

[First Reprint]

ASSEMBLY, No. 2491

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED MARCH 10, 2008

Sponsored by:

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District 20 (Union)

Co-Sponsored by:

Senator B.Smith

SYNOPSIS

Expands definition of “place of business” under Franchise Practices Act.

CURRENT VERSION OF TEXT

As amended by the General Assembly on January 7, 2010.



(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning the Franchise Practices Act and amending
2 P.L.1971, c.356.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1971, c.356 (C.56:10-2) is amended to read
8 as follows:

9 2. The Legislature finds and declares that distribution and sales
10 through franchise arrangements in the State of New Jersey vitally
11 affects the general economy of the State, the public interest and the
12 public welfare. It is therefore necessary in the public interest to
13 define the relationship and responsibilities of franchisors and
14 franchisees in connection with franchise arrangements and to
15 protect franchisees from unreasonable termination by franchisors
16 that may result from a disparity of bargaining power between
17 national and regional franchisors and small franchisees. The
18 Legislature finds that these protections are necessary to protect not
19 only retail businesses, but also wholesale distribution franchisees
20 that, through their efforts, enhance the reputation and goodwill of
21 franchisors in this State. Further, the Legislature declares that the
22 courts have in some cases more narrowly construed the Franchise
23 Practices Act than was intended by the Legislature.

24 (cf: P.L.1971, c.356, s.2)

25

26 2. Section 3 of P.L.1971, c.356 (C.56:10-3) is amended to read
27 as follows:

28 3. As used in this act:

29 a. "Franchise" means a written arrangement for a definite or
30 indefinite period, in which a person grants to another person a
31 license to use a trade name, trade mark, service mark, or related
32 characteristics, and in which there is a community of interest in the
33 marketing of goods or services at wholesale, retail, by lease,
34 agreement, or otherwise.

35 b. "Person" means a natural person, corporation, partnership,
36 trust, or other entity and, in case of an entity, it shall include any
37 other entity which has a majority interest in such entity or
38 effectively controls such other entity as well as the individual
39 officers, directors, and other persons in active control of the
40 activities of each such entity.

41 c. "Franchisor" means a person who grants a franchise to
42 another person.

43 d. "Franchisee" means a person to whom a franchise is offered
44 or granted.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted January 7, 2010.

- 1 e. "Sale, transfer or assignment" means any disposition of a
2 franchise or any interest therein, with or without consideration, to
3 include but not limited to bequest, inheritance, gift, exchange, lease
4 or license.
- 5 f. "Place of business" means a fixed geographical location at
6 which the franchisee displays for sale ~~and~~ '[or at which or from
7 which the franchisee] and¹ sells the franchisor's goods or offers for
8 sale and sells the franchisor's services. Place of business shall not
9 mean ~~[an office, a warehouse,]~~ 'an office, a warehouse,' a place of
10 storage, a residence or a vehicle, ~~'[but shall mean]~~ except that
11 with respect to persons who do not make a majority of their sales
12 directly to consumers, "place of business" means a fixed
13 geographical location at which the franchisee displays for sale and
14 sells the franchisor's goods or offers for sale and sells the
15 franchisor's services, or¹ an office or a warehouse from which
16 franchisee personnel visit or call upon customers or from which the
17 franchisor's goods are delivered to customers.
18 (cf: P.L.1971, c.356, s.3)
19
20 3. This act shall take effect immediately.