

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 639, As Amended

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO CONTRACTS; AMENDING SECTION 29-110, IDAHO CODE, TO REVISE PROVISIONS RELATING TO LIMITATIONS ON THE RIGHT TO SUE UNDER CONTRACT, TO PROVIDE APPLICATION TO ARBITRATION AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 29-110, Idaho Code, be, and the same is hereby amended to read as follows:

29-110. LIMITATIONS ON RIGHT TO SUE -- UNDER CONTRACT OR FRANCHISE AGREEMENT. (1) Every stipulation or condition in a contract, by which any party thereto is restricted from enforcing his rights under the contract ~~by the usual proceedings in the ordinary Idaho tribunals,~~ or which limits the time within which he may thus enforce his rights, is void as it is against the public policy of Idaho. Nothing in this section shall affect contract provisions relating to arbitration so long as the contract does not require arbitration to be conducted outside the state of Idaho.

(2) Any condition, stipulation or provision in a franchise agreement is void to the extent it purports to waive, or has the effect of waiving, venue or jurisdiction of the state of Idaho's court system. Any condition, stipulation or provision in a franchise agreement, to the extent it purports to assert, or has the effect of asserting, the choice of law is enforceable. This subsection shall apply to any franchise agreement entered into or renewed on or after July 1, 2003, by any person who at the time of entering into or renewing such franchise agreement was a resident of this state or incorporated or organized under the laws of this state.

(3) As used in this section "franchise agreement" means a written contract or agreement by which:

(a) A person ("franchisee") is granted the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by a third party ("franchisor");

(b) The operation of the franchisee's business pursuant to such plan or system is substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the franchisor of such plan or system; and

(c) The franchisee is required to pay the franchisor one thousand dollars (\$1,000) or more for the right to transact business pursuant to the plan or system. Such payments shall not include amounts paid:

(i) As a reasonable service charge to the issuer of a credit card by an establishment accepting or honoring the credit card; or

(ii) For the purchase of goods at a bona fide wholesale price.