

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

HOUSE BILL 1970

By: Representatives D. Douglas, Scott

By: Senator Files

For An Act To Be Entitled

AN ACT TO AMEND ACT 70 OF THE 2011 ACTS OF ARKANSAS TO PROVIDE THAT FRANCHISES AND CONTRACTUAL BRANDING AGREEMENTS BE PERMITTED; TO DECLARE AN EMERGENCY AND FOR OTHER PURPOSES.

Subtitle

TO AMEND ACT 70 OF THE 2011 ACTS OF ARKANSAS TO PROVIDE THAT FRANCHISES AND CONTRACTUAL BRANDING AGREEMENTS BE PERMITTED; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative Intent.

The General Assembly finds that:

(1) This bill does not change:

(A) That a person, firm, or corporation shall not have an ownership interest in more than one retail liquor permit; and

(B) That each retail liquor premise shall have its own permit from the Alcoholic Beverage Control Division;

(2) The purpose of this bill is to allow a franchise contract between a retail liquor permit holder and a person, firm or corporation to use only the person, firm, or corporation's trade name, trademark, service mark, or related characteristic; and

(3) It is in the best interest of the state to limit the number of franchise agreements allowed for each person, firm, or corporation to ten



(10) franchises.

SECTION 2. Arkansas Code § 3-4-205(a) and (b), concerning the prohibition of interest in multiple retail liquor permits, is amended to read as follows:

(a) For purposes of this section, ~~the term "vested permits" defined as those:~~

(1) "Franchise contract" means a written agreement in which a person, firm, or corporation grants to another person, firm, or corporation a license to use a trade name, trademark, service mark, or related characteristic within an exclusive or nonexclusive territory and to provide services and goods with no alcohol content; and

(2) "Vested permits" means the multiple retail liquor permits which were lawfully issued to any person, firm, or corporation prior to July 19, 1971.

(b)(1)(A) No retail liquor permit shall be issued, either as a new permit or as a replacement of an existing permit, to any person, firm, or corporation if the person, firm, or corporation has ~~any~~ an ownership interest in another retail liquor permit, ~~regardless of the degree of interest.~~

~~(B) A retail liquor permit shall apply only to one (1) location, and a person, firm, or corporation shall not be permitted to receive any direct or indirect financial benefit from the sale of liquor at any location other than the permitted location.~~

(C) A person, firm, or corporation is not permitted to receive a direct or indirect financial benefit from more than one (1) retail sale of liquor permit holder, unless the financial benefit:

(i) Is reasonable; and

(ii) Is provided under the terms of a franchise contract.

(D) A person, firm, or corporation shall not have an interest under a franchise contract in more than ten (10) retail sale liquor permit holders in the state.

(2) However, notwithstanding this prohibition, any retail liquor permits held by any person, firm, or corporation on July 19, 1971, which continue to be held by any person, firm, or corporation having an interest in more than one (1) retail liquor permit on August 13, 1993, shall be vested

permits.

SECTION 3. Arkansas Code § 3-4-301(a)(8), (9), and (10), concerning the revocation of permits, are repealed.

~~(8) Subsequent to March 1, 2011, if a retail liquor permittee directly or indirectly remunerates any person, firm, or corporation that has a direct or indirect pecuniary, proprietary, or financial interest in the creation, establishment, operation, or contractual branding of another permitted liquor establishment;~~

~~(9) Subsequent to March 1, 2011, if a retail liquor permittee directly or indirectly receives remuneration from any other retail liquor permittee relating to the creation, establishment, operation, or contractual branding of another permitted liquor establishment; or~~

~~(10) Subsequent to March 1, 2011, if a retail liquor permittee brands the permitted location with the same name or logo as another retail liquor permittee.~~

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that this act is necessary to prevent unfair restrictions on commerce and that this act is immediately necessary to allow investment in businesses in the State of Arkansas and to ensure that current or prospective retail liquor permittees are not denied the benefits of a cobranding or franchise arrangement. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.