STATE OF NEW YORK

5246

2017-2018 Regular Sessions

IN ASSEMBLY

February 7, 2017

Introduced by M. of A. DINOWITZ, WEINSTEIN, WEPRIN, SEPULVEDA -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to requiring mandatory arbitration clauses in certain consumer contracts to be printed in large font type

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 399-c of the general business law, as added by chapter 946 of the laws of 1984, is amended to read as follows:

§ 399-c. Mandatory arbitration clauses in certain consumer contracts [~~prohibited~~]. 1. Definitions.

a. The term "consumer" shall mean a natural person residing in this state.

b. The term "consumer goods" shall mean goods, wares, paid merchandise or services purchased or paid for by a consumer, the intended use or benefit of which is intended for the personal, family or household purposes of such consumer.

c. The term "mandatory arbitration clause" shall mean a term or provision contained in a written contract for the sale or purchase of consumer goods which requires the parties to such contract to submit any controversy thereafter arising under such contract to arbitration prior to the commencement of any legal action to enforce the provisions of such contract and which also further provides language to the effect that the decision of the arbitrator or panel of arbitrators in its application to the consumer party shall be final and not subject to court review.

d. The term "arbitration" shall mean the use of a decision making forum conducted by an arbitrator or panel of arbitrators within the meaning and subject to the provisions of article seventy-five of the civil practice law and rules.

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

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e. The term "large print format" shall mean a printed font size of sixteen points or larger.

2. a. Prohibition. No written contract for the sale or purchase of consumer goods, entered into on or after the effective date of this section, to which a consumer is a party, shall contain a mandatory arbitration clause. Nothing contained herein shall be construed to prohibit a non-consumer party from incorporating a provision within such contract that such non-consumer party agrees that the decision of the arbitrator or panel of arbitrators shall be final in its application to such non-consumer party and not subject to court review.

b. Mandatory arbitration clause null and void. The provisions of a mandatory arbitration clause shall be null and void. The inclusion of such clause in a written contract for the sale or purchase of consumer goods shall not serve to impair the enforceability of any other provision of such contract.

3. Large print arbitration clauses in contracts. Each and every business shall, in each initial contract for goods or services, which contains an arbitration clause provide the consumer with a copy of the contract in which the arbitration clause is displayed in large print format.

4. A violation by any person or business of subdivision three of this section, if such violation constitutes the first such offense by such person, is punishable by a civil penalty not to exceed two hundred fifty dollars. A second offense and any offense committed thereafter is punishable by a civil penalty not to exceed five hundred dollars.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.