

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY GENERAL
BILL)

A BILL FOR

1 An Act relating to consumer contract terms.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 714.16D Unfair consumer contract
2 terms.

3 1. For purposes of this section:

4 a. "*Consumer*" means a person who buys, leases, or rents
5 merchandise.

6 b. "*Merchandise*" means the same as defined in section
7 714.16.

8 c. "*Person*" means the same as defined in section 714.16.

9 2. A person shall not include in a contract or proposed
10 contract for the sale or lease of merchandise a provision
11 waiving a consumer's right to make any statement regarding the
12 seller or lessor, the seller's or lessor's employees or agents,
13 or the merchandise.

14 3. A person shall not include in an agreement evidencing the
15 resolution of a dispute regarding a contract made in connection
16 with the sale or lease of merchandise a provision barring the
17 consumer from communicating information to a governmental
18 official or agency, or a representative of a governmental
19 official or agency.

20 4. A person shall not seek, threaten to enforce, or enforce
21 a contract provision or an agreement evidencing the resolution
22 of a dispute that violates this section. A person shall not
23 penalize a consumer for engaging in any conduct protected by
24 this section.

25 5. A waiver of any provision of this section is contrary to
26 public policy and is void and unenforceable.

27 6. An attempt by a person to have a consumer waive any
28 rights given in this section is a violation of this section.

29 7. A violation of this section is an unlawful practice
30 pursuant to section 714.16, and all remedies of section 714.16
31 are available for an action brought under section 714.16.

32 EXPLANATION

33 The inclusion of this explanation does not constitute agreement with
34 the explanation's substance by the members of the general assembly.

35 This bill forbids the inclusion, in a contract for the

1 sale or lease of merchandise or in an agreement evidencing
2 the resolution of a dispute relating to the sale or lease of
3 merchandise, of any provision which would prohibit a consumer
4 from making any statement regarding the seller, lessor, or
5 the merchandise, including a statement to a governmental
6 official or agency. "Merchandise" includes any objects,
7 wares, goods, commodities, intangibles, securities, bonds,
8 debentures, stocks, real estate or services. Any waiver of
9 a consumer's rights to make statements regarding the seller,
10 lessor, or merchandise is void and unenforceable. An attempt
11 by a person to have a consumer waive the consumer's rights to
12 make a statement regarding the seller, lessor, or merchandise
13 is a violation of the new Code section and is an unlawful
14 practice under Code section 714.16. Under Code section
15 714.16, with regard to unlawful practices, the attorney general
16 has the authority to issue subpoenas, hold hearings, adopt
17 administrative rules, and file lawsuits to obtain temporary and
18 permanent injunctive relief, consumer reimbursement, costs and
19 attorney fees, and civil penalties up to \$40,000 per violation.