S T A T E O F N E W Y O R K

4558

2011-2012 Regular Sessions

I N S E N A T E

April 12, 2011

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to health club fees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph (g) of subdivision 1 of section 621 of the general business law, as added by chapter 722 of the laws of 1992, is amended to read as follows:

(g) Contracts for programs which provide instruction for improving tennis skills, and are of eight weeks duration or less [where the full fee does not exceed two hundred fifty dollars].

S 2. Section 623 of the general business law, as added by chapter 630 of the laws of 1978, subdivision 1 as amended by chapter 660 of the laws of 1990, is amended to read as follows:

S 623. Contract PROVISIONS AND restrictions. 1. [No contract for services shall require payment by the person receiving service or the use of the facilities of a total amount in excess of three thousand six hundred dollars per annum, provided, however, that this subdivision shall not apply to contracts relating solely to the use of tennis, platform tennis or racquet ball facilities.

2.] No contract for services shall provide for a term longer than thirty-six months. No contract for services shall require payments or financing by the buyer over a period in excess of thirty-seven months from the date the contract is entered into, nor shall the term of any such contract be measured by or be for the life of the buyer. Provided, however, that the services to be rendered to the buyer under the contract may extend over a period not to exceed three years from the date the contract is entered into with the right to renew, at the option of the buyer for a like period. The buyer may have thirty days after the expiration to renew the contract. The installment payments shall be in

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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substantially equal amounts exclusive of the down payment and shall be required to be made at substantially equal intervals, not to exceed one month.

[3] 2. No contract for services may contain any provisions whereby the buyer agrees not to assert against the seller or any assignee or transferee of the health club services contract any claim or defense arising out of the health club services contract.

[4] 3. No contract for services may require the buyer to execute a promissory note or series of promissory notes which, when negotiated, cuts off as to third parties a defense which the buyer may have against the seller.

[5] 4. No contract may be assigned by one health club to another health club not located on the same premises without written consent of the buyer.

5. EVERY CONTRACT FOR SERVICES SHALL CONTAIN THE FOLLOWING WARNING STATEMENT IN AT LEAST TEN POINT, BOLD FONT:

WARNING: USE OF STEROIDS TO INCREASE STRENGTH OR GROWTH CAN CAUSE SERIOUS HEALTH PROBLEMS. STEROIDS CAN KEEP TEENAGERS FROM GROWING TO THEIR FULL HEIGHT; THEY CAN ALSO CAUSE HEART DISEASE, STROKE, AND DAMAGED LIVER FUNCTION. MEN AND WOMEN USING STEROIDS MAY DEVELOP FERTILITY PROBLEMS, PERSONALITY CHANGES, AND ACNE. MEN CAN ALSO EXPERIENCE PREMATURE BALDING AND DEVELOPMENT OF BREAST TISSUE. THESE HEALTH HAZARDS ARE IN ADDITION TO THE CIVIL AND CRIMINAL PENALTIES FOR UNAUTHORIZED SALE, USE, OR EXCHANGE OF ANABOLIC STEROIDS.

S 3. Subdivision 3 of section 624 of the general business law, as added by chapter 630 of the laws of 1978, is amended to read as follows:

3. Every contract for services shall provide that after such three day period for cancellation as provided in subdivision two of this section, the buyer's estate may cancel a contract for services if the buyer dies. The buyer may also cancel after three days if the buyer becomes significantly physically disabled for a period in excess of [six] THREE months, or moves his OR HER residence OR BUSINESS to a location more than twenty-five miles from a health club operated by the seller, or after the services are no longer available or substantially available as provided in the contract because of the seller's permanent discontinuance of operation or substantial change in operation. Nothing contained herein shall restrict or prohibit the seller from offering or providing in such contract additional or broader reasons for cancellation. The seller may require reasonable evidence for a cancellation pursuant to this subdivision. Such contract shall contain the following notice captioned in at least ten point bold type:

ADDITIONAL RIGHTS TO CANCELLATION:

You may also cancel this contract for any of the following reasons:

If upon a doctor's order, you cannot physically receive the services because of significant physical disability for a period in excess of [six] THREE months.

If you die, your estate shall be relieved of any further obligation for payment under the contract not then due and owing.

If you move your residence OR BUSINESS more than twenty-five miles from any health club operated by seller.

If the services cease to be offered as stated in the contract.

All moneys paid pursuant to such contract cancelled for the reasons contained in this subdivision shall be refunded within fifteen days of receipt of such notice of cancellation; provided however that the seller may retain the expenses incurred and the portion of the total price representing the services used or completed, and further provided that

the seller may demand the reasonable cost of goods and services which the buyer has consumed or wishes to retain after cancellation of the contract. In no instance shall the seller demand more than the full contract price from the buyer. If the buyer has executed any credit or loan agreement to pay for all or part of health club services, any such negotiable instrument executed by the buyer shall also be returned within fifteen days.

S 4. This act shall take effect immediately; provided that sections one and two of this act shall apply to contracts entered into, issued, renewed, modified, altered, or amended on or after such effective date.