JAMES BURG TRUCKING COMPANY

On time. Time and again.

Michigan Senate Transportation Committee Testimony in support of Anti-Indemnification Legislation

Tuesday, May 01, 2012

Good Afternoon Chairman Casperson, Majority Vice Chair Gleason, Minority Vice Chair Kowall, and Members of this committee. Thank you for your time today. My name is Jim Burg. I am President of James Burg Trucking Company, a small trucking company in Warren, MI. I began my trucking career in 1984 with one truck. I have driven over 1.3 million miles and have built my operation to an 85 truck fleet. I am here today to give my support for anti-indemnification legislation, SB. 873.

With experience, I have witnessed an ever growing practice of the shipping community to shift their risk to us. Anti-indemnification language in contracts goes beyond holding truckers accountable for our own poor decisions, but theirs as well. We had an incident where our customer's employee pushed our driver off the trailer bed and onto the ground, injuring our employee. (Explain event.) The anti-indemnification language in our contract left us with the expense of our injured worker.

Following this event, the amount paid out by our insurance company negatively impacted our renewal rates. Our customer's expense for their negligence was to 'change their policy' and require us to keep our people from harm's way.

The proposed legislation would ensure blame rests where fault is created. It will demand our customers take responsibility to improve the safe operations of their plants. Our customers that run safe operations would benefit from this legislation by requiring all shippers to maintain safe facilities or be responsible for their actions.

In most cases, I prefer government to stay out of private contracts. What makes this situation unique and in need of legislative resolve is to restore fairness and balance. I will speak for myself and others like me when I say that the trucking industry is unsophisticated. The industry is made up of over 500,000 small businesses, like mine. In fact, 85% of the entire North American trucking capacity is made up of fleets with 5 trucks or less. We love our jobs. We love to work. And we love to work hard. Regrettably, we don't pay as much attention to the fine contractual print of sophisticated shipper contracts as we should. While our customers' in house counsel learn of these tactics while attending legal seminars at some San Diego resort, we are seeking out products that will eek out 1/100th of a mile per gallon of diesel fuel. And while it is easy to spot this language and decide 'not to engage' under these terms, my experience is that this language is revised into contracts after we are already invested in equipment, employees and overhead.

This may seem like a small measure, but I believe it is because these events don't grab widespread attention. They are, in fact, important. So much so that 31 other states have adopted similar language to what is being proposed. I urge this committee to advance this legislation and encourage your colleagues to vote for its adoption into law.

Thank you,

James D. Burg,
President

27275 Mound Road, Warren, Michigan 48092

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Dispatch: 800.841.1289
Dispatch Fax: 586.751.1381
Office: 586.751.9000
Office Fax: 586.751.1367