

AN ACT

relating to excluding a franchisor as an employer of a franchisee or a franchisee's employees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 21, Labor Code, is amended by adding Section 21.0022 to read as follows:

Sec. 21.0022. FRANCHISORS EXCLUDED. (a) In this section, "franchisee" and "franchisor" have the meanings assigned by 16 C.F.R. Section 436.1.

(b) For purposes of this chapter, a franchisor is not considered to be an employer of:

(1) a franchisee; or

(2) a franchisee's employees.

(c) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this section does not apply to a franchisor who has been found by a court of competent jurisdiction in this state to have exercised a type or degree of control over the franchisee or the franchisee's employees not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

SECTION 2. Subchapter A, Chapter 61, Labor Code, is amended by adding Section 61.0031 to read as follows:

Sec. 61.0031. FRANCHISORS EXCLUDED. (a) In this section, "franchisee" and "franchisor" have the meanings assigned by 16

1 C.F.R. Section 436.1.

2 (b) For purposes of this chapter, a franchisor is not
3 considered to be an employer of:

4 (1) a franchisee; or

5 (2) a franchisee's employees.

6 (c) With respect to a specific claim for relief under this
7 chapter made by a franchisee or a franchisee's employee, this
8 section does not apply to a franchisor who has been found by a court
9 of competent jurisdiction in this state to have exercised a type or
10 degree of control over the franchisee or the franchisee's employees
11 not customarily exercised by a franchisor for the purpose of
12 protecting the franchisor's trademarks and brand.

13 SECTION 3. Subchapter A, Chapter 62, Labor Code, is amended
14 by adding Section 62.006 to read as follows:

15 Sec. 62.006. FRANCHISORS EXCLUDED. (a) In this section,
16 "franchisee" and "franchisor" have the meanings assigned by 16
17 C.F.R. Section 436.1.

18 (b) For purposes of this chapter, a franchisor is not
19 considered to be an employer of:

20 (1) a franchisee; or

21 (2) a franchisee's employees.

22 (c) With respect to a specific claim for relief under this
23 chapter made by a franchisee or a franchisee's employee, this
24 section does not apply to a franchisor who has been found by a court
25 of competent jurisdiction in this state to have exercised a type or
26 degree of control over the franchisee or the franchisee's employees
27 not customarily exercised by a franchisor for the purpose of

1 protecting the franchisor's trademarks and brand.

2 SECTION 4. Chapter 91, Labor Code, is amended by adding
3 Section 91.0013 to read as follows:

4 Sec. 91.0013. FRANCHISORS EXCLUDED. (a) In this section,
5 "franchisee" and "franchisor" have the meanings assigned by 16
6 C.F.R. Section 436.1.

7 (b) For purposes of this chapter, a franchisor is not
8 considered to be in a coemployment relationship with:

9 (1) a franchisee; or

10 (2) a franchisee's employees.

11 (c) With respect to a specific claim for relief under this
12 chapter made by a franchisee or a franchisee's employee, this
13 section does not apply to a franchisor who has been found by a court
14 of competent jurisdiction in this state to have exercised a type or
15 degree of control over the franchisee or the franchisee's employees
16 not customarily exercised by a franchisor for the purpose of
17 protecting the franchisor's trademarks and brand.

18 SECTION 5. Section 201.021, Labor Code, is amended by
19 adding Subsections (d) and (e) to read as follows:

20 (d) In this subsection, "franchisee" and "franchisor" have
21 the meanings assigned by 16 C.F.R. Section 436.1. The definition of
22 employer provided by this section does not apply to a franchisor
23 with respect to:

24 (1) a franchisee; or

25 (2) a franchisee's employees.

26 (e) With respect to a specific claim for relief under this
27 subtitle made by a franchisee or a franchisee's employee,

1 Subsection (d) does not apply to a franchisor who has been found by
2 a court of competent jurisdiction in this state to have exercised a
3 type or degree of control over the franchisee or the franchisee's
4 employees not customarily exercised by a franchisor for the purpose
5 of protecting the franchisor's trademarks and brand.

6 SECTION 6. Subchapter B, Chapter 401, Labor Code, is
7 amended by adding Section 401.014 to read as follows:

8 Sec. 401.014. FRANCHISORS EXCLUDED. (a) In this section,
9 "franchisee" and "franchisor" have the meanings assigned by 16
10 C.F.R. Section 436.1.

11 (b) For purposes of this subtitle, a franchisor is not
12 considered to be an employer of:

13 (1) a franchisee; or

14 (2) a franchisee's employees.

15 (c) With respect to a specific claim for relief under this
16 subtitle made by a franchisee or a franchisee's employee, this
17 section does not apply to a franchisor who has been found by a court
18 of competent jurisdiction in this state to have exercised a type or
19 degree of control over the franchisee or the franchisee's employees
20 not customarily exercised by a franchisor for the purpose of
21 protecting the franchisor's trademarks and brand.

22 SECTION 7. Subchapter A, Chapter 411, Labor Code, is
23 amended by adding Section 411.005 to read as follows:

24 Sec. 411.005. FRANCHISORS EXCLUDED. (a) In this section,
25 "franchisee" and "franchisor" have the meanings assigned by 16
26 C.F.R. Section 436.1.

27 (b) For purposes of this chapter, a franchisor is not

1 considered to be an employer of:

2 (1) a franchisee; or

3 (2) a franchisee's employees.

4 (c) With respect to a specific claim for relief under this
5 chapter made by a franchisee or a franchisee's employee, this
6 section does not apply to a franchisor who has been found by a court
7 of competent jurisdiction in this state to have exercised a type or
8 degree of control over the franchisee or the franchisee's employees
9 not customarily exercised by a franchisor for the purpose of
10 protecting the franchisor's trademarks and brand.

11 SECTION 8. The change in law made by this Act applies only
12 to the liability of a franchisor based on conduct occurring on or
13 after the effective date of this Act. Conduct by a franchisor
14 occurring before the effective date of this Act is governed by the
15 law in effect on the date the conduct occurred, and the former law
16 is continued in effect for that purpose.

17 SECTION 9. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 652 passed the Senate on March 25, 2015, by the following vote: Yeas 23, Nays 8; May 22, 2015, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 27, 2015, House granted request of the Senate; May 30, 2015, Senate adopted Conference Committee Report by the following vote: Yeas 27, Nays 4.

Secretary of the Senate

I hereby certify that S.B. No. 652 passed the House, with amendment, on May 18, 2015, by the following vote: Yeas 138, Nays 2, one present not voting; May 27, 2015, House granted request of the Senate for appointment of Conference Committee; May 30, 2015, House adopted Conference Committee Report by the following vote: Yeas 145, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor