

117TH CONGRESS  
1ST SESSION

# H. R. 5751

To amend title 49, United States Code, to prohibit Amtrak from including mandatory arbitration clauses in contracts of carriage, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 27, 2021

Mr. LAMB (for himself, Ms. STRICKLAND, and Mr. PAYNE) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

---

## A BILL

To amend title 49, United States Code, to prohibit Amtrak from including mandatory arbitration clauses in contracts of carriage, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ending Passenger Rail  
5 Forced Arbitration Act”.

1 **SEC. 2. NO VALIDITY OR ENFORCEABILITY OF ARBITRA-**  
2 **TION AGREEMENTS FOR CONSUMER AND**  
3 **CIVIL RIGHTS DISPUTES.**

4 (a) IN GENERAL.—Chapter 243 of title 49, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing:

7 **“§ 24323. Prohibition on mandatory arbitration**

8 “(a) PURPOSES.—The purposes of this section are—

9 “(1) to prohibit predispute arbitration agree-  
10 ments that force arbitration of consumer and civil  
11 rights disputes between Amtrak and customers of  
12 Amtrak; and

13 “(2) to prohibit agreements and practices that  
14 interfere with the right of customers to participate  
15 in a joint, class, or collective action related to con-  
16 sumer and civil rights disputes between Amtrak and  
17 customers of Amtrak.

18 “(b) DEFINITIONS.—In this section:

19 “(1) AMTRAK.—The term ‘Amtrak’ refers to  
20 the National Railroad Passenger Corporation.

21 “(2) CIVIL RIGHTS DISPUTE.—The term ‘civil  
22 rights dispute’ means a dispute—

23 “(A) arising from an alleged violation of—

24 “(i) the Constitution of the United  
25 States or the constitution of a State; or

1           “(ii) any Federal, State, or local law  
2           that prohibits discrimination on the basis  
3           of—

4                   “(I) race, sex, age, gender iden-  
5                   tity, sexual orientation, disability, reli-  
6                   gion, or national origin; or

7                   “(II) any legally protected status  
8                   in education, employment, credit,  
9                   housing, public accommodations and  
10                  facilities, voting, veterans and service-  
11                  members, health care, or a program  
12                  funded or conducted by the Federal  
13                  Government or a State government,  
14                  including any law referred to or de-  
15                  scribed in section 62(e) of the Inter-  
16                  nal Revenue Code of 1986, including  
17                  parts of such law not explicitly ref-  
18                  erenced in such section that relate to  
19                  protecting individuals on any such  
20                  basis; and

21                  “(B) in which at least 1 party alleging a  
22                  violation described in subparagraph (A) consists  
23                  of 1 or more customers (or their authorized  
24                  representative), including 1 or more individuals  
25                  seeking certification as a class under rule 23 of

1 the Federal Rules of Civil Procedure or a com-  
2 parable rule or provision of State law.

3 “(3) CONSUMER DISPUTE.—The term ‘con-  
4 sumer dispute’ means any dispute, including all  
5 claims related to personal injuries, between Amtrak  
6 and 1 or more customers who seek or acquire—

7 “(A) services and accommodations pro-  
8 vided by Amtrak; or

9 “(B) carriage on Amtrak trains and equip-  
10 ment.

11 “(4) CUSTOMER.—The term ‘customer’ means  
12 any individual, except for an employee of Amtrak  
13 and without regard to whether the individual is a  
14 minor or paid for the transportation, who seeks or  
15 acquires—

16 “(A) services and accommodations pro-  
17 vided by Amtrak; or

18 “(B) carriage on Amtrak trains and equip-  
19 ment.

20 “(5) PREDISPUTE ARBITRATION AGREEMENT.—  
21 The term ‘predispute arbitration agreement’ means  
22 an agreement to arbitrate a dispute that has not yet  
23 arisen at the time of the making of the agreement.

24 “(6) PREDISPUTE JOINT-ACTION WAIVER.—The  
25 term ‘predispute joint-action waiver’ means an

1 agreement, whether or not part of a predispute arbi-  
2 tration agreement, that would prohibit, or waive the  
3 right of, one of the parties to the agreement to par-  
4 ticipate in a joint, class, or collective action in a ju-  
5 dicial, arbitral, administrative, or other forum, con-  
6 cerning a dispute that has not yet arisen at the time  
7 of the making of the agreement.

8 “(7) RAIL PASSENGER CARRIER.—The term  
9 ‘rail passenger carrier’ means a rail carrier pro-  
10 viding—

11 “(A) interstate intercity rail passenger  
12 transportation (as such term is defined in sec-  
13 tion 24102); or

14 “(B) interstate or intrastate high-speed  
15 rail (as such term is defined in section 26105)  
16 transportation, except that such term does not  
17 include a tourist, historic, scenic, or excursion  
18 rail carrier.

19 “(c) IN GENERAL.—

20 “(1) IN GENERAL.—All predispute arbitration  
21 agreements and predispute joint-action waivers shall  
22 be invalid and unenforceable with respect to a con-  
23 sumer or civil rights dispute between Amtrak (in its  
24 capacity as a rail passenger carrier) and a customer  
25 of Amtrak.

1 “(2) APPLICABILITY.—

2 “(A) IN GENERAL.—A determination of  
3 whether this section applies to a particular dis-  
4 pute shall be made in accordance with Federal  
5 law.

6 “(B) AUTHORITY OF COURT.—The appli-  
7 cability of this section to an agreement to arbi-  
8 trate and the validity and enforceability of an  
9 agreement to which this section applies shall be  
10 determined by a court, rather than by an arbi-  
11 trator, regardless of whether—

12 “(i) the party resisting arbitration  
13 challenges the arbitration agreement spe-  
14 cifically or in conjunction with other terms  
15 of the contract containing such agreement;  
16 and

17 “(ii) the agreement purports to dele-  
18 gate such determinations to an arbitrator.

19 “(C) EXCLUSION.—Nothing in this section  
20 shall apply to a predispute arbitration agree-  
21 ment or joint action waiver invoked in connec-  
22 tion with any dispute subject to the Railway  
23 Labor Act (45 U.S.C. 151 et seq.).”

24 (b) EFFECTIVE DATE.—The amendments made by  
25 subsection (a)—

1           (1) shall take effect on the date of the enact-  
2           ment of this Act; and

3           (2) shall apply with respect to any dispute or  
4           claim that arises or accrues on or after such date.

5           (c) CLERICAL AMENDMENT.—The analysis for chap-  
6           ter 243 of title 49, United States Code, is amended by  
7           adding at the end the following:

“24323. Prohibition on mandatory arbitration.”.

○