

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

A Bill

SENATE BILL 356

5 By: Senator Files
6

For An Act To Be Entitled

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

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

(a) The General Assembly finds that:

(1) This bill does not change:

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

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

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

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



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

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

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

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

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

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

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

26 (i) Is reasonable; and

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

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

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

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

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

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

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

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

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

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

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