

STATE OF NEW YORK

7683

IN SENATE

February 6, 2020

Introduced by Sen. THOMAS -- 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 the cancellation of a health club contract

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

1 Section 1. Section 624 of the general business law, as added by chap-
2 ter 630 of the laws of 1978, is amended to read as follows:
3 § 624. Rights of cancellation of contracts for services. 1. Every
4 contract for services at a planned health club or a health club under
5 construction shall, at the option of the buyer, be voidable in the event
6 that the health club and the services to be provided pursuant to such
7 contract are not available within one year from the date the contract is
8 executed by the buyer.
9 2. Every contract for services shall provide that such contract may be
10 cancelled within three business days after the date of receipt by the
11 buyer of a copy of the written contract. [~~Notice of cancellation shall~~
12 ~~be delivered by certified or registered United States mail at the~~
13 ~~address specified in the contract.~~] Such contract shall contain the
14 following written notice in at least ten point bold type: CONSUMERS
15 RIGHT TO CANCELLATION. YOU MAY CANCEL THIS CONTRACT WITHOUT ANY PENALTY
16 OR FURTHER OBLIGATION WITHIN THREE (3) DAYS FROM THIS DATE
17 [~~Notice of cancellation shall be in writing subscribed by the buyer and~~
18 ~~mailed by registered or certified United States mail to the seller at~~
19 ~~the address specified in such form. Such notice shall be accompanied by~~
20 ~~the contract forms,~~] A buyer who cancels a contract pursuant to the
21 provisions of this subdivision shall return all membership cards and any
22 other documents or evidence of membership previously delivered to the
23 buyer. All moneys paid pursuant to such contract shall be refunded
24 within [~~fifteen business days~~] forty-eight hours of receipt of such
25 notice of cancellation. If the buyer has executed any credit or loan
26 agreement to pay for all or part of health club services, any such nego-
27 tiable instrument executed by the buyer shall also be returned within
28 [~~fifteen days~~] forty-eight hours.

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

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1 3. (a) Every contract for services shall provide that after such three
2 day period for cancellation as provided in subdivision two of this
3 section, the buyer's estate may cancel a contract for services if the
4 buyer dies. The buyer may also cancel after three days if the buyer
5 becomes significantly physically disabled for a period in excess of
6 [~~six~~] three months, or moves his or her residence to a location more
7 than twenty-five miles from a health club operated by the seller, or
8 after the services are no longer available or substantially available as
9 provided in the contract because of the seller's permanent discontin-
10 uance of operation or substantial change in operation. Nothing contained
11 herein shall restrict or prohibit the seller from offering or providing
12 in such contract additional or broader reasons for cancellation. The
13 seller may require reasonable evidence for a cancellation pursuant to
14 this subdivision.

15 (b) Every contract for services shall provide that after such three
16 day period for cancellation as provided in subdivision two of this
17 section, the buyer may cancel the contract upon thirty days' notice.

18 (c) Such contract shall contain the following notice captioned in at
19 least ten point bold type: ADDITIONAL RIGHTS TO CANCELLATION:

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

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

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

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

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

29 For any reason upon thirty days' notice.

30 (d) All moneys paid pursuant to such contract cancelled for the
31 reasons contained in this subdivision shall be refunded within [~~fifteen~~
32 ~~days~~] forty-eight hours of receipt of such notice of cancellation;
33 provided however that the seller may retain the expenses incurred and
34 the portion of the total price representing the services used or
35 completed, and further provided that the seller may demand the reason-
36 able cost of goods and services which the buyer has consumed or wishes
37 to retain after cancellation of the contract. The seller shall not
38 demand more than one month's fee or the equivalent thereof from a buyer
39 who cancels a contract pursuant to paragraph (b) of this subdivision. In
40 no instance shall the seller demand more than the full contract price
41 from the buyer. If the buyer has executed any credit or loan agreement
42 to pay for all or part of health club services, any such negotiable
43 instrument executed by the buyer shall also be returned within [~~fifteen~~
44 ~~days~~] forty-eight hours.

45 4. (a) Every contract for services shall provide that such health club
46 shall accept notice of cancellation of such contract in person, by mail,
47 over the phone or by electronic mail.

48 (b) If a health club allows a buyer to enter into a contract for
49 services through a website, such health club shall accept a notice of
50 cancellation of such contract through such website in addition to the
51 methods provided pursuant to paragraph (a) of this subdivision.

52 § 2. This act shall take effect immediately; provided that section one
53 of this act shall apply to contracts entered into, issued, renewed,
54 modified, altered, or amended on or after such effective date.