

**Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0296.02 Jacob Baus x2173

**HOUSE BILL 26-1236**

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**HOUSE SPONSORSHIP**

**Zokaie and Mabrey,**

**SENATE SPONSORSHIP**

**Ball and Hinrichsen,**

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**House Committees**  
Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING ARBITRATION REFORM.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill:

- Prohibits a provision in an arbitration agreement that waives a party's ability to participate in a representative action except as preempted by federal law and disallows the waiver of this prohibition;
- Prohibits a provision in an arbitration agreement that requires an employee to an employer and employee contract or a consumer to a merchant and consumer

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

contract to pay fees that substantially exceed the costs required to file a claim in state or federal court, except as preempted by federal law, and disallows the waiver of this prohibition;

- Prohibits an individual from serving as an arbitrator if the individual has a rule, policy, procedure, or demonstrated pattern of conduct that discriminates or prevents, or has the effect of discriminating or preventing, a certain party or type of party from asserting their rights or prevailing in arbitration or that discriminates against an attorney; and
- Requires an employer or merchant to fully comply with requirements of a record of an award, within 30 days after the date of the record of an award, or be liable for additional damages caused by their failure to comply.

Under current law, exemplary damages are prohibited in arbitration proceedings. The bill repeals this prohibition.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 13-22-204, **amend**  
3 (2)(a) as follows:

4 **13-22-204. Effect of agreement to arbitrate - nonwaivable**  
5 **provisions.**

6 (2) Before a controversy arises that is subject to an agreement to  
7 arbitrate, a party to the agreement may not:

8 (a) Waive or agree to vary the effect of the requirements of  
9 section [REDACTED] 13-22-205 (1), 13-22-206 (1), 13-22-208, **13-22-209 (3)**,  
10 13-22-217 (1) or (2), 13-22-226, or 13-22-228;

11 [REDACTED] [REDACTED]

12 **SECTION 2.** In Colorado Revised Statutes, 13-22-209, **add (3)**  
13 as follows:

14 **13-22-209. Initiation of arbitration - application.**

15 (3) EXCEPT AS PREEMPTED BY FEDERAL LAW, IF THE PARTIES TO  
16 THE ARBITRATION AGREEMENT OR PROCEEDING ARE AN EMPLOYER AND

1 EMPLOYEE OR A MERCHANT AND CONSUMER, A PROVISION IN THE  
2 CONTRACT THAT REQUIRES THE PARTY THAT IS THE EMPLOYEE OR  
3 CONSUMER TO PAY FEES AND COSTS THAT EXCEED THE FEES AND COSTS  
4 REQUIRED BY STATE COURTS TO BRING A STATE CLAIM FOR A CASE FILED  
5 IN STATE COURT, OR REQUIRED BY FEDERAL COURTS TO BRING A FEDERAL  
6 CLAIM FOR A CASE FILED IN FEDERAL COURT, IS VOID AND  
7 UNENFORCEABLE, AND THE PARTY THAT IS THE EMPLOYEE OR CONSUMER  
8 MAY FILE THE CASE IN COURT.

9 **SECTION 3.** In Colorado Revised Statutes, 13-22-211, **add** (3)  
10 as follows:

11 **13-22-211. Appointment of arbitrator - service as a neutral**  
12 **arbitrator.**

13 (3) (a) AN INDIVIDUAL OR ARBITRATOR, OR AN INDIVIDUAL OR  
14 ARBITRATOR ASSOCIATED WITH AN ARBITRATION ORGANIZATION, IS  
15 INELIGIBLE TO INITIATE, SPONSOR, OR ADMINISTER AN ARBITRATION  
16 PROCEEDING OR TO APPOINT OR SERVE AS AN ARBITRATOR IF THE  
17 INDIVIDUAL, ARBITRATOR, OR ARBITRATION ORGANIZATION HAS A RULE,  
18 POLICY, PROCEDURE, OR DEMONSTRATED PATTERN OF CONDUCT THAT:

19 (I) DISCRIMINATES AGAINST A CERTAIN PARTY, TYPE OF PARTY, OR  
20 ATTORNEY, OR APPLIES DIFFERENT RULES, POLICIES, OR PROCEDURES  
21 BASED ON HOW MANY CLAIMANTS HAVE FILED SIMILAR CLAIMS OR HOW  
22 MANY CLAIMS HAVE BEEN FILED FROM THE SAME ATTORNEY; OR

23 (II) PREVENTS, OR HAS THE EFFECT OF PREVENTING, A CERTAIN  
24 PARTY, TYPE OF PARTY, OR ATTORNEY FROM:

25 (A) ASSERTING THE PARTY'S RIGHTS IN ARBITRATION; OR

26 (B) PREVAILING IN FULL OR IN PART IN ARBITRATION.

27 (b) FOR THE PURPOSE OF DETERMINING WHETHER AN INDIVIDUAL

1 OR ARBITRATOR, OR AN INDIVIDUAL OR ARBITRATOR ASSOCIATED WITH AN  
2 ARBITRATION ORGANIZATION, IS INELIGIBLE TO INITIATE, SPONSOR, OR  
3 ADMINISTER AN ARBITRATION PROCEEDING OR TO APPOINT OR SERVE AS  
4 AN ARBITRATOR PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, THE  
5 INDIVIDUAL OR ARBITRATOR MUST NOT BE FOUND INELIGIBLE BASED  
6 SOLELY ON A FINDING THAT THE INDIVIDUAL OR ARBITRATOR GENERALLY  
7 FINDS IN THE FAVOR OF EITHER PARTY.

8 **SECTION 4.** In Colorado Revised Statutes, 13-22-219, **add** (3)  
9 as follows:

10 **13-22-219. Award - application.**

11 (3) (a) A PARTY THAT FAILS TO FULLY COMPLY WITH THE  
12 REQUIREMENTS OF A RECORD OF AN AWARD WITHIN NINETY DAYS AFTER  
13 THE DATE OF THAT AWARD IS LIABLE TO THE OTHER PARTY FOR DAMAGES  
14 CAUSED BY THE FAILURE TO FULLY COMPLY.

15 (b) NOTWITHSTANDING SUBSECTION (3)(a) OF THIS SECTION, IF THE  
16 PARTIES OF THE ARBITRATION AGREEMENT OR PROCEEDING ARE AN  
17 EMPLOYER AND EMPLOYEE OR MERCHANT AND CONSUMER AND THE PARTY  
18 THAT IS THE EMPLOYER OR MERCHANT FAILS TO FULLY COMPLY WITH THE  
19 REQUIREMENTS OF A RECORD OF AN AWARD WITHIN NINETY DAYS AFTER  
20 THE DATE OF THAT AWARD, THE PARTY THAT IS THE EMPLOYER OR  
21 MERCHANT IS LIABLE TO THE OTHER PARTY FOR DAMAGES IN TREBLE THE  
22 TOTAL AMOUNT IN THE RECORD OF AN AWARD CAUSED BY THE FAILURE TO  
23 FULLY COMPLY.

24 (c) THE LIABILITY DESCRIBED IN SUBSECTIONS (3)(a) AND (3)(b)  
25 OF THIS SECTION IS IN ADDITION TO THE REQUIREMENTS OF A RECORD OF  
26 AN AWARD.

27 **SECTION 5.** In Colorado Revised Statutes, 13-22-221, **repeal** (3)

1 as follows:

2 **13-22-221. Remedies - fees and expenses of arbitration**  
3 **proceeding.**

4 (3) ~~Nothing in this section shall be construed to alter or amend the~~  
5 ~~provisions of section 13-21-102 (5).~~

6 **SECTION 6.** In Colorado Revised Statutes, 13-21-102, **amend**  
7 (5) as follows:

8 **13-21-102. Exemplary damages.**

9 (5) Unless otherwise provided by law, exemplary damages shall  
10 not be awarded in administrative ~~or arbitration~~ proceedings, even if the  
11 award or decision is enforced or approved in an action commenced in a  
12 court.

13 **SECTION 7. Act subject to petition - effective date -**  
14 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
15 the expiration of the ninety-day period after final adjournment of the  
16 general assembly (August 12, 2026, if adjournment sine die is on May 13,  
17 2026); except that, if a referendum petition is filed pursuant to section 1  
18 (3) of article V of the state constitution against this act or an item, section,  
19 or part of this act within such period, then the act, item, section, or part  
20 will not take effect unless approved by the people at the general election  
21 to be held in November 2026 and, in such case, will take effect on the  
22 date of the official declaration of the vote thereon by the governor.

23 (2) This act applies to arbitration agreements entered into or  
24 renewed on or after the applicable effective date of this act.