

Senator Chuck Grassley: Arbitration Hypocrite

U.S. Senator Grassley's statement in support of S 1140, granting car dealers a special exemption, freeing them from forced arbitration:

"While arbitration serves an important function as an efficient alternative to court, some trade-offs must be considered by both parties, such as limited judicial review and less formal procedures regarding discovery and rules of evidence. When mandatory binding arbitration is forced upon a party, for example when it is placed in a boiler-plate agreement, it deprives the weaker party the opportunity to elect another forum.

As a proponent of arbitration I believe it is critical to ensure that the selection of arbitration is voluntary and fair...Unequal bargaining power exists in contracts between automobile and truck dealers and their manufacturers. The manufacturer drafts the contract and presents it to dealers with no opportunity to negotiate...The purpose of arbitration is to reduce costly, time-consuming litigation, not to force a party to an adhesion contract to waive access to judicial or administrative forums for the pursuit of rights under State law.....

This legislation will go a long way toward ensuring that parties will not be forced into binding arbitration and thereby lose important statutory rights. I am confident that given its many advantages arbitration will often be elected. But it is essential for public policy reasons and basic fairness that both parties to this type of contract have the freedom to make their own decisions based on the circumstances of the case."

While S. 1140 did not pass, auto dealers were given an exemption from the FAA, in order to preserve their rights, thanks to passage of H.R. 2215 in 2002. That act, now codified at 15 U.S.C. section 1226, prohibits auto manufacturers from including any type of pre-dispute arbitration clause in franchise contracts with auto dealers. Specifically, it provides that arbitration may be used to settle a controversy arising out of a motor vehicle franchise contract only if both parties consent, in writing, and only after the dispute arises.