

**SENATE, No. 4006**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

INTRODUCED JUNE 26, 2023

**Sponsored by:**

**Senator JOSEPH A. LAGANA**

**District 38 (Bergen and Passaic)**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**SYNOPSIS**

Prohibits health club services contracts from limiting liability for injuries caused by negligence of health club.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/27/2023)**

S4006 LAGANA, SCUTARI

2

1 AN ACT concerning health club services contracts and amending  
2 P.L.1987, c.238.

3

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

6

7 1. Section 4 of P.L.1987, c.238 (C.56:8-42) is amended to read  
8 as follows:

9 4. a. Every contract for health club services shall be in  
10 writing. A copy of the written contract shall be given to the buyer  
11 at the time the buyer signs the contract.

12 b. A health club services contract shall specifically set forth in  
13 a conspicuous manner on the first page of the contract the buyer's  
14 total payment obligation for health club services to be received  
15 pursuant to the contract.

16 c. A health club services contract of a health club facility  
17 which maintains a bond, irrevocable letter of credit or securities,  
18 moneys or other security pursuant to subsection a. of section 3 of  
19 this act shall set forth that a bond, irrevocable letter of credit or  
20 securities, moneys or other security is filed or deposited with the  
21 Director of the Division of Consumer Affairs to protect buyers of  
22 these contracts who are damaged or suffer any loss by reason of  
23 breach of contract or bankruptcy by the seller.

24 d. Services to be rendered to the buyer under the contract shall  
25 not obligate the buyer for more than three years from the date the  
26 contract is signed by the buyer.

27 e. A contract for new or increased health club services may be  
28 cancelled by the buyer for any reason at any time before midnight  
29 of the third operating day after the buyer receives a copy of the  
30 contract. In order to cancel a contract the buyer shall notify the  
31 health club of cancellation in writing, by registered or certified  
32 mail, return receipt requested, or personal delivery, to the address  
33 specified in the contract. All moneys paid pursuant to the cancelled  
34 contract shall be fully refunded within 30 days of receipt of the  
35 notice of cancellation. If the customer has executed any credit or  
36 loan agreement through the health club to pay all or part of health  
37 club services, the negotiable instrument executed by the buyer shall  
38 also be returned within 30 days. The contract shall contain a  
39 conspicuous notice printed in at least 10-point bold-faced type as  
40 follows:

41

42

"NOTICE TO CUSTOMER"

43

You are entitled to a copy of this contract at the time you sign it.

**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       You may cancel this contract at any time before midnight of the  
2 third operating day after receiving a copy of this contract. If you  
3 choose to cancel this contract, you must either:

4       1. Send a signed and dated written notice of cancellation by  
5 registered or certified mail, return receipt requested; or

6       2. Personally deliver a signed and dated written notice of  
7 cancellation to: ..... (Name of health club)  
8 ..... (Address of health club)

9       If you cancel this contract within the three-day period, you are  
10 entitled to a full refund of your money. If the third operating day  
11 falls on a Sunday or holiday, notice is timely given if it is mailed or  
12 delivered as specified in this notice on the next operating day.  
13 Refunds must be made within 30 days of receipt of the cancellation  
14 notice to the health club.

15       'Operating day' means any calendar day on which patrons may  
16 inspect and use the health club's facilities and services during a  
17 period of at least eight hours, except holidays and Sundays."

18       f. A health club services contract shall provide that it is subject  
19 to cancellation by notice sent by registered or certified mail, return  
20 receipt requested, or personally delivered, to the address of the  
21 health club specified in the contract upon the buyer's death or  
22 permanent disability, if the permanent disability is fully described  
23 and confirmed to the health club by a physician. In a cancellation  
24 under this subsection, the health club may retain the portion of the  
25 total contract price representing the services used plus  
26 reimbursement for expenses incurred in an amount not to exceed  
27 10% of the total contract price.

28       g. A health club services contract shall provide that it is subject  
29 to cancellation by notice sent by registered or certified mail, return  
30 receipt requested, or personally delivered, to the address of the  
31 health club specified in the contract upon the buyer's change of  
32 permanent residence to a location more than 25 miles from the  
33 health club or an affiliated health club offering the same or similar  
34 services and facilities at no additional expense to the buyer. In a  
35 cancellation under this subsection, the health club may require  
36 proof of the new permanent residence and may retain a prorated  
37 share of the total contract price based upon the date the notice was  
38 received plus reimbursement for expenses incurred in an amount  
39 not to exceed 10% of the total contract price.

40       h. A health club services contract shall provide that if a health  
41 club facility is closed for a period longer than 30 days through no  
42 fault of the buyer of the health club services contract, the buyer is  
43 entitled to either extend the contract for a period equal to that  
44 during which the facility is closed or to receive a prorated refund of  
45 the amount paid by the buyer under the contract.

46       i. A health club services contract shall not obligate the buyer  
47 to renew the contract.

1 j. If a health club facility is not in existence on the date the  
2 contract is executed, the health club services contract shall provide  
3 that a buyer of a contract may cancel the contract if the facility is  
4 not open for business on a date which shall be set forth in the  
5 contract and receive a full refund of any deposit or payment on the  
6 contract.

7 k. A health club services contract shall not limit the liability of  
8 the health club to a buyer for injuries caused by or resulting from  
9 the negligence of the owner or operator, or an agent or employee of  
10 the owner or operator, of the health club.

11 (cf: P.L.1987, c.238, s.4)

12

13 2. This act shall take effect on the first day of the ninth month  
14 next following enactment.

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#### STATEMENT

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19 This bill prohibits health club services contracts from limiting  
20 the liability of the health club to a buyer for injuries caused by or  
21 resulting from the negligence of the owner or operator, or an agent  
22 or employee of the owner or operator, of the health club.

23 This bill is intended to codify Justice Albin's dissent in the case  
24 of Pulice v. Green Brook Sports & Fitness, 236 N.J. 1 (2018); see  
25 also Stelluti v. Casapenn, 203 N.J. 286 (2010) (Albin, J., dissenting)  
26 (arguing that a contract limiting a health club's liability from its  
27 own negligence is void as against public policy).

28 A violation of this bill would be an unlawful practice pursuant to  
29 the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), and is  
30 punishable by a monetary penalty of not more than \$10,000 for a  
31 first offense and not more than \$20,000 for any subsequent offense.  
32 In addition, violations can result in cease and desist orders issued  
33 by the Attorney General, the assessment of punitive damages, and  
34 the awarding of treble damages and costs to the injured party.