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## Judiciary Committee

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### SSB 6674

**Title:** An act relating to agreements to indemnify against liability for negligence involving motor carriers.

**Brief Description:** Regulating indemnification agreements involving motor carrier transportation contracts.

**Sponsors:** Senate Committee on Judiciary (originally sponsored by Senators Kline, McCaslin and Hargrove).

<p style="text-align: center;"><b>Brief Summary of Substitute Bill</b></p> <ul style="list-style-type: none"><li>• Adds "motor carrier transportation contracts" to the type of contracts for which indemnification is enforceable only to the extent of the indemnitor's negligence.</li></ul>
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**Hearing Date:** 2/17/10

**Staff:** Brian Kilgore (786-7119) and Courtney Barnes (786-7194).

**Background:**

Indemnity provisions in contracts require one party (the indemnitor) to pay the other party (the indemnitee) for any losses the indemnitee may suffer during performance of a contract.

Currently, the law limits the enforcement of indemnification clauses in contracts relating to construction, maintenance, or other work on any structure, project, development, or improvement attached to real estate. In these contracts, a clause that indemnifies against liability for damages caused by or resulting from the sole negligence of the indemnitee is void. A clause that indemnifies against liability for damages caused by or resulting from the concurrent negligence of the indemnitee and indemnitor is enforceable only to the extent the indemnitor is negligent and only if specifically and expressly provided for in the agreement.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Intermodal shipping involves the transportation of freight in a container that may be transferred between multiple modes of transportation (rail, ship, and truck) without unpacking the freight when changing modes.

**Summary of Bill:**

"Motor carrier transportation contracts" are added to the type of contracts for which indemnification is enforceable only to the extent of the indemnitor's negligence.

A "motor carrier transportation contract" is defined as a contract, agreement, or understanding, for compensation or hire, covering:

- (a) the transportation of property by a motor carrier;
- (b) the entrance on property by a motor carrier for the purpose of loading, unloading, or transporting property; or
- (c) a service incidental to either (a) or (b), including, but not limited to, storage of property, moving equipment or trailers, loading or unloading, or monitoring loading or unloading.

Intermodal shipping is exempt from the provisions of the bill.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.