

2015 Regular Session

HOUSE BILL NO. 464

BY REPRESENTATIVE TALBOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LABOR: Provides relative to franchise relationships

1 AN ACT

2 To enact amend and reenact R.S. 23:921(F)(2) and to enact R.S. 23:921(F)(3), 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 is 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) Neither a franchisee who is a party to a franchise agreement regulated
15 under the Federal Trade Commission Franchise Disclosure Rule, 16 CFR 436, nor
16 an employee of the franchisee shall be deemed to be an employee of the franchisor
17 for any purpose. A voluntary agreement entered into between the United States
18 Department of Labor and an employer shall not be used by a state department or
19 agency as evidence or for any other purpose in an investigation or judicial or
20 administrative determination, including whether an employee of a franchisee is also

1 considered to be an employee of the franchisor. The provisions of this Subsection
 2 shall not apply to any functions conducted pursuant to Chapter 10 and Chapter 11 of
 3 Title 23 of the Louisiana Revised Statutes of 1950.

4 ~~(2)~~ (3) As used in this Subsection:

5 (a) "Franchise" means any continuing commercial relationship created by
 6 any arrangement or arrangements as defined in 16 Code of Federal Regulations
 7 436.2(a).

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

14 (c) "Franchisor" means any person who participates in a franchise
 15 relationship as a franchisor as defined in 16 Code of Federal Regulations 436.2(c).

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 464 Reengrossed

2015 Regular Session

Talbot

Abstract: Provides that an employee of a franchisee is not an employee of the franchisor.

Present law provides for franchise agreements specifying that parties to a franchise may agree that the franchisor will refrain from selling, distributing, or granting additional franchises within defined geographic area and in return, the franchisee will refrain from competing with the franchisor, or other franchisees of the franchisor, for a period of up to 2 years following the severance of the franchise relationship. Proposed law retains present law.

Proposed law provides that a franchisee and his employees are not employees of the franchisor.

Proposed law further provides that any agreement that the employer enters into with the U.S. Dept. of Labor cannot be used by the state for an investigation or judicial or administrative determination for any purpose, including whether the franchisee's employees are employed by the franchisor.

Proposed law clarifies that proposed law and present law do not apply to the unemployment or workers' compensation Chapters.

(Amends R.S. 23:921(F)(2); Adds R.S. 23:921(F)(3))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Labor and Industrial Relations to the original bill:

1. Provide that laws regarding franchise competing business contracts are not applicable to or otherwise effect workers' compensation or unemployment law.

The House Floor Amendments to the engrossed bill:

1. Add a technical amendment which removes proposed law from a list of admissible agreements between the parties to a franchise agreement and places proposed law in a separate Paragraph.