

A-Engrossed
Senate Bill 136

Ordered by the Senate April 27
Including Senate Amendments dated April 27

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Business and Transportation)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Provides that franchisee or subfranchisor is not employee of franchisor if franchise is subject to state or federal law, if franchisee or subfranchisor obtains license, registration or other authorization required under federal, state or local law **that is necessary to *[operate]* engage in business under terms of franchise and files with Department of Consumer and Business Services copy of franchise and signed statement in which parties to franchise attest to agreeing to terms of franchise and** if franchisee or subfranchisor is business entity formed under laws of, or authorized to do business in, this state or is sole proprietor of business in, *and resident of,* this state.

Declares emergency, effective *[on passage]* **October 1, 2015.**

A BILL FOR AN ACT

Relating to relationships between franchisors and franchisees; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 650.005 to 650.100.

SECTION 2. (1) A franchisee or subfranchisor is not an employee of a franchisor if:

(a) The franchise is subject to ORS 650.005 to 650.100 and federal regulation under 16 C.F.R. part 436;

(b) The franchisee or subfranchisor:

(A) Obtains any licenses, registrations or other authorizations that are necessary under federal, state or local law to engage in business under the terms of the franchise; and

(B) Files with the Department of Consumer and Business Services a copy of the franchise that includes a signed statement in which the parties to the franchise attest that the parties understand and agree to the terms of the franchise; and

(c) The franchisee or subfranchisor:

(A) Is a business entity that is formed under the laws of, or authorized to do business in, this state with the purpose of engaging in business under the terms of the franchise; or

(B) Engages in business under the terms of the franchise as a sole proprietor.

(2) A franchisor may not defend against a franchisee's or subfranchisor's claim in any forum that the franchisee or subfranchisor is an employee of the franchisor on the basis that the franchisor has met the requirements set forth in subsection (1) of this section if a court of competent jurisdiction has found, within the 10 years that preceded the date on which the franchisee or subfranchisor brought the claim, that the franchisor:

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **(a) Violated section 5 of the Federal Trade Commission Act, 15 U.S.C. 45; or**
2 **(b) Engaged in an unlawful practice under ORS 646.608 in connection with the franchise.**
3 **SECTION 3.** **This 2015 Act being necessary for the immediate preservation of the public**
4 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
5 **October 1, 2015.**
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