



# S.997 (Hoylman) / A.2505 (Weinstein)

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<b>BILL</b> S.997 (Hoylman) / A.2505 (Weinstein)
<b>SUBJECT</b> Prohibits Consumer Goods Contracts from Restricting Venue
<b>DATE</b> January 25, 2021
<b>OPPOSE</b>

The Business Council opposes S.997 (Hoylman) / A.2505 (Weinstein) which seeks to limit the use of arbitration procedures by limiting the right to contract for legal venue. The result is a proposal that would interfere with the right to contract and undermine successful arbitration procedures now in place – procedures that benefit consumers and the courts by providing fair and prompt redress of disputes in the vast majority of cases.

It is certainly well documented by the New York courts that the Federal Arbitration Act (FAA) establishes a strong federal mandate in favor of enforcing and upholding arbitration agreements. The United States Supreme Court has interpreted the FAA on many occasions and has reaffirmed that, in the FAA, Congress declared a national policy favoring arbitration and withdrawing the power of the states to require a judicial forum for the resolution of claims which contracting parties agreed to resolve by arbitration.

The Federal Arbitration Act, 9 U.S.C. §2 states that a written provision in a contract providing for arbitration as a means to settle disputes “...shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.” The United States Supreme Court has consistently ruled that federal and state courts must enforce the FAA and “reflects an emphatic federal policy in favor of arbitral dispute resolution” *Marmet Health Care Center, Inc. v. Brown* 132 S.Ct.1201 (1202) quoting *Dean Witter Reynolds Inc. v. Byrd*, 470 U.S. 213,217 (1985).

Arbitration enables consumers with grievances to obtain redress for the vast majority of disputes they are likely to have – small, individualized claims for which litigation in court is impractical. It also serves the court system by providing an alternative means of resolution thus freeing up the judiciary. It is widely acknowledged and has been extensively discussed that the state court system is already overburdened and unable to handle its current caseload in a timely manner.

The American Arbitration Association (AAA) administers consumer arbitrations and has implemented rules and policies tailored for the resolution of consumers' disputes, which provide basic requirements of procedural fairness and afford strong protections for consumers and employers. Arbitration is an important tool benefiting consumers by providing a fair and accessible means for resolving disputes. This bill is intended to put another hurdle in front of the arbitration process in the name of fairness. If the goal of the legislation is to ensure fairness and accountability, a system is already in place thus obviating the need for such legislation.

For these reasons The Business Council opposes S.997 (Hoylman) / A.2505 (Weinstein).