

# 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:

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

3 § 399-c. Mandatory arbitration clauses in certain consumer contracts  
4 [~~prohibited~~]. 1. Definitions.

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

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

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

20 d. The term "arbitration" shall mean the use of a decision making  
21 forum conducted by an arbitrator or panel of arbitrators within the  
22 meaning and subject to the provisions of article seventy-five of the  
23 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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1 e. The term "large print format" shall mean a printed font size of  
2 sixteen points or larger.

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

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

16 3. Large print arbitration clauses in contracts. Each and every busi-  
17 ness shall, in each initial contract for goods or services, which  
18 contains an arbitration clause provide the consumer with a copy of the  
19 contract in which the arbitration clause is displayed in large print  
20 format.

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

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