

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN ASSEMBLY JUNE 20, 2016

AMENDED IN ASSEMBLY JUNE 14, 2016

AMENDED IN SENATE APRIL 18, 2016

AMENDED IN SENATE MARCH 29, 2016

SENATE BILL

No. 1241

Introduced by Senator Wieckowski

February 18, 2016

An act to add Section 1799.208 to the Civil Code, and to add Section 925 to the Labor Code, relating to contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1241, as amended, Wieckowski. Contracts.

Existing law, the Consumer Contract Awareness Act of 1990, defines a consumer contract as a writing prepared by a seller that provides for the sale or lease of goods or services or the extension of credit, as specified, for personal, family, or household purposes, among other provisions. The act requires a seller, which includes financial institutions, to deliver a copy of a consumer contract to the consumer at the time the contract is signed, and it prohibits the waiver of any provisions of the act.

This bill would prohibit, for contracts entered into, modified, or extended on or after January 1, 2017, a seller from requiring a consumer, as a condition of entering into a contract, to agree to a provision that would require the consumer to adjudicate outside of California a claim arising in California or deprive the consumer of the protection of California law with respect to a controversy arising in California. The

bill would make any choice of venue or choice of law provision voidable, upon request of ~~the consumer~~, *a consumer who primarily resides in California*, if the provision would violate either of those prohibitions as provided. The bill would make injunctive relief available and would authorize a court to award a consumer reasonable attorney’s fees. The bill would provide that adjudication includes litigation and arbitration for purposes of these provisions.

This bill also would create an analogous set of rights, prohibitions, and requirements, as described above, in connection with employment ~~contracts~~: *contracts for an employee who primarily resides and works in California*. The bill would except from these employment provisions a contract with an employee who is represented by legal counsel, as ~~specified~~: *specified, or a talent agency, as defined*.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1799.208 is added to the Civil Code, to
- 2 read:
- 3 1799.208. (a) A seller shall not require a consumer, as a
- 4 condition of entering into a contract, to agree to a provision that
- 5 would do either of the following:
- 6 (1) Require the consumer to adjudicate outside of California a
- 7 claim arising in California.
- 8 (2) Deprive the consumer of the protection of California law
- 9 with respect to a controversy arising in California.
- 10 (b) ~~Any~~ *Notwithstanding any other law, any* choice of venue
- 11 or choice of law provision is voidable, upon request of ~~the~~
- 12 ~~consumer~~, *a consumer who primarily resides in California*, if the
- 13 provision would do either of the following:
- 14 (1) Require the consumer to adjudicate outside of California a
- 15 claim arising in California.
- 16 (2) Deprive the consumer of the protection of California law
- 17 with respect to a controversy arising in California.
- 18 (c) If a provision is rendered void at the request of the consumer,
- 19 as described in subdivision (b), the matter shall be adjudicated in
- 20 California and California law shall govern the dispute.

1 (d) In addition to injunctive relief and any other remedies
2 available, a court may award a consumer who is enforcing his or
3 her rights under this section reasonable attorney's fees.

4 (e) For purposes of this section, adjudication includes litigation
5 and arbitration.

6 (f) This section shall apply to a contract entered into, modified,
7 or extended on or after January 1, 2017.

8 SEC. 2. Section 925 is added to the Labor Code, to read:

9 925. (a) An employer shall not require an employee or job
10 applicant, as a condition of employment, to agree to a provision
11 that would do either of the following:

12 (1) Require the employee to adjudicate outside of California a
13 claim arising in California.

14 (2) Deprive the employee of the protection of California law
15 with respect to a controversy arising in California.

16 (b) ~~Any~~ *Notwithstanding any other law, any choice of venue*
17 *or choice of law provision is voidable, upon request of the*
18 ~~employee,~~ *an employee who primarily resides and works in*
19 *California, if the provision would do either of the following:*

20 (1) Require the employee to adjudicate outside of California a
21 claim arising in California.

22 (2) Deprive the employee of the protection of California law
23 with respect to a controversy arising in California.

24 (c) If a provision is rendered void at the request of the employee,
25 as described in subdivision (b), the matter shall be adjudicated in
26 California and California law shall govern the dispute.

27 (d) In addition to injunctive relief and any other remedies
28 available, a court may award an employee who is enforcing his or
29 her rights under this section reasonable attorney's fees.

30 (e) For purposes of this section, adjudication includes litigation
31 and arbitration.

32 (f) This section shall not apply to a contract with an employee
33 who is in fact individually represented by legal counsel in
34 negotiating the terms of an agreement to designate either the venue
35 or forum in which a controversy arising from the employment
36 contract may be adjudicated or the choice of law to be applied.

37 (g) *This section shall not apply to a contract for which the*
38 *employee was represented by a talent agency, as defined in*
39 *subdivision (a) of Section 1700.4.*

40 (~~g~~)

- 1 *(h)* This section shall apply to a contract entered into, modified,
- 2 or extended on or after January 1, 2017.

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