

# SENATE, No. 665

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator CHRISTOPHER "KIP" BATEMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

**Senators Cardinale and Diegnan**

**SYNOPSIS**

Prohibits snowplow or de-icing service contract from indemnifying promisee against liability for loss or damage in certain instances.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1    **AN ACT** concerning snowplow or de-icing service contracts and  
2       supplementing Title 56 of the Revised Statutes.

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4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

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7       1. For the purposes of P.L.       , c.   (C.   ) (pending before  
8 the Legislature as this bill):

9       “Promisee” means a promisee and any agents, employees,  
10 servants, or independent contractors directly responsible to the  
11 promisee.

12       “Snowplow or de-icing service contract” means a contract,  
13 agreement, or understanding, except a contract, agreement or  
14 understanding to which the State, or any political subdivision or  
15 instrumentality thereof, is a party, covering: 1) plowing, shoveling,  
16 or otherwise removing snow or other frozen precipitation from a  
17 surface; 2) de-icing services; or 3) a service incidental to plowing,  
18 shoveling, or otherwise removing snow or other frozen  
19 precipitation, or de-icing services, including, but not limited to,  
20 driving or otherwise moving a snowplow or de-icing equipment and  
21 materials.

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23       2. Notwithstanding any law, rule, or regulation to the contrary,  
24 a provision, clause, covenant, or agreement contained in, collateral  
25 to, or affecting a snowplow or de-icing service contract entered into  
26 on or after the effective date of P.L.       , c.   (C.   ) (pending  
27 before the Legislature as this bill) that purports to indemnify,  
28 defend, or hold harmless, or has the effect of indemnifying,  
29 defending, or holding harmless, the promisee from or against any  
30 liability for loss or damage resulting from the negligence,  
31 intentional acts, or omissions of the promisee is against the public  
32 policy of this State and is void and unenforceable. This provision  
33 shall not apply to any contract in which the promisor has been given  
34 full authority to take all actions the promisor deems necessary to  
35 maintain the property of the promisee.

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37       3. This act shall take effect immediately.

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#### STATEMENT

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42       This bill makes void and unenforceable any provision, clause,  
43 covenant, or agreement contained in, collateral to, or affecting a  
44 snowplow or de-icing service contract that purports to indemnify,  
45 defend, or hold harmless, or has the effect of indemnifying,  
46 defending, or holding harmless, the promisee from or against any  
47 liability for loss or damage resulting from the negligent, intentional  
48 acts, or omissions of the promise. Under the bill, a snowplow or

1 de-icing service contract does not include a contract to which the  
2 State, or any political subdivision or instrumentality thereof, is a  
3 party. The bill would also not apply to any contract in which the  
4 promisor has been given full authority to take all actions the  
5 promisor deems necessary to maintain the property of the promisee.  
6 These contractual clauses are often referred to as indemnity  
7 clauses, which generally shift the responsibility to pay damages  
8 from one party to another party, often without regard to whom  
9 actually caused the loss. Many states have statutes, referred to as  
10 anti-indemnity statutes, to limit these contractual clauses in  
11 construction contracts. Currently in New Jersey, N.J.S.A.2A:40A-  
12 1, N.J.S.A.2A:40A-2, and N.J.S.A.39:14-2 limit indemnity clauses  
13 in certain construction contracts, contracts relating to architects,  
14 engineers, and surveyors, and motor carrier transportation contracts,  
15 respectively. This bill would similarly limit these types of  
16 contractual clauses in snowplow or de-icing service contracts.