



Ohio Revised Code

Section 2307.34 Cause of action for contribution in favor of primary insurer against secondary insurer.

Effective: October 20, 1994

Legislation: Senate Bill 20 - 120th General Assembly

(A) As used in this section:

(1) "Leased motor vehicle" means a motor vehicle that is the subject of a lease agreement governed by Chapter 4901:2-3 of the Ohio Administrative Code or 49 C.F.R. 1057.

(2) "Nontrucking activity," as used in relation to the operation of a leased motor vehicle, means any of the following:

(a) Any operation of the leased motor vehicle that is not for the benefit of the lessee;

(b) Any operation of the leased motor vehicle by anyone other than an operator who previously has been qualified and authorized by the lessee or authorized agents of the lessee to operate the vehicle;

(c) Any operation of the leased motor vehicle for the purpose of conducting any personal or business affairs of the vehicle owner or his agents or employees, if the operation results in a diversion of the vehicle, while transporting property for the lessee, from its normal or reasonable route between its point of origin and point of destination and all scheduled pick-up or delivery stops en route thereto;

(d) Any operation of the leased vehicle by any person to transport property without the prior knowledge and consent of the lessee.

(3) "Primary insurer," as used in relation to the operation of a leased motor vehicle, means an insurance company authorized to do business in this state that issues or delivers a policy of motor vehicle liability insurance to a motor carrier authorized by the public utilities commission to conduct operations in this state.

(4) "Secondary insurer," as used in relation to the operation of a leased motor vehicle, means an



insurance company authorized to do business in this state that issues or delivers a policy of motor vehicle liability insurance to the owner of a motor vehicle leased to a motor carrier authorized by the public utilities commission to conduct operations in this state.

(B) A cause of action for contribution in favor of a primary insurer against a secondary insurer exists if all of the following apply:

(1) The primary insurer issues a policy of motor vehicle liability insurance to a motor carrier to pay any final judgment recovered against the motor carrier for the death of any person or an injury to or loss to person or property of any person resulting from the negligent operation, maintenance, or use of motor vehicles displaying the identification placards of the motor carrier, as required by the interstate commerce commission or the public utilities commission;

(2) The motor carrier enters into a lease agreement with the owner of a motor vehicle not owned by the motor carrier, that provides that an operator not employed by the motor carrier will, during the duration of the lease, operate the motor vehicle in service to the motor carrier and will display on the motor vehicle the required identification placards;

(3) Due to the negligent operation by the operator of the leased motor vehicle an accident involving the leased motor vehicle occurs while the operator is engaged in a nontrucking activity, resulting in the death of any person or in an injury to or loss to person or property of any person, and the operator is not an employee of the motor carrier;

(4) The primary insurer pays a final judgment to compensate a party for the death of any person as the result of the accident or for an injury or loss to person or property of the party as the result of the accident;

(5) At the time of the accident, a secondary insurer had issued to the owner of the motor vehicle a policy of motor vehicle liability insurance to pay any final judgment recovered against the owner for the death of any person or an injury to or loss to person or property of any person resulting from the negligent operation, maintenance, or use of the motor vehicle while it is being operated during a nontrucking activity.



(C) No motor carrier authorized by the public utilities commission to conduct operations in this state shall be liable in civil damages for any death, injury, or loss caused by a motor vehicle not owned by the motor carrier, or caused by an operator not employed by the motor carrier, unless the motor vehicle is being operated in service of the motor carrier pursuant to a valid lease agreement at the time the injury or damage occurs. The unauthorized display of a motor carrier's name on a motor vehicle not owned by the motor carrier shall not be grounds for imposing any civil liability on the motor carrier.