

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/25/15

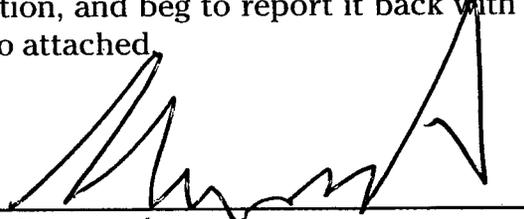
Date

Honorable Dan Patrick
President of the Senate

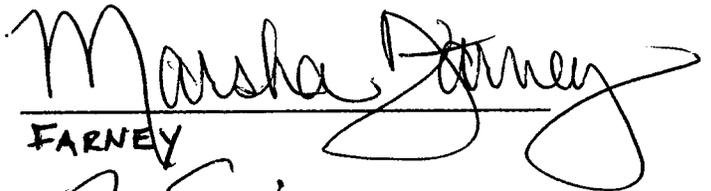
Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 052 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



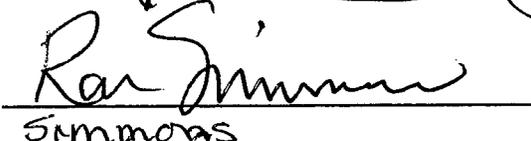
Schwepker



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Simmons



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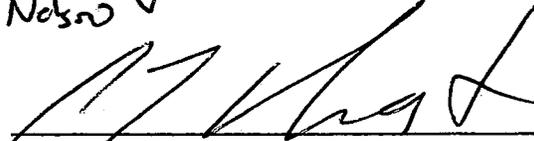
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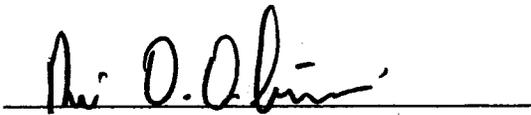


Rinaldi



On the part of the Senate

Uresti



On the part of the House

Oliveira

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

5:15 PM - May 28, 2015

CONFERENCE COMMITTEE REPORT

BILL TEXT

S.B. No. 652

A BILL TO BE ENTITLED

AN ACT

1
2 relating to excluding a franchisor as an employer of a franchisee or
3 a franchisee's employees.

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

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

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

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

12 (1) a franchisee; or

13 (2) a franchisee's employees.

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

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

23 Sec. 61.0031. FRANCHISORS EXCLUDED. (a) In this section,
24 "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
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.

Senate Bill 652
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Subchapter A, Chapter 21, Labor Code, is amended by adding Section 21.0022.

SECTION 2. Subchapter A, Chapter 61, Labor Code, is amended by adding Section 61.0031.

SECTION 3. Subchapter A, Chapter 62, Labor Code, is amended by adding Section 62.006.

HOUSE VERSION (CS)

SECTION 1. Same as Senate version except includes the following:

(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 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. Same as Senate version except includes the following:

(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 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 3. Same as Senate version except includes the following:

(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 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.

CONFERENCE

SECTION 1. Same as House version except in Subsection (c) refers to *a court of competent jurisdiction in this state*.

SECTION 2. Same as House version except in Subsection (c) refers to *a court of competent jurisdiction in this state*.

SECTION 3. Same as House version except in Subsection (c) refers to *a court of competent jurisdiction in this state*.

Senate Bill 652
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTION 4. Chapter 91, Labor Code, is amended by adding Section 91.0013.

SECTION 5. Section 201.021, Labor Code, is amended by adding Subsection (d).

SECTION 6. Subchapter B, Chapter 401, Labor Code, is amended by adding Section 401.014.

HOUSE VERSION (CS)

SECTION 4. Same as Senate version except includes the following:

(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 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 5. Same as Senate version except includes the following:

(e) With respect to a specific claim for relief under this subtitle made by a franchisee or a franchisee's employee, Subsection (d) does not apply to a franchisor who has been found by a court of competent jurisdiction 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 6. Same as Senate version except includes the following:

(c) With respect to a specific claim for relief under this subtitle 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 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.

CONFERENCE

SECTION 4. Same as House version except in Subsection (c) refers to *a court of competent jurisdiction in this state.*

SECTION 5. Same as House version except in Subsection (e) refers to *a court of competent jurisdiction in this state.*

SECTION 6. Same as House version except in Subsection (c) refers to *a court of competent jurisdiction in this state.*

Senate Bill 652
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTION 7. Subchapter A, Chapter 411, Labor Code, is amended by adding Section 411.005.

SECTION 8. Saving provision.

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

HOUSE VERSION (CS)

SECTION 7. Same as Senate version except includes the following:

(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 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 8. Same as Senate version.

SECTION 9. Same as Senate version.

CONFERENCE

SECTION 7. Same as House version except in Subsection (c) refers to *a court of competent jurisdiction in this state*.

SECTION 8. Same as Senate version.

SECTION 9. Same as Senate version.