SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 2155 (Aguiar-Curry)
Version: February 18, 2026
Hearing Date: June 9, 2026
Fiscal: No
Urgency: No
AM

SUBJECT

Arbitration: validity of agreements to arbitrate

DIGEST

This bill provides that a written agreement to submit to arbitration is not enforceable under the California Arbitration Act (CAA) to the extent the agreement is not enforceable under the Federal Arbitration Act (FAA).

EXECUTIVE SUMMARY

The FAA exempts certain types of contracts from its provisions, including contracts of workers engaged in foreign or interstate commerce and predispute arbitration agreements or predispute joint-action waivers related to a dispute regarding sexual assault or sexual harassment. This bill seeks to make it clear that these same exceptions apply to any agreement to arbitrate under the CAA. The bill is sponsored by the California Employment Lawyers Association (CELA) and Equal Rights Advocates and supported by numerous legal organizations and labor associations. No timely opposition was received by the Committee.

PROPOSED CHANGES TO THE LAW

Existing federal law:

1) Provides, pursuant to the Federal Arbitration Act (FAA), that a written provision in any maritime transaction or a contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of such contract or transaction, or the refusal to perform the whole or any part thereof, or an agreement in writing to submit to arbitration an existing controversy arising out of such a contract, transaction, or refusal, shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract. (9 U.S.C. § 2.)

a) Exempts contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce from the Federal Arbitration Act. (9 U.S.C. § 1.)

2) Establishes the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 which, in relevant part makes a predispute arbitration agreement or predispute joint-action waiver invalid and unenforceable with respect to a case which is filed under Federal, Tribal, or state law and related to the sexual assault dispute or the sexual harassment dispute, at the election of the person alleging conduct constituting a sexual harassment dispute or sexual assault dispute, or their named representative in a collective action. (9 U.S.C. § 401 et seq.)

Existing state law:

1) Governs arbitrations in California pursuant to the California Arbitration Act (CAA), including the enforcement of arbitration agreements, rules for neutral arbitrators, the conduct of arbitration proceedings, and the enforcement of arbitration awards. (Code Civ. Proc. §§ 1280 et seq.)

2) Provides that a written agreement to submit to arbitration an existing controversy or a controversy thereafter arising is valid, enforceable and irrevocable, save upon such grounds as exist for the revocation of any contract. (Code Civ. Proc. § 1281.)

This bill:

1) States that it is the purpose of this bill to incorporate into the CAA any and all exclusions under the FAA (9 U.S.C. § 1 et seq.), including contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce, and the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 (9 U.S.C. § 401 et seq.), including claims that relate to a sexual harassment dispute or sexual assault dispute.

2) State that the Legislature finds and declares that it is the policy of this state to ensure that all persons have the full benefit of the rights, forums, and procedures established under state law.

3) States that a written agreement to submit to arbitration is not enforceable under the CAA to the extent the agreement is not enforceable under the FAA (9 U.S.C. § 1 et seq.).

COMMENTS

1. Stated need for the bill

The author writes:

> One of the biggest barriers workers face when trying to enforce their workplace rights is forced arbitration. In order to get or keep their jobs, more than half of the U.S. workforce must sign agreements as a condition of employment waiving their right to go to court or seek relief through the Labor Commissioner. Instead, they are pushed into private arbitration proceedings that limit transparency and can disadvantage employees.
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> The California Arbitration Act provides less access to the courts than the Federal Arbitration Act because it does not incorporate key exemptions from arbitration that exist at the federal level. As a result, courts have issued inconsistent rulings on whether workers may be forced into arbitration when the California Arbitration Act applies instead of the Federal Arbitration Act.
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> Federal law creates an exemption for cases involving sexual harassment or sexual assault, as well as cases involving seamen, railroad employees, or other transportation workers engaged in foreign or interstate commerce. It also creates an exemption for cases involving sexual assault and sexual harassment: in 2022, the Biden administration signed legislation invalidating forced arbitration for cases involving sexual assault and sexual harassment.
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> Employers have relied on the California Arbitration Act to compel arbitration for cases concerning sexual harassment and sexual assault, and for this protected class of transportation workers – even where federal law would preserve a worker's right to seek relief in court.

2. Arbitration

   a. Background

Arbitration is an alternative method for resolving legal disputes. Instead of going through the formal, public court process, the parties to the dispute submit their evidence and legal arguments to a private arbitrator (or a panel of arbitrators) who decides the case. Generally, the arbitration decision is not appealable. Generally, supporters of arbitration assert that private arbitration provides a cheaper, faster, more efficient form of dispute resolution than the overburdened courts, because they are able to limit discovery, set their own rules for presenting evidence, schedule proceedings at their own convenience, and select the third party who will decide their cases. However, critics of private arbitration contend that it is an unregulated industry, which is often

costly and unreceptive to consumers and employees. Consumer advocates view mandatory arbitration as putting consumers and employees on an uneven playing field that creates an inclination by arbitrators to decide cases in favor of businesses. They further view arbitration as an expensive process which also puts consumers at a disadvantage by imposing procedural limitations on their ability to pursue their legal claims.

On March 1, 2016, the Senate Judiciary Committee held an informational hearing on the topic of private arbitration agreements, entitled "The Federal Arbitration Act (FAA), the U.S. Supreme Court, and the Impact of Mandatory Arbitration on California Consumers and Employees." In that hearing, many issues facing consumers and employees who are subject to arbitration clauses contained in standardized, take-it-or-leave-it, or "adhesive" contracts were brought to light. That hearing also brought to light the various difficulties facing the state in addressing some of the underlying, fundamental harms faced by consumers and employees as a result of federal preemption and U.S. Supreme Court precedent interpreting the FAA.

b. Federal Preemption, the FAA, and exemptions

The FAA was enacted by the U. S. Congress in 1925 in response to widespread judicial hostility to arbitration agreements. Section 2 of the FAA generally provides that a written provision in any contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of such contract or transaction shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract. (*See* 9 U.S.C. § 2; similar language is contained within the CAA at Code Civ. Proc. § 1281.) In assessing whether a state law is preempted by the FAA, three key aspects of the law surrounding arbitration and preemption are especially relevant. First, the federal courts have ruled that the FAA was intended to promote arbitration.[1] Second, state laws or rules that interfere with the enforcement of arbitration agreements are preempted, except on such grounds as exist at law or in equity for the revocation of any contract.[2] Third, state laws that explicitly or covertly discriminate against arbitration agreements as compared to other contracts are also preempted.[3]

However, some exemptions to the FAA have been passed. First, contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce are exempt from the FAA and have been for almost 80 years. (9 U.S.C. § 1.) More recently, Congress enacted the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 to make an agreement to arbitrate invalid and unenforceable if a person subject to the agreement is alleging conduct that

[1] *Epic Sys. Corp. v. Lewis* (2018) 584 U.S. 497, at 505.
[2] 9 U.S.C. Sec. 2; *AT&T Mobility LLC v. Concepcion* (2011) 563 U.S. 333, 339.
[3] *Epic Sys. Corp.*, 584 U.S. at 546-548.

constitutes sexual harassment or sexual assault and that person chooses not to arbitrate the claim but pursue it in court. (9 U.S.C. § 401 et seq.)

c. The CAA and the exemptions to the FAA

The CAA does not contain the two specific exemptions to the FAA. The sponsors of the bill note that this has led to some courts requiring parties to arbitrate claims under the CAA that would not be required to be arbitrated under the FAA. (See *Doe v. Los Alamitos Medical Center, Inc.* No. G063959, 2025, and *Casey v. D.R. Horton* (108 Cal. App. 5th 575 (2025).) This bill seeks to ensure that this situation does not continue to occur by amending the CAA to provide that a written agreement to submit to arbitration is not enforceable under the CAA to the extent the agreement is not enforceable under the FAA.

3. Statements in support

The sponsors of the bill, California Employment Lawyers Association (CELA) and Equal Rights Advocates, write in support stating:

> This bill would bring California law into alignment with federal protections by incorporating key exceptions from the Federal Arbitration Act into the California Arbitration Act. This bill will ensure workers cannot be forced into arbitration when federal law already recognizes their right to seek justice in court. It promotes fairness, clarity, and accountability while reaffirming California's commitment to protecting workers' rights.

SUPPORT

California Employment Lawyers Association (sponsor)
Equal Rights Advocates (sponsor)
Asian Americans Advancing Justice Southern California
Asian Law Caucus
Ben Tzedek Legal Services
California Commission of the Status of Women and Girls
California Domestic Workers Coalition
California Federation of Labor Unions
California Rural Legal Assistance Foundation
California Women's Law Center
California Work & Family Coalition
Californians for Safety and Justice (CSJ)
Coalition of California Welfare Rights (CCWRO)
Community Legal Services in East Palo Alto
Consumer Attorneys of California
Courage California

End Child Poverty California
Indivisible CA: StateStrong
Kapor Center Advocacy
Legal Aid at Work
National Council of Jewish Women- California
National Employment Law Project
Sunita Jain Anti-Trafficking Initiative, Loyola Law School
Teamsters California
TechEquity Action
Women's Foundation of California
WorkSafe

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation: None known.

PRIOR VOTES

Assembly Floor (Ayes 74, Noes 0)
Assembly Judiciary Committee (Ayes 12, Noes 0)

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