

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

HOUSE BILL 1970

5 By: Representatives D. Douglas, Scott  
6 By: Senator Files  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND ACT 70 OF THE 2011 ACTS OF ARKANSAS  
10 TO PROVIDE THAT FRANCHISES AND CONTRACTUAL BRANDING  
11 AGREEMENTS BE PERMITTED; TO DECLARE AN EMERGENCY AND  
12 FOR OTHER PURPOSES.  
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## Subtitle

16 TO AMEND ACT 70 OF THE 2011 ACTS OF  
17 ARKANSAS TO PROVIDE THAT FRANCHISES AND  
18 CONTRACTUAL BRANDING AGREEMENTS BE  
19 PERMITTED; AND TO DECLARE AN EMERGENCY.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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### SECTION 1. DO NOT CODIFY. Legislative Intent.

#### The General Assembly finds that:

26 (1) This bill does not change:

27 (A) That a person, firm, or corporation shall not have an  
28 ownership interest in more than one retail liquor permit; and

29 (B) That each retail liquor premise shall have its own  
30 permit from the Alcoholic Beverage Control Division;

31 (2) The purpose of this bill is to allow a franchise contract  
32 between a retail liquor permit holder and a person, firm or corporation to  
33 use only the person, firm, or corporation's trade name, trademark, service  
34 mark, or related characteristic; and

35 (3) It is in the best interest of the state to limit the number  
36 of franchise agreements allowed for each person, firm, or corporation to ten



1 (10) franchises.

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 3 SECTION 2. Arkansas Code § 3-4-205(a) and (b), concerning the  
 4 prohibition of interest in multiple retail liquor permits, is amended to read  
 5 as follows:

6 (a) For purposes of this section, ~~the term "vested permits" defined as~~  
 7 ~~those:~~

8 (1) "Franchise contract" means a written agreement in which a  
 9 person, firm, or corporation grants to another person, firm, or corporation a  
 10 license to use a trade name, trademark, service mark, or related  
 11 characteristic within an exclusive or nonexclusive territory and to provide  
 12 services and goods with no alcohol content; and

13 (2) "Vested permits" means the multiple retail liquor permits  
 14 which were lawfully issued to any person, firm, or corporation prior to July  
 15 19, 1971.

16 (b)(1)(A) No retail liquor permit shall be issued, either as a new  
 17 permit or as a replacement of an existing permit, to any person, firm, or  
 18 corporation if the person, firm, or corporation has ~~any~~ an ownership interest  
 19 in another retail liquor permit, ~~regardless of the degree of interest.~~

20 (B) A retail liquor permit shall apply only to one (1)  
 21 location, ~~and a person, firm, or corporation shall not be permitted to~~  
 22 ~~receive any direct or indirect financial benefit from the sale of liquor at~~  
 23 ~~any location other than the permitted location.~~

24 (C) A person, firm, or corporation is not permitted to  
 25 receive a direct or indirect financial benefit from more than one (1) retail  
 26 sale of liquor permit holder, unless the financial benefit:

27 (i) Is reasonable; and

28 (ii) Is provided under the terms of a franchise  
 29 contract.

30 (D) A person, firm, or corporation shall not have an  
 31 interest under a franchise contract in more than ten (10) retail sale liquor  
 32 permit holders in the state.

33 (2) However, notwithstanding this prohibition, any retail liquor  
 34 permits held by any person, firm, or corporation on July 19, 1971, which  
 35 continue to be held by any person, firm, or corporation having an interest in  
 36 more than one (1) retail liquor permit on August 13, 1993, shall be vested

1 permits.

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 3 SECTION 3. Arkansas Code § 3-4-301(a)(8), (9), and (10), concerning  
 4 the revocation of permits, are repealed.

5 ~~(8) Subsequent to March 1, 2011, if a retail liquor permittee~~  
 6 ~~directly or indirectly remunerates any person, firm, or corporation that has~~  
 7 ~~a direct or indirect pecuniary, proprietary, or financial interest in the~~  
 8 ~~creation, establishment, operation, or contractual branding of another~~  
 9 ~~permitted liquor establishment;~~

10 ~~(9) Subsequent to March 1, 2011, if a retail liquor permittee~~  
 11 ~~directly or indirectly receives remuneration from any other retail liquor~~  
 12 ~~permittee relating to the creation, establishment, operation, or contractual~~  
 13 ~~branding of another permitted liquor establishment; or~~

14 ~~(10) Subsequent to March 1, 2011, if a retail liquor permittee~~  
 15 ~~brands the permitted location with the same name or logo as another retail~~  
 16 ~~liquor permittee.~~

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 18 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
 19 General Assembly of the State of Arkansas that this act is necessary to  
 20 prevent unfair restrictions on commerce and that this act is immediately  
 21 necessary to allow investment in businesses in the State of Arkansas and to  
 22 ensure that current or prospective retail liquor permittees are not denied the  
 23 benefits of a cobranding or franchise arrangement. Therefore, an emergency  
 24 is declared to exist and this act being immediately necessary for the  
 25 preservation of the public peace, health and safety shall become effective  
 26 on:

27 (1) The date of its approval by the Governor;

28 (2) If the bill is neither approved nor vetoed by the Governor,  
 29 the expiration of the period of time during which the Governor may veto the  
 30 bill; or

31 (3) If the bill is vetoed by the Governor and the veto is  
 32 overridden, the date the last house overrides the veto.