companion to LRB-0427

Hi Andrew,

I understand that Sen. Lazich would like a senate companion bill to Rep. Nygren's LRB-0427. Can I go ahead and enter that request for Sen. Lazich? Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

2/7/2011



State of Wisconsin
2011 - 2012 LEGISLATURE

5000

in
2/9



LRB-06274-1353/1
ARG:jld:ph

stays
RMNL

2011 BILL

Comparison - no changes

Regen

1 AN ACT *to create* 194.53 of the statutes; **relating to:** agreements relating to
2 motor carrier liability.

Analysis by the Legislative Reference Bureau

Under current law, a party shipping goods with a motor carrier and the motor carrier are generally free to agree to the terms under which the motor carrier will transport the goods and provide related shipping services. Where certain shipping documents are used, the law includes certain presumptions but these presumptions may generally be varied by agreement.

This bill prohibits, and renders void and unenforceable, any provision of a motor carrier transportation contract, or covenant or agreement collateral to or affecting a motor carrier transportation contract, from indemnifying, holding harmless, or requiring the motor carrier to provide a defense to the "promisee" or its employees or affiliates from or against any liability for loss or damage resulting from the negligence or intentional acts or omissions of the promisee or its employees or affiliates. Under the bill, a "promisee" is a person, including an individual or a business entity, that enters into a motor carrier transportation contract with a motor carrier (typically the shipper of goods). An "affiliate" of the promisee includes agents of the promisee and independent contractors directly responsible to the promisee. A "motor carrier transportation contract" means any agreement, regardless of whether it is written, oral, express, or implied, between a motor carrier and a promisee covering the transportation of property for hire by the motor carrier; the motor carrier's entrance on property for the purpose of loading, unloading, or

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transporting property for hire; or any service of the motor carrier incidental to either of these activities, including the storage of property.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 194.53^x of the statutes is created to read:

2 **194.53 Certain liability provisions in motor carrier transportation**
3 **contracts prohibited. (1)** In this section:

4 (a) “Affiliate” of a promisee means any agent of the promisee or any
5 independent contractor that is directly responsible to the promisee, but excludes a
6 motor carrier that is a party to a motor carrier transportation contract with the
7 promisee, any employee or agent of such a motor carrier, or any independent
8 contractor directly responsible to such a motor carrier.

9 (b) “Motor carrier” means a common motor carrier or contract motor carrier.

10 (c) “Motor carrier transportation contract” means any agreement, regardless
11 of whether it is written, oral, express, or implied, between a motor carrier and a
12 promisee covering any of the following:

13 1. The transportation of property for hire by the motor carrier.

14 2. The motor carrier’s entrance on property for the purpose of loading,
15 unloading, or transporting property for hire.

16 3. Any service of the motor carrier incidental to any activity under subd. 1. or
17 2., including the storage of property.

18 (d) “Promisee” means any person that enters into a motor carrier
19 transportation contract with a motor carrier.

20 **(2)** (a) Notwithstanding s. 401.302, ch. 407, and any other provision of law, no
21 provision of a motor carrier transportation contract, and no covenant or agreement

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1 collateral to or affecting a motor carrier transportation contract, may indemnify, hold
2 harmless, or require the motor carrier to provide a defense to the promisee or any
3 employee or affiliate of the promisee, or have the effect of indemnifying, holding
4 harmless, or requiring the provision of a defense, from or against any liability for loss
5 or damage resulting from the negligence or intentional acts or omissions of the
6 promisee or any employee or affiliate of the promisee.

7 (b) Any provision, covenant, or agreement in violation of par. (a) is void and
8 unenforceable.

SECTION 2. Initial applicability.

9
10 (1) This act first applies to contracts that are entered into on the effective date
11 of this subsection.

12 (END)

Parisi, Lori

From: Sen.Lazich
Sent: Wednesday, March 16, 2011 9:35 AM
To: LRB.Legal
Subject: Draft Review: LRB 11-1353/1 Topic: Motor carrier indemnification agreements

Please Jacket LRB 11-1353/1 for the SENATE.