

Fact Sheet SB 2667

Author: Thurmond, Tony

Bill: AB 2667, Civil Rights Protection Against Forced Arbitration

In Brief: Assembly Bill 2667 recognizes the policy of the State of California to ensure that all persons have the full benefit of the rights, penalties, remedies, forums, and procedures established by the Unruh Civil Rights Act and that individuals shall not be deprived of those rights, penalties, remedies, forums, or procedures through the use of involuntary or coerced waivers. AB 2667 states that a person shall not require another person to waive any legal right, penalty, remedy, forum or procedure for civil rights violations as a condition of entering into a contract for goods or services.

Background: **Current law:** Under the Unruh Civil Rights Act, all persons are entitled to full and equal accommodations, advantages, facilities, privileges or services in all business establishments.

The landmark California Unruh Civil Rights Act of 1959 (and its federal counterpart the Civil Rights Act of 1964),¹ protect all persons against arbitrary and unreasonable discrimination by a business establishment, including housing and public accommodations because of:

- Race
- Religion
- Age
- National Origin
- Disability;
- Sex (which includes pregnancy, childbirth, gender, and gender expression)
- Sexual Orientation
- Citizenship
- Immigration Status, among others categories.

Forced Arbitration - No Transparency, No Review: Despite the tremendous progress that our nation has made since the passage of these civil rights laws, people continue to face discrimination by businesses. Enforcement of civil rights laws has become increasingly difficult with the pervasive use of forced arbitration waivers that require you to surrender your legal rights, including civil rights, to receive goods or service from a business. Forced arbitration of civil rights claims are harmful to our public justice system because they eliminate important procedural guarantees of fairness and due process that are hallmarks of our judicial system.

In general, arbitration is an alternative method of resolving disputes in which two parties present their individual sides to an arbitrator or panel of arbitrators. However, **forced** waivers or arbitration agreements are fundamentally inferior. Businesses often require them as a condition of receiving a good or service, meaning a consumer does not get the good or service if they do not give up their rights to resolve any dispute in a court of law. Businesses craft the terms of the forced arbitration provisions and typically select

¹ Cal. Civil Code section 51; Civil Rights Act (1964).

the arbitration services providers for the dispute. This creates a "repeat player advantage" that favors the business utilizing the same provider to resolve their consumer disputes and disadvantages individual who are one-time participants in the process.

Finally, these waivers are neither knowing nor voluntary and are only agreed to because they are imposed as a mandatory condition of receiving the good or service.

The Solution: AB 2667 ensures that waivers of civil rights under the Unruh Civil Rights Act, including the right to go to court, are entered into with the consent of the consumer requiring that such waivers be knowing, voluntary and in writing. Such waivers shall also not expressly be made as a condition of entering into a contract.

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For More Information:

Alejandra Durán, Office of Asm. Tony Thurmond
916 319 2015 | alejandra.duran@asm.ca.gov
Opio Dupree, Office of Asm. Tony Thurmond
916 319 2015 | opio.dupree@asm.ca.gov