

ASSEMBLY, No. 4071

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 7, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Prohibits provisions in consumer contracts which penalize a consumer for commenting negatively about goods or services rendered.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning consumer contracts and amending P.L.1981,
2 c.454.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 3 of P.L.1981, c.454 (C.56:12-16) is amended to
8 read as follows:

9 3. a. No consumer contract, warranty, notice or sign, as
10 provided for in this act, shall contain any provision by which the
11 consumer waives his rights under this act. Any such provision shall
12 be null and void. No consumer contract, notice or sign shall state
13 that any of its provisions is or may be void, unenforceable or
14 inapplicable in some jurisdictions without specifying which
15 provisions are or are not void, unenforceable or inapplicable within
16 the State of New Jersey; provided, however, that this shall not apply
17 to warranties.

18 b. Notwithstanding any other law to the contrary and in
19 addition to any other remedy available under law, no consumer
20 contract shall contain any provision which waives a consumer's
21 right to make any statement, or penalizes a consumer for making
22 any statement, including a statement posted on the Internet,
23 regarding the seller or lessor, or its employees or agents, or
24 concerning the goods or services rendered.

25 (1) If the Attorney General determines that a seller or lessor is
26 in violation of any provisions of this subsection, the Attorney
27 General may impose upon that seller or lessor a civil penalty in an
28 amount up to \$5,000 for the first violation and up to \$10,000 for
29 each and every subsequent violation, collectible in an action
30 brought in the name of the Attorney General pursuant to the
31 provisions of the "Penalty Enforcement Law of 1999," P.L.1999,
32 c.274 (C.2A:58-10 et seq.).

33 (2) In addition to the penalties described in paragraph (1) of this
34 subsection or any other remedy available under law, any person
35 aggrieved by a violation of this subsection may bring an action in
36 Superior Court to recover damages.

37 (cf: P.L.1981, c.454, s.3)

38
39 2. This act shall take effect immediately.
40
41

42 STATEMENT

43
44 This bill prohibits any provision in a consumer contract which
45 waives a consumer's right to make any statement, or penalizes a

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 consumer for making any statement, including a statement posted
2 on the Internet, regarding the seller or lessor, or its employees or
3 agents, or concerning the goods or services rendered.

4 Some businesses have incorporated clauses into their purchase
5 agreements, known as non-disparagement clauses, which state that
6 the business can charge customers for any negative reviews that
7 they post on the Internet, for others to read. This bill prohibits a
8 business from including such language in their agreements with
9 customers.

10 The bill provides for a civil penalty of up to \$5,000 for a first
11 offense, and up to \$10,000 for each subsequent offense, for
12 violations of this prohibition, which may be imposed by the
13 Attorney General. It also allows an aggrieved person to bring a
14 private course of action for civil damages.