

Bill to Eliminate Dispute Arbitration Harms Retailers and Consumers

For more than 80 years, arbitration has helped Americans settle disputes fairly, quickly and inexpensively, without having to file a lawsuit or navigate the court system. The Arbitration Fairness Act ([S. 931](#)), introduced in the Senate earlier this year, would change that. In effect, S. 931 will nullify arbitration agreements which exist in potentially millions of consumer, employment and franchise contracts, leaving businesses with little recourse in the event of a dispute—except to file a lawsuit and incur potentially hefty legal bills.

The Arbitration Fairness Act is touted as "consumer-friendly" legislation, allegedly allowing the public a choice in determining how to resolve conflicts with businesses or employers. In reality, eliminating pre-dispute arbitration is tantamount to eliminating arbitration altogether. Without a pre-dispute commitment to arbitration, inevitably one side will believe they have the upper hand—forcing the case into an already over-burdened court system.

Without arbitration, consumers with claims under \$60,000 will likely be left with little recourse but to hire an attorney and file suit. However, studies show that attorneys working on contingency generally require \$60,000–\$75,000 in damages before taking a case.

A recent study of consumer arbitrations administered by the American Arbitration Association (AAA) Searle Civil Justice Institute at Northwestern University School of Law found that more than 98 percent of cases complied with the AAA's consumer due process protocol and that, on average, claims were resolved in approximately seven months—as opposed to two years or more for a civil lawsuit. That same study found consumers prevailed in 53.3% of the cases filed, recovering an average of \$19,255.

The Arbitration Fairness Act would dump too many cases into our courts, ultimately leaving most consumers out in the cold and businesses with no recourse but a court battle. To express your concern about S. 931, contact Senators Warner and Webb and tell them to preserve our current arbitration system.

- Senator Jim Webb, contact info: <http://webb.senate.gov/contact/>
- Senator Mark Warner, contact info: <http://warner.senate.gov/public/index.cfm?p=OfficeInformation>