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MAR 25 1981

HOUSE FILE 775

Place On Calendar

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(Formerly House File 46)

Passed House, Date 4-6-81 (p. 1064) Passed Senate, Date 4-9-81 (P 1192)
Vote: Ayes 75 Nays 0 Vote: Ayes 40 Nays 4
Approved 4/20/81

A BILL FOR

1 An Act providing for successors to the interest of a
2 franchisee upon the death of the franchisee under a
3 franchise relating to the distribution or retail sale
4 of motor fuels and special fuels.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 775

H-3482

- 1 Amend House File 775 as follows:
- 2 1. Page 2, by striking lines 14 through 19 and
- 3 inserting in lieu thereof the following:
- 4 "8. If the successor-in-interest does not assume
- 5 the franchise, the franchiser shall account to the heirs
- 6 or the estate of the deceased franchisee for the value
- 7 of branded products purchased directly from the
- 8 franchiser."
- 9 2. Page 2, line 23, by striking the words "one year"
- 10 and inserting in lieu thereof the words "two years".

BY POFFENBERGER of Dallas
HALVORSON of Clayton
SHIMANEK of Jones
CLARK of Cerro Gordo

H-3482 FILED
APRIL 5, 1981
Adopted 4/5/81 (p. 1064)

1 Section 1. Chapter 323, Code 1981, is amended by adding
2 the following new section:

3 NEW SECTION. DEATH OF FRANCHISEE--SUCCESSOR--PENALTY.

4 1. It is unlawful to include in any distributor franchise
5 or dealer franchise agreement a term which provides for the
6 termination of the franchise by the franchiser upon the death
7 of the franchisee if the franchisee, prior to his or her
8 death, designates a successor-in-interest in a form prescribed
9 by and delivered to the franchiser. For the purposes of this
10 section, "successor-in-interest" is restricted to either a
11 surviving spouse or adult child of the franchisee who, at
12 the time of the franchisee's death, is able to meet reasonable
13 qualifications then being required of distributors or dealers
14 by the franchiser.

15 2. The successor-in-interest designated as provided in
16 subsection 1 shall have twenty-one days after the death of
17 the franchisee to give written notice of an election to assume
18 and operate the franchise. The notification shall contain
19 such information regarding business experience and credit
20 worthiness as is reasonably required by the franchiser. The
21 successor-in-interest must offer to assume and commence
22 operation of the franchise within ten days after the franchiser
23 approves the assumption.

24 3. The franchise available to the successor-in-interest
25 pursuant to this section shall be the same as that which
26 existed in the name of the deceased franchisee at the time
27 of the franchisee's death.

28 4. A franchisee may designate a primary and one alternate
29 successor-in-interest. The alternate, if one is designated,
30 has no rights under this section in the event of an exercise
31 of rights by the primary successor-in-interest. If an
32 alternate desires to assume and operate the franchise in the
33 event the primary successor-in-interest fails to do so, the
34 alternate must give notice of such election and otherwise
35 comply with subsection 2.

1 5. Unless otherwise specifically provided in this section,
2 actions to be performed by the franchiser or by the successor-
3 in-interest under this section shall be performed within a
4 reasonable time.

5 6. Following the death of a franchisee, and prior to the
6 operation of the franchise by the successor-in-interest as
7 provided in this section, the executor or administrator of
8 the estate of the deceased franchisee may operate the
9 franchise.

10 7. If the successor-in-interest assumes the franchise,
11 the successor-in-interest shall account to the heirs or estate
12 of the deceased franchisee for the value of personal property
13 of the franchisee located at or related to the franchise.

14 8. If the successor-in-interest elects not to assume the
15 franchise, the franchiser shall, prior to the termination
16 of the lease, account to the designated successor-in-interest
17 of the franchisee for the value of personal property purchased
18 from the franchiser and the business value of the franchise
19 located at or related to the franchise.

20 9. A franchisee or successor-in-interest may commence
21 a civil action to compel compliance by a franchiser with this
22 section, or to obtain damages caused by a failure to comply
23 with this section, or both, within one year after the date
24 the franchiser fails to comply with the requirements of this
25 section.

26 Sec. 2. This Act applies to franchise agreements executed
27 or renewed on or after the effective date of this Act.

28 EXPLANATION

29 This bill relates to franchises between gasoline and diesel
30 fuel importers and their distributors and retail dealers.
31 The bill provides that a distributor or dealer is entitled
32 to designate a surviving spouse or adult child as a successor
33 effective upon the death of the distributor or dealer. At
34 the time of death the designated successor must give notice
35 of the intent to assume the franchise, and must meet certain

1 qualifications. The section establishes the respective rights
2 of the franchiser, the franchisee and the designated successor.

3 A civil action could be brought by an interested party
4 to compel compliance by the franchiser or to obtain damages
5 caused by a franchiser's violation of the section.

6 The bill would take effect July 1 following enactment.

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HOUSE FILE 775

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(As Amended and Passed by the House)
Substituted for S. F. 503

Passed House, Date 4-6-81 (p. 1067) Passed Senate, Date 4-9-81 (p. 1172)

Vote: Ayes 95 Nays 0 Vote: Ayes 40 Nays 4

Approved April 20, 1981

A BILL FOR

1 An Act providing for successors to the interest of a
2 franchisee upon the death of the franchisee under a
3 franchise relating to the distribution or retail sale
4 of motor fuels and special fuels.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

1 Section 1. Chapter 323, Code 1981, is amended by adding
2 the following new section:

3 NEW SECTION. DEATH OF FRANCHISEE--SUCCESSOR--PENALTY..

4 1. It is unlawful to include in any distributor franchise
5 or dealer franchise agreement a term which provides for the
6 termination of the franchise by the franchiser upon the death
7 of the franchisee if the franchisee, prior to his or her
8 death, designates a successor-in-interest in a form prescribed
9 by and delivered to the franchiser. For the purposes of this
10 section, "successor-in-interest" is restricted to either a
11 surviving spouse or adult child of the franchisee who, at
12 the time of the franchisee's death, is able to meet reasonable
13 qualifications then being required of distributors or dealers
14 by the franchiser.

15 2. The successor-in-interest designated as provided in
16 subsection 1 shall have twenty-one days after the death of
17 the franchisee to give written notice of an election to assume
18 and operate the franchise. The notification shall contain
19 such information regarding business experience and credit
20 worthiness as is reasonably required by the franchiser. The
21 successor-in-interest must offer to assume and commence
22 operation of the franchise within ten days after the franchiser
23 approves the assumption.

24 3. The franchise available to the successor-in-interest
25 pursuant to this section shall be the same as that which
26 existed in the name of the deceased franchisee at the time
27 of the franchisee's death.

28 4. A franchisee may designate a primary and one alternate
29 successor-in-interest. The alternate, if one is designated,
30 has no rights under this section in the event of an exercise
31 of rights by the primary successor-in-interest. If an
32 alternate desires to assume and operate the franchise in the
33 event the primary successor-in-interest fails to do so, the
34 alternate must give notice of such election and otherwise
35 comply with subsection 2.

1 5. Unless otherwise specifically provided in this section,
2 actions to be performed by the franchiser or by the successor-
3 in-interest under this section shall be performed within a
4 reasonable time.

5 6. Following the death of a franchisee, and prior to the
6 operation of the franchise by the successor-in-interest as
7 provided in this section, the executor or administrator of
8 the estate of the deceased franchisee may operate the
9 franchise.

10 7. If the successor-in-interest assumes the franchise,
11 the successor-in-interest shall account to the heirs or estate
12 of the deceased franchisee for the value of personal property
13 of the franchisee located at or related to the franchise.

14 8. If the successor-in-interest does not assume the
15 franchise, the franchiser shall account to the heirs or the
16 estate of the deceased franchisee for the value of branded
17 products purchased directly from the franchiser.

18 9. A franchisee or successor-in-interest may commence a
19 civil action to compel compliance by a franchiser with this
20 section, or to obtain damages caused by a failure to comply
21 with this section, or both, within two years after the date
22 the franchiser fails to comply with the requirements of this
23 section.

24 Sec. 2. This Act applies to franchise agreements executed
25 or renewed on or after the effective date of this Act.

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HOUSE FILE 775

AN ACT

PROVIDING FOR SUCCESSORS TO THE INTEREST OF A FRANCHISEE
UPON THE DEATH OF THE FRANCHISEE UNDER A FRANCHISE
RELATING TO THE DISTRIBUTION OR RETAIL SALE OF MOTOR
FUELS AND SPECIAL FUELS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Chapter 323, Code 1981, is amended by adding
the following new section:

NEW SECTION. DEATH OF FRANCHISEE--SUCCESSOR--PENALTY.

1. It is unlawful to include in any distributor franchise
or dealer franchise agreement a term which provides for the
termination of the franchise by the franchiser upon the death
of the franchisee if the franchisee, prior to his or her
death, designates a successor-in-interest in a form prescribed
by and delivered to the franchiser. For the purposes of this
section, "successor-in-interest" is restricted to either a
surviving spouse or adult child of the franchisee who, at
the time of the franchisee's death, is able to meet reasonable
qualifications then being required of distributors or dealers
by the franchiser.

2. The successor-in-interest designated as provided in
subsection 1 shall have twenty-one days after the death of
the franchisee to give written notice of an election to assume
and operate the franchise. The notification shall contain
such information regarding business experience and credit
worthiness as is reasonably required by the franchiser. The
successor-in-interest must offer to assume and commence
operation of the franchise within ten days after the franchiser
approves the assumption.

3. The franchise available to the successor-in-interest
pursuant to this section shall be the same as that which
existed in the name of the deceased franchisee at the time
of the franchisee's death.

4. A franchisee may designate a primary and one alternate
successor-in-interest. The alternate, if one is designated,
has no rights under this section in the event of an exercise
of rights by the primary successor-in-interest. If an
alternate desires to assume and operate the franchise in the
event the primary successor-in-interest fails to do so, the
alternate must give notice of such election and otherwise
comply with subsection 2.

5. Unless otherwise specifically provided in this section,
actions to be performed by the franchiser or by the successor-
in-interest under this section shall be performed within a
reasonable time.

6. Following the death of a franchisee, and prior to the
operation of the franchise by the successor-in-interest as
provided in this section, the executor or administrator of
the estate of the deceased franchisee may operate the
franchise.

7. If the successor-in-interest assumes the franchise,
the successor-in-interest shall account to the heirs or estate
of the deceased franchisee for the value of personal property
of the franchisee located at or related to the franchise.

8. If the successor-in-interest does not assume the
franchise, the franchiser shall account to the heirs or the
estate of the deceased franchisee for the value of branded
products purchased directly from the franchiser.

9. A franchisee or successor-in-interest may commence
a civil action to compel compliance by a franchiser with this
section, or to obtain damages caused by a failure to comply
with this section, or both, within two years after the date
the franchiser fails to comply with the requirements of this
section.

Sec. 2. This Act applies to franchise agreements executed or renewed on or after the effective date of this Act.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 775, Sixty-ninth General Assembly.

PAT H. HARPER
Chief Clerk of the House

Approved 4/20, 1981

ROBERT D. RAY
Governor