

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:

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

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

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

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

16 2.] No contract for services shall provide for a term longer than  
17 thirty-six months. No contract for services shall require payments or  
18 financing by the buyer over a period in excess of thirty-seven months  
19 from the date the contract is entered into, nor shall the term of any  
20 such contract be measured by or be for the life of the buyer. Provided,  
21 however, that the services to be rendered to the buyer under the  
22 contract may extend over a period not to exceed three years from the  
23 date the contract is entered into with the right to renew, at the option  
24 of the buyer for a like period. The buyer may have thirty days after the  
25 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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1 substantially equal amounts exclusive of the down payment and shall be  
2 required to be made at substantially equal intervals, not to exceed one  
3 month.

4 [3] 2. No contract for services may contain any provisions whereby  
5 the buyer agrees not to assert against the seller or any assignee or  
6 transferee of the health club services contract any claim or defense  
7 arising out of the health club services contract.

8 [4] 3. No contract for services may require the buyer to execute a  
9 promissory note or series of promissory notes which, when negotiated,  
10 cuts off as to third parties a defense which the buyer may have against  
11 the seller.

12 [5] 4. No contract may be assigned by one health club to another  
13 health club not located on the same premises without written consent of  
14 the buyer.

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

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

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

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

42 ADDITIONAL RIGHTS TO CANCELLATION:

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

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

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

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

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

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

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

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