

House Study Bill 5 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON CARLSON)

A BILL FOR

1 An Act relating to franchisor-franchisee relationships for
2 the purposes of certain employment laws and including
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 85.55 Franchisor-franchisee
2 relationship.

3 1. For purposes of this section, franchisee and franchisor
4 mean the same as defined in 16 C.F.R. §436.1.

5 2. For purposes of this chapter and chapters 86 and 87,
6 a franchisor shall not be considered to be an employer of a
7 franchisee or of an employee of a franchisee unless any of the
8 following conditions apply:

9 a. The franchisor has agreed in writing to be considered to
10 be the employer of the franchisee or of the employees of the
11 franchisee.

12 b. The franchisor has been found by the workers'
13 compensation commissioner to have exercised a type or degree of
14 control over the franchisee or the franchisee's employees that
15 is not customarily exercised by a franchisor for the purpose of
16 protecting the franchisor's trademarks and brand.

17 Sec. 2. NEW SECTION. 91A.15 Franchisor-franchisee
18 relationship.

19 1. For purposes of this section, franchisee and franchisor
20 mean the same as defined in 16 C.F.R. §436.1.

21 2. For purposes of this chapter, a franchisor shall not be
22 considered to be an employer of a franchisee or of an employee
23 of a franchisee unless any of the following conditions apply:

24 a. The franchisor has agreed in writing to be considered to
25 be the employer of the franchisee or of the employees of the
26 franchisee.

27 b. The franchisor has been found by the commissioner to have
28 exercised a type or degree of control over the franchisee or
29 the franchisee's employees that is not customarily exercised
30 by a franchisor for the purpose of protecting the franchisor's
31 trademarks and brand.

32 Sec. 3. Section 91D.1, Code 2019, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 2A. a. For purposes of this subsection,
35 franchisee and franchisor mean the same as defined in 16 C.F.R.

1 §436.1.

2 *b.* For purposes of this chapter, a franchisor shall not be
3 considered to be an employer of a franchisee or of an employee
4 of a franchisee unless any of the following conditions apply:

5 (1) The franchisor has agreed in writing to be considered
6 to be the employer of the franchisee or of the employees of the
7 franchisee.

8 (2) The franchisor has been found by the labor commissioner
9 to have exercised a type or degree of control over the
10 franchisee or the franchisee's employees that is not
11 customarily exercised by a franchisor for the purpose of
12 protecting the franchisor's trademarks and brand.

13 **Sec. 4. NEW SECTION. 96.36 Franchisor-franchisee**
14 **relationship.**

15 1. For purposes of this section, franchisee and franchisor
16 mean the same as defined in 16 C.F.R. §436.1.

17 2. For purposes of this chapter, a franchisor shall not be
18 considered to be an employer of a franchisee or of an employee
19 of a franchisee unless any of the following conditions apply:

20 *a.* The franchisor has agreed in writing to be considered to
21 be the employer of the franchisee or of the employees of the
22 franchisee.

23 *b.* The franchisor has been found by the department to have
24 exercised a type or degree of control over the franchisee or
25 the franchisee's employees that is not customarily exercised
26 by a franchisor for the purpose of protecting the franchisor's
27 trademarks and brand.

28 **Sec. 5. NEW SECTION. 216.22 Franchisor-franchisee**
29 **relationship.**

30 1. For purposes of this section, franchisee and franchisor
31 mean the same as defined in 16 C.F.R. §436.1.

32 2. For purposes of this chapter, a franchisor shall not be
33 considered to be an employer of a franchisee or of an employee
34 of a franchisee unless any of the following conditions apply:

35 *a.* The franchisor has agreed in writing to be considered to

1 be the employer of the franchisee or of the employees of the
2 franchisee.

3 *b.* The franchisor has been found by the commission to have
4 exercised a type or degree of control over the franchisee or
5 the franchisee's employees that is not customarily exercised
6 by a franchisor for the purpose of protecting the franchisor's
7 trademarks and brand.

8 Sec. 6. APPLICABILITY. This Act applies to work performed
9 on or after the effective date of this Act.

10

EXPLANATION

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The inclusion of this explanation does not constitute agreement with
12 the explanation's substance by the members of the general assembly.

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13 This bill provides that, for the purposes of certain
14 specified employment laws, a franchisor shall not be considered
15 to be an employer of a franchisee or of an employee of a
16 franchisee unless at least one of two specified conditions are
17 met. The first condition is that the franchisor has agreed in
18 writing to be considered to be the employer of the franchisee
19 or of the employees of the franchisee. The second condition
20 is that the franchisor has been found by the governing state
21 agency to have exercised a type or degree of control over
22 the franchisee or the franchisee's employees that is not
23 customarily exercised by a franchisor for the purpose of
24 protecting the franchisor's trademarks and brand.

25 The affected employment laws are Code chapter 216 relating
26 to civil rights, Code chapters 85, 86, and 87 relating to
27 workers' compensation, Code chapter 91A relating to wage
28 payment collection, Code chapter 91D relating to the minimum
29 wage, and Code chapter 96 relating to unemployment insurance.

30 Franchisee is defined by federal regulation as any
31 person who is granted a franchise. Franchisor is defined
32 by federal regulation as any person who grants a franchise
33 and participates in the franchise relationship and includes
34 subfranchisors unless otherwise stated in federal regulations.

35 The bill applies to work performed on or after the effective

H.F. _____

1 date of the bill.