

By: Farney, Simmons, Oliveira, et al.

H.B. No. 1686

Substitute the following for H.B. No. 1686:

By: Oliveira

C.S.H.B. No. 1686

A BILL TO BE ENTITLED

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 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 to have exercised a type or degree of
10 control over the franchisee or the franchisee's employees not
11 customarily exercised by a franchisor for the purpose of protecting
12 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 to have exercised a type or degree of
26 control over the franchisee or the franchisee's employees not
27 customarily exercised by a franchisor for the purpose of protecting

1 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 to have exercised a type or degree of
15 control over the franchisee or the franchisee's employees not
16 customarily exercised by a franchisor for the purpose of protecting
17 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 to have exercised a type or degree
3 of control over the franchisee or the franchisee's employees not
4 customarily exercised by a franchisor for the purpose of protecting
5 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 to have exercised a type or degree of
19 control over the franchisee or the franchisee's employees not
20 customarily exercised by a franchisor for the purpose of protecting
21 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 to have exercised a type or degree of
8 control over the franchisee or the franchisee's employees not
9 customarily exercised by a franchisor for the purpose of protecting
10 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.