

56:8-39 to 56:8-48

LEGISLATIVE HISTORY CHECKLIST

NJSA: 56:8-39 to 56:8-48 (Health clubs-- regulate)

LAWS OF: 1987 CHAPTER: 238

Bill No: S1308, S913, A1163

Sponsor(s): Codey and Laskin

Date Introduced: Pre-filed

Committee: Assembly: Higher Education and Regulated Professions

Senate: Labor, Industry and Professions

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: June 29, 1987

Senate: June 18, 1987

Date of Approval: August 12, 1987

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: No

See newspaper clippings-- attached:

"Health club regulations become law", 8-13-87 Star Ledger.

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SENATE COMMITTEE SUBSTITUTE FOR

**SENATE Nos. 1308, 913 and  
ASSEMBLY No. 1163**

**STATE OF NEW JERSEY**

ADOPTED MAY 21, 1987

Sponsored by Senators CODEY and LASKIN  
and Assemblyman ROCCO

AN Act regulating the sellers of health club services and supplementing P. L. 1960, c. 39 (C. 56:8-1 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. As used in this act:

2 a. "Director" means the Director of the Division of Consumer  
3 Affairs in the Department of Law and Public Safety.

4 b. "Health club" means an establishment which devotes or will  
5 devote 40% or more of its square footage to providing services  
6 or facilities for the preservation, maintenance, encouragement or  
7 development of physical fitness or physical well-being. The term  
8 includes an establishment designated as "reducing salon," "health  
9 spa," "spa," "exercise gym," "health studio," "health club," or by  
10 other terms of similar import.

11 c. "Health club services" means those services offered by a  
12 health club for the preservation, maintenance, encouragement or  
13 development of physical fitness or physical well-being.

14 d. "Health club services contract" means an agreement under  
15 which the buyer of health club services purchases or becomes  
16 obligated to purchase health club services.

17 e. "Operating day" means any calendar day on which patrons  
18 may inspect and use the health club's facilities and services during  
19 a period of at least eight hours, except holidays and Sundays.

1     2. Each person who sells or offers for sale health club services  
2 in this State shall register with the director on forms the director  
3 provides. The registration shall be renewed every two years. Upon  
4 the sale of the health club facility or a change in the majority  
5 ownership of the stock of the corporate owner, the health club  
6 facility shall reregister with the director and shall pay the regis-  
7 tration fee. The person shall provide the full name and address  
8 of each business location where health club services are sold in the  
9 State as well as any other information regarding the ownership  
10 and operation of each health club that the director deems appro-  
11 priate. The registration and renewal fees shall be established or  
12 changed by the director and shall be fixed at a level to allow for  
13 the proper administration and enforcement of this act, but shall  
14 not be fixed at a level that will raise amounts in excess of the  
15 amount estimated to be so required.

1     3. a. A person who sells or offers for sale health club services  
2 shall, for each health club facility operated in the State, maintain  
3 a bond issued by a surety authorized to transact business in this  
4 State or maintain an irrevocable letter of credit by a bank or  
5 maintain with the director securities, moneys or other security  
6 acceptable to the director to fulfill the requirements of this sub-  
7 section. The principal sum of the bond, letter of credit, or secur-  
8 ities, moneys or other security shall be 10% of the health club's  
9 gross income for health club services during the club's last fiscal  
10 year, except that the principal sum of the bond, letter of credit,  
11 or securities, moneys or other security shall not be less than  
12 \$25,000.00, nor more than \$50,000.00. However, the principal sum  
13 of the bond, letter of credit, or securities, moneys or other security  
14 shall be \$50,000.00 for any period of time that a person sells or  
15 offers for sale health club services prior to the opening of the  
16 health club facility. After the health club facility opens, the bond,  
17 letter of credit, or securities, moneys or other security shall be  
18 adjusted to the appropriate sum. The bond, letter of credit, or  
19 securities, moneys or other security shall be filed or deposited with  
20 the director and shall be excused to the State of New Jersey  
21 for the use of any person who, after entering into a health club  
22 services contract, is damaged or suffers any loss by reason of  
23 breach of contract or bankruptcy by the seller. Any person claim-  
24 ing against the bond, letter of credit, or securities, moneys, or other  
25 security may maintain an action at law against the health club  
26 and the surety, bank or director, as the case may be. The aggregate  
27 liability of the surety, bank, or the director to all persons for all  
28 breaches of the conditions of the bond, letter of credit, or the

29 securities, moneys or other security held by the director shall not  
30 exceed the amount of the bond, letter of credit, or the securities,  
31 moneys or other security held by the director.

32 In the case of a bond, the health club shall file a copy of the  
33 bond with the director and a certificate by the surety that the  
34 surety will notify the director at least 10 days in advance of the  
35 date of any cancellation or material change in the bond.

36 b. The provisions of subsection a. of this section shall not be  
37 applicable to a person who sells or offers for sale health club  
38 services in which the buyer of the health club services purchases  
39 or becomes obligated to purchase health club services to be rendered  
40 over a period no longer than three months and in which the seller  
41 of the health club services requires or collects no more than three  
42 months' payment in advance. The person who sells or offers for  
43 sale health club services under contracts provided for in this  
44 subsection shall file with the director, within 30 days following  
45 the effective date of this act and no later than January 15 of every  
46 even-numbered year, a declaration, executed under penalty of per-  
47 jury, stating he sells or offers for sale only health club services  
48 under contracts which comply with this subsection. Any person  
49 who has filed a declaration pursuant to this subsection and who  
50 intends to sell or offer for sale health club services under contracts  
51 with longer terms or greater payments in advance than those pro-  
52 vided in this subsection shall comply with subsection a. of this  
53 section.

1 4. a. Every contract for health club services shall be in writing.  
2 A copy of the written contract shall be given to the buyer at the  
3 time the buyer signs the contract.

4 b. A health club services contract shall specifically set forth in  
5 a conspicuous manner on the first page of the contract the buyer's  
6 total payment obligation for health club services to be received  
7 pursuant to the contract.

8 c. A health club services contract of a health club facility which  
9 maintains a bond, irrevocable letter of credit or securities, moneys  
10 or other security pursuant to subsection a. of section 3 of this act  
11 shall set forth that a bond, irrevocable letter of credit or securities,  
12 moneys or other security is filed or deposited with the Director of  
13 the Division of Consumer Affairs to protect buyers of these con-  
14 tracts who are damaged or suffer any loss by reason of breach of  
15 contract or bankruptcy by the seller.

16 d. Services to be rendered to the buyer under the contract shall  
17 not obligate the buyer for more than three years from the date the  
18 contract is signed by the buyer.

19 e. A contract for new or increased health club services may be  
20 cancelled by the buyer for any reason at any time before midnight  
21 of the third operating day after the buyer receives a copy of the  
22 contract. In order to cancel a contract the buyer shall notify the  
23 health club of cancellation in writing, by registered or certified  
24 mail, return receipt requested, or personal delivery, to the address  
25 specified in the contract. All moneys paid pursuant to the cancelled  
26 contract shall be fully refunded within 30 days of receipt of the  
27 notice of cancellation. If the customer has executed any credit or  
28 loan agreement through the health club to pay all or part of health  
29 club services, the negotiable instrument executed by the buyer  
30 shall also be returned within 30 days. The contract shall contain  
31 a conspicuous notice printed in at least 10-point bold-faced type  
32 as follows:

**“NOTICE TO CUSTOMER**

33 You are entitled to a copy of this contract at the time you sign it.

34 You may cancel this contract at any time before midnight of  
35 the third operating day after receiving a copy of this contract.

36 If you choose to cancel this contract, you must either:

37 1. Send a signed and dated written notice of cancellation by  
38 registered or certified mail, return receipt requested; or

39 2. Personally deliver a signed and dated written notice of can-  
40 cellation to:

41 ..... (Name of health club)

42 ..... (Address of health club)

43 If you cancel this contract within the three-day period, you are  
44 entitled to a full refund of your money. If the third operating  
45 day falls on a Sunday or holiday, notice is timely given if it is  
46 mailed or delivered as specified in this notice on the next operating  
47 day. Refunds must be made within 30 days of receipt of the can-  
48 cellation notice to the health club.

49 ‘Operating day’ means any calendar day on which patrons may  
50 inspect and use the health club’s facilities and services during a  
51 period of at least eight hours, except holidays and Sundays.”

52 f. A health club services contract shall provide that it is subject  
53 to cancellation by notice sent by registered or certified mail, return  
54 receipt requested, or personally delivered, to the address of the  
55 health club specified in the contract upon the buyer’s death or  
56 permanent disability, if the permanent disability is fully described  
57 and confirmed to the health club by a physician. In a cancellation  
58 under this subsection, the health club may retain the portion of  
59 the total contract price representing the services used plus re-

60 imbursement for expenses incurred in an amount not to exceed  
61 10% of the total contract price.

62 g. A health club services contract shall provide that it is subject  
63 to cancellation by notice sent by registered or certified mail, return  
64 receipt requested, or personally delivered, to the address of the  
65 health club specified in the contract upon the buyer's change of  
66 permanent residence to a location more than 25 miles from the  
67 health club or an affiliated health club offering the same or similar  
68 services and facilities at no additional expense to the buyer. In a  
69 cancellation under this subsection, the health club may require  
70 proof of the new permanent residence and may retain a prorated  
71 share of the total contract price based upon the date the notice  
72 was received plus reimbursement for expenses incurred in an  
73 amount not to exceed 10% of the total contract price.

74 h. A health club services contract shall provide that if a health  
75 club facility is closed for a period longer than 30 days through  
76 no fault of the buyer of the health club services contract, the buyer  
77 is entitled to either extend the contract for a period equal to that  
78 during which the facility is closed or to receive a prorated refund  
79 of the amount paid by the buyer under the contract.

80 i. A health club services contract shall not obligate the buyer  
81 to renew the contract.

82 j. If a health club facility is not in existence on the date the  
83 contract is executed, the health club services contract shall provide  
84 that a buyer of a contract may cancel the contract if the facility  
85 is not open for business on a date which shall be set forth in the  
86 contract and receive a full refund of any deposit or payment on  
87 the contract.

1 5. a. A health club services contract shall not require the execu-  
2 tion of any note or series of notes by the buyer which, if separately  
3 negotiated, will cut off as to third parties any right of action or  
4 defense which the buyer has against the health club.

5 b. A right of action or defense arising out of a health club  
6 services contract which the buyer has against the health club shall  
7 not be cut off by assignment of the contract whether or not the  
8 assignee acquires the contract in good faith and for value.

1 6. A health club may not charge and accept a down payment  
2 exceeding 25% of the total contract price prior to opening the  
3 health club facility.

1 7. a. Any health club services contract entered into in reliance  
2 upon any fraudulent or substantially and willfully false or mis-  
3 leading information, representation, notice or advertisement of the

4 health club is voidable at the option of the buyer of the contract.  
5 Any health club services contract which does not comply with the  
6 applicable provisions of this act is voidable at the option of the  
7 buyer of the contract.

8 b. Any waiver by the buyer of the provisions of this act is void.

1 8. It is an unlawful practice and a violation of P. L. 1960, c. 39  
2 (C. 56:8-1 et seq.) to violate the provisions of this act.

1 9. The provisions of this act shall not apply to any nonprofit  
2 public or private school, college or university; the State or any  
3 of its political subdivisions; or any bona fide nonprofit, religious,  
4 ethnic, or community organization.

1 10. The director shall adopt pursuant to the provisions of the  
2 "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1  
3 et seq.), rules and regulations necessary to effectuate the purposes  
4 of this act.

1 11. This act shall take effect on the 120th day after enactment  
2 and shall apply to all health club services contracts entered into  
3 on or after the effective date.

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#### REGULATED PROFESSIONS

Regulates the sale of health club services.

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# ASSEMBLY, No. 1163

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman ROCCO

SENATE COMMITTEE SUBSTITUTE FOR

**SENATE Nos. 1434, 1207 and**

**ASSEMBLY No. 1155**

[SECOND OFFICIAL COPY REPRINT]

## STATE OF NEW JERSEY

ADOPTED FEBRUARY 25, 1985

Sponsored by Senators CODEY and LASKIN  
and Assemblyman ROCCO

AN ACT regulating the sellers of health club services and supplementing P. L. 1960, c. 39 (C. 56:8-1 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. As used in this act:

2 a. "Director" means the Director of the Division of Consumer  
3 Affairs in the Department of Law and Public Safety.

4 b. "Health club" means an establishment which devotes or will  
5 devote 40% or more of its square footage to providing services  
6 or facilities for the preservation, maintenance, encouragement or  
7 development of physical fitness or physical well-being. The term  
8 includes an establishment designated as "reducing salon," "health  
9 spa," "spa," "exercise gym," "health studio," "health club," or by  
10 other terms of similar import.

11 c. "Health club services" means those services offered by a  
12 health club for the preservation, maintenance, encouragement or  
13 development of physical fitness or physical well-being.

14 d. "Health club services contract" means an agreement under  
15 which the buyer of health club services purchases or becomes  
16 obligated to purchase health club services.

17 e. "Operating day" means any calendar day on which patrons  
18 may inspect and use the health club's facilities and services during  
19 a period of at least eight hours, except holidays and Sundays.

1 2. Each person who sells or offers for sale health club services  
2 in this State shall register with the director on forms the director  
3 provides. The registration shall be renewed every two years. Upon  
4 the sale of the health club facility or a change in the majority



5 ownership of the stock of the corporate owner, the health club  
6 facility shall reregister with the director and shall pay the regis-  
7 tration fee. The person shall provide the full name and address  
8 of each business location where health club services are sold in the  
9 State as well as any other information regarding the ownership  
10 and operation of each health club that the director deems appro-  
11 priate. The registration and renewal fees shall be established or  
12 changed by the director and shall be fixed at a level to allow for  
13 the proper administration and enforcement of this act, but shall  
14 not be fixed at a level that will raise amounts in excess of the  
15 amount estimated to be so required.

1 3. a. A person who sells or offers for sale health club services  
2 shall, for each health club facility operated in the State, maintain  
3 a bond issued by a surety authorized to transact business in this  
4 State or maintain an irrevocable letter of credit by a bank or  
5 maintain with the director securities, moneys or other security  
6 acceptable to the director to fulfill the requirements of this sub-  
7 section. The principal sum of the bond, letter of credit, or secur-  
8 ities, moneys or other security shall be 10% of the health club's  
9 gross income for health club services during the club's last fiscal  
10 year, except that the principal sum of the bond, letter of credit,  
11 or securities, moneys or other security shall not be less than  
12 \$25,000.00, nor more than \$50,000.00. However, the principal sum  
13 of the bond, letter of credit, or securities, moneys or other security  
14 shall be \$50,000.00 for any period of time that a person sells or  
15 offers for sale health club services prior to the opening of the  
16 health club facility. After the health club facility opens, the bond,  
17 letter of credit, or securities, moneys or other security shall be  
18 adjusted to the appropriate sum. The bond, letter of credit, or  
19 securities, moneys or other security shall be filed or deposited with  
20 the director and shall be executed to the State of New Jersey  
21 for the use of any person who, after entering into a health club  
22 services contract, is damaged or suffers any loss by reason of  
23 breach of contract or bankruptcy by the seller. Any person claim-  
24 ing against the bond, letter of credit, or securities, moneys, or other  
25 security may maintain an action at law against the health club  
26 and the surety, bank or director, as the case may be. The aggregate  
27 liability of the surety, bank, or the director to all persons for all  
28 breaches of the conditions of the bond, letter of credit, or the  
29 securities, moneys or other security held by the director shall not  
30 exceed the amount of the bond, letter of credit, or the securities,  
31 moneys or other security held by the director.

32 In the case of a bond, the health club shall file a copy of the

33 bond with the director and a certificate by the surety that the  
34 surety will notify the director at least 10 days in advance of the  
35 date of any cancellation or material change in the bond.

36 b. The provisions of subsection a. of this section shall not be  
37 applicable to a person who sells or offers for sale health club  
38 services in which the buyer of the health club services purchases  
39 or becomes obligated to purchase health club services to be rendered  
40 over a period no longer than three months and in which the seller  
41 of the health club services requires or collects no more than three  
42 months' payment in advance. The person who sells or offers for  
43 sale health club services under contracts provided for in this  
44 subsection shall file with the director, within 30 days following  
45 the effective date of this act and no later than January 15 of every  
46 even-numbered year, a declaration, executed under penalty of per-  
47 jury, stating he sells or offers for sale only health club services  
48 under contracts which comply with this subsection. Any person  
49 who has filed a declaration pursuant to this subsection and who  
50 intends to sell or offer for sale health club services under contracts  
51 with longer terms or greater payments in advance than those pro-  
52 vided in this subsection shall comply with subsection a. of this  
53 section.

1 4. a. Every contract for health club services shall be in writing.  
2 A copy of the written contract shall be given to the buyer at the  
3 time the buyer signs the contract.

4 b. A health club services contract shall specifically set forth in  
5 a conspicuous manner on the first page of the contract the buyer's  
6 total payment obligation for health club services to be received  
7 pursuant to the contract.

8 c. A health club services contract of a health club facility which  
9 maintains a bond, irrevocable letter of credit or securities, moneys  
10 or other security pursuant to subsection a. of section 3 of this act  
11 shall set forth that a bond, irrevocable letter of credit or securities,  
12 moneys or other security is filed or deposited with the Director of  
13 the Division of Consumer Affairs to protect buyers of these con-  
14 tracts who are damaged or suffer any loss by reason of breach of  
15 contract or bankruptcy by the seller.

16 d. Services to be rendered to the buyer under the contract shall  
17 not obligate the buyer for more than three years from the date the  
18 contract is signed by the buyer.

19 e. A contract for new or increased health club services may be  
20 cancelled by the buyer for any reason at any time before midnight  
21 of the third operating day after the buyer receives a copy of the  
22 contract. In order to cancel a contract the buyer shall notify the

23 health club of cancellation in writing, by registered or certified  
24 mail, return receipt requested, or personal delivery, to the address  
25 specified in the contract. All moneys paid pursuant to the cancelled  
26 contract shall be fully refunded within 30 days of receipt of the  
27 notice of cancellation. If the customer has executed any credit or  
28 loan agreement through the health club to pay all or part of health  
29 club services, the negotiable instrument executed by the buyer  
30 shall also be returned within 30 days. The contract shall contain  
31 a conspicuous notice printed in at least 10-point bold-faced type  
32 as follows:

“NOTICE TO CUSTOMER

33 You are entitled to a copy of this contract at the time you sign it.

34 You may cancel this contract at any time before midnight of  
35 the third operating day after receiving a copy of this contract.  
36 If you choose to cancel this contract, you must either:

37 1. Send a signed and dated written notice of cancellation by  
38 registered or certified mail, return receipt requested; or

39 2. Personally deliver a signed and dated written notice of can-  
40 cellation to:

41 ..... (Name of health club)

42 ..... (Address of health club)

43 If you cancel this contract within the three-day period, you are  
44 entitled to a full refund of your money. If the third operating  
45 day falls on a Sunday or holiday, notice is timely given if it is  
46 mailed or delivered as specified in this notice on the next operating  
47 day. Refunds must be made within 30 days of receipt of the can-  
48 cellation notice to the health club.

49 ‘Operating day’ means any calendar day on which patrons may  
50 inspect and use the health club’s facilities and services during a  
51 period of at least eight hours, except holidays and Sundays.”

52 f. A health club services contract shall provide that it is subject  
53 to cancellation by notice sent by registered or certified mail, return  
54 receipt requested, or personally delivered, to the address of the  
55 health club specified in the contract upon the buyer’s death or  
56 permanent disability, if the permanent disability is fully described  
57 and confirmed to the health club by a physician. In a cancellation  
58 under this subsection, the health club may retain the portion of  
59 the total contract price representing the services used plus re-  
60 imbursement for expenses incurred in an amount not to exceed  
61 10% of the total contract price.

62 g. A health club services contract shall provide that it is subject  
63 to cancellation by notice sent by registered or certified mail, return  
64 receipt requested, or personally delivered, to the address of the

65 health club specified in the contract upon the buyer's change of  
66 permanent residence to a location more than 25 miles from the  
67 health club or an affiliated health club offering the same or similar  
68 services and facilities at no additional expense to the buyer. In a  
69 cancellation under this subsection, the health club may require  
70 proof of the new permanent residence and may retain a prorated  
71 share of the total contract price based upon the date the notice  
72 was received plus reimbursement for expenses incurred in an  
73 amount not to exceed 10% of the total contract price.

74 h. A health club services contract shall provide that if a health  
75 club facility is closed for a period longer than 30 days through  
76 no fault of the buyer of the health club services contract, the buyer  
77 is entitled to either extend the contract for a period equal to that  
78 during which the facility is closed or to receive a prorated refund  
79 of the amount paid by the buyer under the contract.

80 i. A health club services contract shall not obligate the buyer  
81 to renew the contract.

82 j. If a health club facility is not in existence on the date the  
83 contract is executed, the health club services contract shall provide  
84 that a buyer of a contract may cancel the contract if the facility  
85 is not open for business on a date which shall be set forth in the  
86 contract and receive a full refund of any deposit or payment on  
87 the contract.

1 5. a. A health club services contract shall not require the execu-  
2 tion of any note or series of notes by the buyer which, if separately  
3 negotiated, will cut off as to third parties any right of action or  
4 defense which the buyer has against the health club.

5 b. A right of action or defense arising out of a health club  
6 services contract which the buyer has against the health club shall  
7 not be cut off by assignment of the contract whether or not the as-  
8 signee acquires the contract in good faith and for value.

1 6. A health club may not charge and accept a down payment  
2 exceeding 25% of the total contract price prior to opening the  
3 health club facility.

1 7. a. Any health club services contract entered into in reliance  
2 upon any fraudulent or substantially and willfully false or mis-  
3 leading information, representation, notice or advertisement of the  
4 health club is voidable at the option of the buyer of the contract.  
5 Any health club services contract which does not comply with the  
6 applicable provisions of this act is voidable at the option of the  
7 buyer of the contract.

8 b. Any waiver by the buyer of the provisions of this act is void.

1 8. It is an unlawful practice and a violation of P. L. 1960, c. 39  
2 (C. 56:8-1 et seq.) to violate the provisions of this act.

1 9. The provisions of this act shall not apply to any nonprofit  
2 public or private school, college or university; the State or any  
3 of its political subdivisions; or any bona fide nonprofit, religious,  
4 ethnic, or community organization.

1 10. The director shall adopt pursuant to the provisions of the  
2 "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1  
3 et seq.), rules and regulations necessary to effectuate the purposes  
4 of this act.

1 11. This act shall take effect on the 120th day after enactment  
2 and shall apply to all health club services contracts entered into  
3 on or after the effective date.

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#### STATEMENT

This bill provides for the registration and regulation of health clubs. A health club is an establishment which devotes or will devote 40% or more of its square footage to providing services or facilities for the preservation, maintenance, encouragement or development of physical fitness or physical well-being.

Each health club which sells health club services must register with the Director of the Division of Consumer Affairs. The health club would also be required to maintain a bond, irrevocable letter of credit, or securities or monies in the amount of 10% of the health club's gross income for the past year, except that the amount shall not be less than \$25,000.00, nor more than \$50,000.00. However, the amount of the bond or other security shall be \$50,000.00 during any period of sales prior to the opening of the health club facility. The bond or other security would be used to cover any loss or damage suffered by a buyer of a health club services contract as a result of breach of contract or bankruptcy. However, the bond or other security would not have to be maintained by a health club if the health club does not sell health club services contracts that exceed three months' duration and require more than three months' payment in advance.

The bill contains other consumer protection provisions. Every contract for health club services must be in writing and the buyer must receive a copy when he signs the contract. These contracts cannot exceed three years' duration. The bill provides for a three-day cooling-off-period during which the buyer of health club services may cancel the contract. Also, it provides that, if the buyer of a contract dies, becomes permanently disabled or moves more than 25 miles from the health club or affiliated health club, the contract may be cancelled and a refund made to the buyer or estate for the unused services less expenses incurred. Also, if for some reason

the health club is closed for longer than one month through no fault of the buyer of a contract, the buyer is entitled to extend his membership for a period equal to that during which the facility was closed or to receive a prorated refund of the amount he has paid under the contract. A health club services contract may not obligate the buyer to renew the contract. Lastly, the buyer of a health club services contract that is executed before the health club facility is opened may cancel the contract and receive a refund of any deposit or payment on the contract if the facility is not open for business on the date promised in the contract.

A health club may not charge or accept a down payment exceeding 25% of the contract price prior to opening the health club facility. Also, a buyer of a health club services contract may void a contract entered into in reliance upon any fraudulent or substantially and willfully false or misleading information or representation of the health club.

The provisions of this bill do not apply to schools, colleges, or universities; the State or its political subdivisions; or nonprofit, religious, ethnic, or community organizations.

The bill supplements the "consumer fraud act" (P. L. 1960, c. 39) and therefore makes violators of its provisions subject to the penalties and other sanctions provided in that law.

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# SENATE, No. 913

Introduced Pending Technical Review by Legislative Counsel  
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION  
By Senator LASKIN

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE Nos. 1434, 1207 and**  
**ASSEMBLY No. 1155**

[SECOND OFFICIAL COPY REPRINT]

## STATE OF NEW JERSEY

ADOPTED FEBRUARY 25, 1985

Sponsored by Senators CODEY and LASKIN  
and Assemblyman ROCCO

AN ACT regulating the sellers of health club services and supplementing P. L. 1960, c. 39 (C. 56:8-1 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. As used in this act:

2 a. "Director" means the Director of the Division of Consumer  
3 Affairs in the Department of Law and Public Safety.

4 b. "Health club" means an establishment which devotes or will  
5 devote 40% or more of its square footage to providing services  
6 or facilities for the preservation, maintenance, encouragement or  
7 development of physical fitness or physical well-being. The term  
8 includes an establishment designated as "reducing salon," "health  
9 spa," "spa," "exercise gym," "health studio," "health club," or by  
10 other terms of similar import.

11 c. "Health club services" means those services offered by a  
12 health club for the preservation, maintenance, encouragement or  
13 development of physical fitness or physical well-being.

14 d. "Health club services contract" means an agreement under  
15 which the buyer of health club services purchases or becomes  
16 obligated to purchase health club services.

17 e. "Operating day" means any calendar day on which patrons  
18 may inspect and use the health club's facilities and services during  
19 a period of at least eight hours, except holidays and Sundays.

1 2. Each person who sells or offers for sale health club services  
2 in this State shall register with the director on forms the director  
3 provides. The registration shall be renewed every two years. Upon  
4 the sale of the health club facility or a change in the majority

5 ownership of the stock of the corporate owner, the health club  
6 facility shall reregister with the director and shall pay the regis-  
7 tration fee. The person shall provide the full name and address  
8 of each business location where health club services are sold in the  
9 State as well as any other information regarding the ownership  
10 and operation of each health club that the director deems appro-  
11 priate. The registration and renewal fees shall be established or  
12 changed by the director and shall be fixed at a level to allow for  
13 the proper administration and enforcement of this act, but shall  
14 not be fixed at a level that will raise amounts in excess of the  
15 amount estimated to be so required.

1 3. a. A person who sells or offers for sale health club services  
2 shall, for each health club facility operated in the State, maintain  
3 a bond issued by a surety authorized to transact business in this  
4 State or maintain an irrevocable letter of credit by a bank or  
5 maintain with the director securities, moneys or other security  
6 acceptable to the director to fulfill the requirements of this sub-  
7 section. The principal sum of the bond, letter of credit, or secur-  
8 ities, moneys or other security shall be 10% of the health club's  
9 gross income for health club services during the club's last fiscal  
10 year, except that the principal sum of the bond, letter of credit,  
11 or securities, moneys or other security shall not be less than  
12 \$25,000.00, nor more than \$50,000.00. However, the principal sum  
13 of the bond, letter of credit, or securities, moneys or other security  
14 shall be \$50,000.00 for any period of time that a person sells or  
15 offers for sale health club services prior to the opening of the  
16 health club facility. After the health club facility opens, the bond,  
17 letter of credit, or securities, moneys or other security shall be  
18 adjusted to the appropriate sum. The bond, letter of credit, or  
19 securities, moneys or other security shall be filed or deposited with  
20 the director and shall be executed to the State of New Jersey  
21 for the use of any person who, after entering into a health club  
22 services contract, is damaged or suffers any loss by reason of  
23 breach of contract or bankruptcy by the seller. Any person claim-  
24 ing against the bond, letter of credit, or securities, moneys, or other  
25 security may maintain an action at law against the health club  
26 and the surety, bank or director, as the case may be. The aggregate  
27 liability of the surety, bank, or the director to all persons for all  
28 breaches of the conditions of the bond, letter of credit, or the  
29 securities, moneys or other security held by the director shall not  
30 exceed the amount of the bond, letter of credit, or the securities,  
31 moneys or other security held by the director.

32 In the case of a bond, the health club shall file a copy of the



33 bond with the director and a certificate by the surety that the  
34 surety will notify the director at least 10 days in advance of the  
35 date of any cancellation or material change in the bond.

36 b. The provisions of subsection a. of this section shall not be  
37 applicable to a person who sells or offers for sale health club  
38 services in which the buyer of the health club services purchases  
39 or becomes obligated to purchase health club services to be rendered  
40 over a period no longer than three months and in which the seller  
41 of the health club services requires or collects no more than three  
42 months' payment in advance. The person who sells or offers for  
43 sale health club services under contracts provided for in this  
44 subsection shall file with the director, within 30 days following  
45 the effective date of this act and no later than January 15 of every  
46 even-numbered year, a declaration, executed under penalty of per-  
47 jury, stating he sells or offers for sale only health club services  
48 under contracts which comply with this subsection. Any person  
49 who has filed a declaration pursuant to this subsection and who  
50 intends to sell or offer for sale health club services under contracts  
51 with longer terms or greater payments in advance than those pro-  
52 vided in this subsection shall comply with subsection a. of this  
53 section.

1 4. a. Every contract for health club services shall be in writing.  
2 A copy of the written contract shall be given to the buyer at the  
3 time the buyer signs the contract.

4 b. A health club services contract shall specifically set forth in  
5 a conspicuous manner on the first page of the contract the buyer's  
6 total payment obligation for health club services to be received  
7 pursuant to the contract.

8 c. A health club services contract of a health club facility which  
9 maintains a bond, irrevocable letter of credit or securities, moneys  
10 or other security pursuant to subsection a. of section 3 of this act  
11 shall set forth that a bond, irrevocable letter of credit or securities,  
12 moneys or other security is filed or deposited with the Director of  
13 the Division of Consumer Affairs to protect buyers of these con-  
14 tracts who are damaged or suffer any loss by reason of breach of  
15 contract or bankruptcy by the seller.

16 d. Services to be rendered to the buyer under the contract shall  
17 not obligate the buyer for more than three years from the date the  
18 contract is signed by the buyer.

19 e. A contract for new or increased health club services may be  
20 cancelled by the buyer for any reason at any time before midnight  
21 of the third operating day after the buyer receives a copy of the  
22 contract. In order to cancel a contract the buyer shall notify the

23 health club of cancellation in writing, by registered or certified  
24 mail, return receipt requested, or personal delivery, to the address  
25 specified in the contract. All moneys paid pursuant to the cancelled  
26 contract shall be fully refunded within 30 days of receipt of the  
27 notice of cancellation. If the customer has executed any credit or  
28 loan agreement through the health club to pay all or part of health  
29 club services, the negotiable instrument executed by the buyer  
30 shall also be returned within 30 days. The contract shall contain  
31 a conspicuous notice printed in at least 10-point bold-faced type  
32 as follows:

“NOTICE TO CUSTOMER

33 You are entitled to a copy of this contract at the time you sign it.

34 You may cancel this contract at any time before midnight of  
35 the third operating day after receiving a copy of this contract.  
36 If you choose to cancel this contract, you must either:

37 1. Send a signed and dated written notice of cancellation by  
38 registered or certified mail, return receipt requested; or

39 2. Personally deliver a signed and dated written notice of can-  
40 cellation to:

41 ..... (Name of health club)

42 ..... (Address of health club)

43 If you cancel this contract within the three-day period, you are  
44 entitled to a full refund of your money. If the third operating  
45 day falls on a Sunday or holiday, notice is timely given if it is  
46 mailed or delivered as specified in this notice on the next operating  
47 day. Refunds must be made within 30 days of receipt of the can-  
48 cellation notice to the health club.

49 ‘Operating day’ means any calendar day on which patrons may  
50 inspect and use the health club’s facilities and services during a  
51 period of at least eight hours, except holidays and Sundays.”

52 f. A health club services contract shall provide that it is subject  
53 to cancellation by notice sent by registered or certified mail, return  
54 receipt requested, or personally delivered, to the address of the  
55 health club specified in the contract upon the buyer’s death or  
56 permanent disability, if the permanent disability is fully described  
57 and confirmed to the health club by a physician. In a cancellation  
58 under this subsection, the health club may retain the portion of  
59 the total contract price representing the services used plus re-  
60 imbursement for expenses incurred in an amount not to exceed  
61 10% of the total contract price.

62 g. A health club services contract shall provide that it is subject  
63 to cancellation by notice sent by registered or certified mail, return  
64 receipt requested, or personally delivered, to the address of the

65 health club specified in the contract upon the buyer's change of  
66 permanent residence to a location more than 25 miles from the  
67 health club or an affiliated health club offering the same or similar  
68 services and facilities at no additional expense to the buyer. In a  
69 cancellation under this subsection, the health club may require  
70 proof of the new permanent residence and may retain a prorated  
71 share of the total contract price based upon the date the notice  
72 was received plus reimbursement for expenses incurred in an  
73 amount not to exceed 10% of the total contract price.

74 h. A health club services contract shall provide that if a health  
75 club facility is closed for a period longer than 30 days through  
76 no fault of the buyer of the health club services contract, the buyer  
77 is entitled to either extend the contract for a period equal to that  
78 during which the facility is closed or to receive a prorated refund  
79 of the amount paid by the buyer under the contract.

80 i. A health club services contract shall not obligate the buyer  
81 to renew the contract.

82 j. If a health club facility is not in existence on the date the  
83 contract is executed, the health club services contract shall provide  
84 that a buyer of a contract may cancel the contract if the facility  
85 is not open for business on a date which shall be set forth in the  
86 contract and receive a full refund of any deposit or payment on  
87 the contract.

1 5. a. A health club services contract shall not require the execu-  
2 tion of any note or series of notes by the buyer which, if separately  
3 negotiated, will cut off as to third parties any right of action or  
4 defense which the buyer has against the health club.

5 b. A right of action or defense arising out of a health club  
6 services contract which the buyer has against the health club shall  
7 not be cut off by assignment of the contract whether or not the as-  
8 signee acquires the contract in good faith and for value.

1 6. A health club may not charge and accept a down payment  
2 exceeding 25% of the total contract price prior to opening the  
3 health club facility.

1 7. a. Any health club services contract entered into in reliance  
2 upon any fraudulent or substantially and willfully false or mis-  
3 leading information, representation, notice or advertisement of the  
4 health club is voidable at the option of the buyer of the contract.  
5 Any health club services contract which does not comply with the  
6 applicable provisions of this act is voidable at the option of the  
7 buyer of the contract.

8 b. Any waiver by the buyer of the provisions of this act is void.

1 8. It is an unlawful practice and a violation of P. L. 1960, c. 39  
2 (C. 56:8-1 et seq.) to violate the provisions of this act.

1 9. The provisions of this act shall not apply to any nonprofit  
2 public or private school, college or university; the State or any  
3 of its political subdivisions; or any bona fide nonprofit, religious,  
4 ethnic, or community organization.

1 10. The director shall adopt pursuant to the provisions of the  
2 "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1  
3 et seq.), rules and regulations necessary to effectuate the purposes  
4 of this act.

1 11. This act shall take effect on the 120th day after enactment  
2 and shall apply to all health club services contracts entered into  
3 on or after the effective date.

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#### STATEMENT

This bill provides for the registration and regulation of health clubs by the State.

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**SENATE, No. 1308**

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**STATE OF NEW JERSEY**

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PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Senator CODEY

AN ACT regulating the sellers of health club services and supplementing P. L. 1960, c. 39 (C. 56:8-1 et seq.).

1     BE IT ENACTED *by the Senate and General Assembly of the State*  
2     *of New Jersey:*

1     1. As used in this act:

2     a. "Director" means the Director of the Division of Consumer  
3     Affairs in the Department of Law and Public Safety.

4     b. "Health club" means an establishment which devotes or will  
5     devote 40% or more of its square footage to providing services  
6     or facilities for the preservation, maintenance, encouragement or  
7     development of physical fitness or physical well-being. The term  
8     includes an establishment designated as "reducing salon," "health  
9     spa," "spa," "exercise gym," "health studio," "health club," or by  
10    other terms of similar import.

11    c. "Health club services" means those services offered by a  
12    health club for the preservation, maintenance, encouragement or  
13    development of physical fitness or physical well-being.

14    d. "Health club services contract" means an agreement under  
15    which the buyer of health club services purchases or becomes  
16    obligated to purchase health club services.

17    e. "Operating day" means any calendar day on which patrons  
18    may inspect and use the health club's facilities and services during  
19    a period of at least eight hours, except holidays and Sundays.

1     2. Each person who sells or offers for sale health club services  
2     in this State shall register with the director on forms the director  
3     provides. The registration shall be renewed every two years. Upon  
4     the sale of the health club facility or a change in the majority

5 ownership of the stock of the corporate owner, the health club  
6 facility shall reregister with the director and shall pay the regis-  
7 tration fee. The person shall provide the full name and address  
8 of each business location where health club services are sold in the  
9 State as well as any other information regarding the ownership  
10 and operation of each health club that the director deems appro-  
11 priate. The registration and renewal fees shall be established or  
12 changed by the director and shall be fixed at a level to allow for  
13 the proper administration and enforcement of this act, but shall  
14 not be fixed at a level that will raise amounts in excess of the  
15 amount estimated to be so required.

1 3. a. A person who sells or offers for sale health club services  
2 shall maintain a bond issued by a surety authorized to transact  
3 business in this State or maintain an irrevocable letter of credit by  
4 a bank or maintain with the director securities, moneys or other  
5 security acceptable to the director to fulfill the requirements of  
6 this subsection. The principal sum of the bond, letter of credit,  
7 or securities, moneys or other security shall be according to the fol-  
8 lowing schedule: one location \$25,000.00; two locations \$50,000.00;  
9 three locations \$75,000.00; four or five locations \$100,000.00; six  
10 or seven locations \$120,000.00; eight or nine locations \$140,000.00;  
11 and 10 or more locations \$150,000.00. The bond, letter of credit, or  
12 securities, moneys or other security shall be filed or deposited with  
13 the director and shall be executed to the State of New Jersey  
14 for the use of any person who, after entering into a health club  
15 services contract, is damaged or suffers any loss by reason of  
16 breach of contract or bankruptcy by the seller. Any person claim-  
17 ing against the bond, letter of credit, or securities, moneys, or other  
18 security may maintain an action at law against the health club  
19 and the surety, bank or director, as the case may be. The aggregate  
20 liability of the surety, bank, or the director to all persons for all  
21 breaches of the conditions of the bond, letter of credit, or the  
22 securities, moneys or other security held by the director shall not  
23 exceed the amount of the bond, letter or credit, or the securities,  
24 moneys or other security held by the director.

25 In the case of a bond, the health club, shall file a copy of the  
26 bond with the director and a certificate by the surety that the  
27 surety will notify the director at least 10 days in advance of the  
28 date of any cancellation or material change in the bond.

29 b. The provisions of subsection a. of this section shall not be  
30 applicable to a person who sells or offers for sale health club  
31 services in which the buyer of the health club services purchases  
32 or becomes obligated to purchase health club services to be rendered

33 over a period no longer than three months and in which the seller  
34 of the health club services requires or collects no more than three  
35 months' payment in advance. The person who sells or offers for  
36 sale health club services under contracts provided for in this  
37 subsection shall file with the director, within 30 days following  
38 the effective date of this act and no later than January 15 of every  
39 even-numbered year, a declaration, executed under penalty of per-  
40 jury, stating he sells or offers for sale only health club services  
41 under contracts which comply with this subsection. Any person  
42 who has filed a declaration pursuant to this subsection and who  
43 intends to sell or offer for sale health club services under contracts  
44 with longer terms or greater payments in advance than those pro-  
45 vided in this subsection shall comply with subsection a. of this  
46 section.

1 4. a. Every contract for health club services shall be in writing.  
2 A copy of the written contract shall be given to the buyer at the  
3 time the buyer signs the contract.

4 b. A health club services contract shall specifically set forth in  
5 a conspicuous manner on the first page of the contract the buyer's  
6 total payment obligation for health club services to be received  
7 pursuant to the contract.

8 c. A health club services contract of a health club facility which  
9 maintains a bond, irrevocable letter of credit or securities, moneys  
10 or other security pursuant to subsection a. of section 3 of this act  
11 shall set forth that a bond, irrevocable letter of credit or securities,  
12 moneys or other security is filed or deposited with the Director of  
13 the Division of Consumer Affairs to protect buyers of these con-  
14 tracts who are damaged or suffer any loss by reason of breach of  
15 contract or bankruptcy by the seller.

16 d. Services to be rendered to the buyer under the contract shall  
17 not obligate the buyer for more than three years from the date the  
18 contract is signed by the buyer.

19 e. A contract for new or increased health club services may be  
20 cancelled by the buyer for any reason at any time before midnight  
21 of the third operating day after the buyer receives a copy of the  
22 contract. In order to cancel a contract the buyer shall notify the  
23 health club of cancellation in writing, by registered or certified  
24 mail, return receipt requested, or personal delivery, to the address  
25 specified in the contract. All moneys paid pursuant to the cancelled  
26 contract shall be fully refunded within 30 days of receipt of the  
27 notice of cancellation. If the customer has executed any credit or  
28 loan agreement through the health club to pay all or part of health  
29 club services, the negotiable instrument executed by the buyer

30 shall also be returned within 30 days. The contract shall contain  
31 a conspicuous notice printed in at least 10-point bold-faced type  
32 as follows :

“NOTICE TO CUSTOMER

33 You are entitled to a copy of this contract at the time you sign it.

34 You may cancel this contract at any time before midnight of  
35 the third operating day after receiving a copy of this contract.

36 If you choose to cancel this contract, you must either :

37 1. Send a signed and dated written notice of cancellation by  
38 registered or certified mail, return receipt requested; or

39 2. Personally deliver a signed and dated written notice of can-  
40 cellation to :

41 ..... (Name of health club)

42 ..... (Address of health club)

43 If you cancel this contract within the three-day period, you are  
44 entitled to a full refund of your money. If the third operating  
45 day falls on a Sunday or holiday, notice is timely given if it is  
46 mailed or delivered as specified in this notice on the next operating  
47 day. Refunds must be made within 30 days of receipt of the can-  
48 cellation notice to the health club.

49 ‘Operating day’ means any calendar day on which patrons may  
50 inspect and use the health club’s facilities and services during a  
51 period of at least eight hours, except holidays and Sundays.”

52 f. A health club services contract shall provide that it is subject  
53 to cancellation by notice sent by registered or certified mail, return  
54 receipt requested, or personally delivered, to the address of the  
55 health club specified in the contract upon the buyer’s death or  
56 permanent disability, if the permanent disability is fully described  
57 and confirmed to the health club by a physician. In a cancellation  
58 under this subsection, the health club may retain the portion of  
59 the total contract price representing the services used plus re-  
60 imbursement for expenses incurred in an amount not to exceed  
61 10% of the total contract price.

62 g. A health club services contract shall provide that it is subject  
63 to cancellation by notice sent by registered or certified mail, return  
64 receipt requested, or personally delivered, to the address of the  
65 health club specified in the contract upon the buyer’s change of  
66 permanent residence to a location more than 25 miles from the  
67 health club or an affiliated health club offering the same or similar  
68 services and facilities at no additional expense to the buyer. In a  
69 cancellation under this subsection, the health club may require  
70 proof of the new permanent residence and may retain a prorated  
71 share of the total contract price based upon the date the notice



72 was received plus reimbursement for expenses incurred in an  
73 amount not to exceed 10% of the total contract price.

74 h. A health club services contract shall provide that if a health  
75 club facility is closed for a period longer than 30 days through  
76 no fault of the buyer of the health club services contract, the buyer  
77 is entitled to either extend the contract for a period equal to that  
78 during which the facility is closed or to receive a prorated refund  
79 of the amount paid by the buyer under the contract.

80 i. A health club services contract shall not obligate the buyer  
81 to renew the contract.

82 j. If a health club facility is not in existence on the date the  
83 contract is executed, the health club services contract shall provide  
84 that a buyer of a contract may cancel the contract if the facility  
85 is not open for business on a date which shall be set forth in the  
86 contract and receive a full refund of any deposit or payment on  
87 the contract.

1 5. a. A health club services contract shall not require the execu-  
2 tion of any note or series of notes by the buyer which, if separately  
3 negotiated, will cut off as to third parties any right of action or  
4 defense which the buyer has against the health club.

5 b. A right of action or defense arising out of a health club  
6 services contract which the buyer has against the health club shall  
7 not be cut off by assignment of the contract whether or not the  
8 assignee acquires the contract in good faith and for value.

1 6. A health club may not charge and accept a down payment  
2 exceeding 25% of the total contract price prior to opening the  
3 health club facility.

1 7. a. Any health club services contract entered into in reliance  
2 upon any fraudulent or substantially and willfully false or mis-  
3 leading information, representation, notice or advertisement of the  
4 health club is voidable at the option of the buyer of the contract.  
5 Any health club services contract which does not comply with the  
6 applicable provisions of this act is voidable at the option of the  
7 buyer of the contract.

8 b. Any waiver by the buyer of the provisions of this act is void.

1 8. It is an unlawful practice and a violation of P. L. 1960, c. 39  
2 (C. 56:8-1 et seq.) to violate the provisions of this act.

1 9. The provisions of this act shall not apply to any nonprofit  
2 public or private school, college or university; the State or any  
3 of its political subdivisions; or any bona fide nonprofit, religious,  
4 ethnic, or community organization.

1 10. The director shall adopt pursuant to the provisions of the  
2 "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1

3 et seq.), rules and regulations necessary to effectuate the purposes  
4 of this act.

1 11. This act shall take effect on the 120th day after enactment  
2 and shall apply to all health club services contracts entered into  
3 on or after the effective date.

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#### STATEMENT

This bill provides for the registration and regulation of health clubs. A health club is an establishment which devotes or will devote 40% or more of its square footage to providing services or facilities for the preservation, maintenance, encouragement or development of physical fitness or physical well-being.

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**ASSEMBLY HIGHER EDUCATION AND REGULATED  
PROFESSIONS COMMITTEE**

STATEMENT TO  
SENATE COMMITTEE SUBSTITUTE FOR

**SENATE Nos. 1308, 913 and  
ASSEMBLY No. 1163**

**STATE OF NEW JERSEY**

DATED: JUNE 22, 1987

The Assembly Higher Education and Regulated Professions Committee favorably reports the Senate Committee Substitute for Senate Bill No. 1308, Senate Bill No. 913 and Assembly Bill No. 1163.

This bill provides for the registration and regulation of health clubs. Under the bill's provisions, a health club is defined as an establishment which devotes 40% or more of its square footage to providing services or facilities for the preservation, maintenance, encouragement or development of physical fitness or physical well being.

The bill stipulates that any person who sells health club services must register with the Director of the Division of Consumer Affairs. Also, a health club must maintain a bond, letter of credit or securities, moneys or other security in an amount which represents 10% of the club's gross income for the previous fiscal year. The principal sum of the bond or other security shall be not less than \$25,000.00 nor more than \$50,000.00; except that for any period of time in which a person sells health club services prior to the opening of the facility, the principal sum shall be \$50,000.00. The bond or security is to be filed with the Director of the Division of Consumer Affairs and is to be available for claims made by persons who suffer any loss as a result of a breach of contract or the bankruptcy of the seller of health club services. A bond or security would not have to be maintained, however, by a health club if the club does not sell health club services contracts that exceed three months in duration and require more than three months payment in advance.

This bill also provides the following consumer protection provisions:

1. A health club services contract must be in writing and a copy given to the buyer at the time of signature;
2. A buyer shall not be obligated under the contract for more than three years from the date of signature;
3. A buyer shall have three operating days from the date of receipt of the contract to cancel and is entitled to a full refund within 30 days of the club's receipt of the notice of cancellation;

4. A buyer may cancel the contract if he suffers a permanent disability which is confirmed by a physician or if he moves his permanent residence to a location more than 25 miles from the club or an affiliate which offers similar services;

5. If the health club is closed for a period longer than 30 days, the buyer is entitled to extend the contract or receive a prorated refund; and

6. A buyer may cancel the contract if the facility is not opened for business on the promised date.

Finally, the bill supplements the "consumer fraud act" (P. L. 1960, c. 39) and therefore makes violators of its provisions subject to the penalties in that law.

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SENATE LABOR, INDUSTRY AND PROFESSIONS  
COMMITTEE

STATEMENT TO  
SENATE COMMITTEE SUBSTITUTE FOR

**SENATE Nos. 1308, 913 and  
ASSEMBLY No. 1163**

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**STATE OF NEW JERSEY**

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DATED: MAY 21, 1987

This bill, Senate Committee Substitute for Senate Bill Nos. 1308, 913 and Assembly Bill No. 1163, provides for the registration and regulation of health clubs. A health club is an establishment which devotes or will devote 40% or more of its square footage to providing services or facilities for the preservation, maintenance, encouragement or development of physical fitness or physical well-being.

Each health club must register with the Director of the Division of Consumer Affairs. Each health club would be required to maintain a bond, irrevocable letter of credit, or securities or moneys in the amount of 10% of the health club's gross income for the past fiscal year, except that the amount could not be less than \$25,000.00, nor more than \$50,000.00. However, the amount of the bond or other security would be required to be \$50,000.00 during any period of sales prior to the opening of the health club facility. The bond or other security would be used to cover any loss or damage suffered by a buyer of a health club services contract as a result of breach of contract or bankruptcy. However, the bond or other security would not have to be maintained by a health club if the health club does not sell health club services contracts that exceed three months' duration or that require more than three months' payment in advance.

The bill contains other consumer protection provisions. Every contract for health club services must be in writing and the buyer must receive a copy when he signs the contract. These contracts cannot exceed three years' duration. The bill provides for a three-day cooling-off-period during which the buyer of health club services may cancel the contract. Also, if the buyer of a contract dies, becomes permanently disabled or moves more than 25 miles from the health club or an affiliated health club, the contract may be cancelled and a refund made to the buyer or estate for the unused services less expenses incurred. Further, if for some reason the health club is closed for longer than

one month through no fault of the buyer of a contract, the buyer is entitled to extend his membership for a period equal to that during which the facility was closed or to receive a prorated refund of the amount he has paid under the contract. A health club services contract may not obligate the buyer to renew the contract. Lastly, the buyer of a health club services contract that is executed before the health club facility is opened may cancel the contract and receive a refund of any deposit or payment on the contract if the facility is not open for business on the date promised in the contract.

A health club may not charge or accept a down payment exceeding 25% of the contract price prior to opening the health club facility. Also, a buyer of a health club services contract may void a contract entered into in reliance upon any fraudulent or substantially and willfully false or misleading information or representation of the health club.

The provisions of this bill do not apply to schools, colleges, or universities; the State or its political subdivisions or nonprofit, religious, ethnic, or community organizations.

The bill supplements the consumer fraud act (P. L. 1960, c. 39) and therefore makes violations of its provisions subject to the penalties and the other sanctions provided in that law.

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# OFFICE OF THE GOVERNOR NEWS RELEASE

**CN-001**

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**TRENTON, N.J. 08625**

**Release:** WED., AUG. 12, 1987

Governor Thomas H. Kean today signed legislation regulating the financial and contractual aspects of health club services.

The legislation, S-1308/913/A-1163, sponsored by Senator Richard Codey, D-Essex, Senator Lee Laskin, R-Camden and Assemblyman John Rocco, R-Camden, supplements the Consumer Fraud Act to protect consumers against fraudulent practices when health spas go out of business and fail to meet their obligations.

Among the provisions of the legislation is the requirement of sellers of health club services to maintain a bond to protect buyers of such services who suffer a loss by the breaching of the agreement by the health spa. The principle sum of this security shall be not less than \$25,000 nor more than \$50,000.

Further, every contract for health club services is required to be in writing, shall not obligate the buyer for more than three years, and shall set forth in a clear manner the buyer's total payment obligation.

The Division of Consumer Affairs in the Department of Law and Public Safety will implement the legislation.

The legislation is effective in 120 days.

Governor Kean today also signed legislation expanding the types of claims the New Jersey Surplus Lines Guaranty Fund covers to include claims arising out of the insolvency of the Northeastern Fire Insurance Company.

-more-

✓ <sup>AT Consumer</sup>  
**Health club**  
<sup>Protection</sup>  
**regulations**

## become law

52 8/3/87  
Gov. Thomas Kean signed legislation yesterday that imposes stringent regulations on health clubs and provides customers with protection from unscrupulous club operators.

The measure, signed by Kean without comment, requires health club operators to register with the Office of Consumer Affairs and post a security bond. In addition, customers would have a three-day review period to back out of any membership contract and the club could not offer any contract that exceeds three years.

The legislation (S-1308/A-1163) was sponsored by Sen. Richard Codey (D-Essex), Sen. Lee Laskin (R-Camden) and Assemblyman John Rocco (R-Camden).

Among other things, the law would require new health clubs to post a \$50,000 security bond if any memberships are sold before the facility opens. Clubs already in operation would have to post a security bond of up to 10 percent of the gross income from the previous year. The minimum would be \$25,000 and the maximum \$50,000.

In addition, clubs could not collect more than a 25 percent down payment on contracts before opening.

"Too many people have found out the hard way that so-called lifetime memberships are only good for the lifetime of the corporation—not the lifetime of the health club member," said Codey.

Laskin noted that a few years ago there was a sudden rash of health club closings, after thousands of consumers had joined.

"In many instances these individuals paid substantial advance membership fees which they lost when the club they had joined suddenly vanished in the middle of the night or was forced into bankruptcy," Laskin said.

Rocco echoed those statements saying many "fly-by-night" health club operators have no assets to liquidate if the business fails.

"This left members and other creditors out in the cold with no recourse to recoup their money," he added.

The law also calls for a prorated refund if a member dies, is disabled or moves more than 25 miles away from the facility.

The Division of Consumer Affairs will implement the law which will become effective in 120 days.