

2015 Regular Session

HOUSE BILL NO. 464

BY REPRESENTATIVE TALBOT

1 AN ACT

2 To amend and reenact R.S. 23:921(F)(2) and to enact R.S. 23:921(F)(3) and (4), relative to
3 employment contracts; to provide for franchise relationships; to provide with respect
4 to the status of employees in franchises; to provide for exceptions in applicability;
5 and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 23:921(F)(2) is hereby amended and reenacted and R.S. 23:921(F)(3)
8 and (4) are hereby enacted to read as follows:

9 §921. Restraint of business prohibited; restraint on forum prohibited; competing
10 business; contracts against engaging in; provisions for

11 * * *

12 F.(1) Parties to a franchise may agree that:

13 * * *

14 (2) Except as provided in Paragraph (3) of this Subsection, neither a
15 franchisee who is a party to a franchise agreement regulated under the Federal Trade
16 Commission Franchise Disclosure Rule, 16 CFR 436, nor an employee of the
17 franchisee shall be deemed to be an employee of the franchisor for any purpose. A
18 voluntary agreement entered into between the United States Department of Labor
19 and an employer shall not be used by a state department or agency as evidence or for
20 any other purpose in an investigation or judicial or administrative determination,
21 including whether an employee of a franchisee is also considered to be an employee
22 of the franchisor.

1 (3) Pursuant to Chapter 10 and Chapter 11 of Title 23 of the Louisiana
2 Revised Statutes of 1950, an employee of a franchisee may be deemed to be an
3 employee of the franchisor only where the two entities share or co-determine those
4 matters governing the essential terms and conditions of employment and directly and
5 immediately control matters relating to the employment relationship such as hiring,
6 firing, discipline, supervision, and direction.

7 ~~(2)~~ (4) As used in this Subsection:

8 (a) "Franchise" means any continuing commercial relationship created by
9 any arrangement or arrangements as defined in 16 Code of Federal Regulations
10 ~~436.2(a)~~ 436.1(h).

11 (b) "Franchisee" means any person who participates in a franchise
12 relationship as a franchisee, partner, shareholder with at least a ten percent interest
13 in the franchisee, executive officer of the franchisee, or a person to whom an interest
14 in a franchise is sold, as defined in 16 Code of Federal Regulations ~~436.2(d)~~
15 436.1(h), provided that no person shall be included in this definition unless he has
16 signed an agreement expressly binding him to the provisions thereof.

17 (c) "Franchisor" means any person who participates in a franchise
18 relationship as a franchisor as defined in 16 Code of Federal Regulations ~~436.2(e)~~
19 436.1(k).

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____