2015 Regular Session

1

ACT No. 404

HOUSE BILL NO. 464

BY REPRESENTATIVE TALBOT

2	To amend and reenact R.S. 23:921(F)(2) and to enact R.S. 23:921(F)(3) and (4), relative to
3	employment contracts; to provide for franchise relationships; to provide with respect
4	to the status of employees in franchises; to provide for exceptions in applicability;
5	and to provide for related matters.
6	Be it enacted by the Legislature of Louisiana:
7	Section 1. R.S. 23:921(F)(2) is hereby amended and reenacted and R.S. 23:921(F)(3)
8	and (4) are hereby enacted to read as follows:
9	§921. Restraint of business prohibited; restraint on forum prohibited; competing
10	business; contracts against engaging in; provisions for
11	* * *
12	F.(1) Parties to a franchise may agree that:
13	* * *
14	(2) Except as provided in Paragraph (3) of this Subsection, neither a
15	franchisee who is a party to a franchise agreement regulated under the Federal Trade
16	Commission Franchise Disclosure Rule, 16 CFR 436, nor an employee of the
17	franchisee shall be deemed to be an employee of the franchisor for any purpose. A
18	voluntary agreement entered into between the United States Department of Labor
19	and an employer shall not be used by a state department or agency as evidence or for
20	any other purpose in an investigation or judicial or administrative determination,
21	including whether an employee of a franchisee is also considered to be an employee
22	of the franchisor.

AN ACT

HB NO. 464 ENROLLED

1 (3) Pursuant to Chapter 10 and Chapter 11 of Title 23 of the Louisiana 2 Revised Statutes of 1950, an employee of a franchisee may be deemed to be an 3 employee of the franchisor only where the two entities share or co-determine those 4 matters governing the essential terms and conditions of employment and directly and 5 immediately control matters relating to the employment relationship such as hiring, 6 firing, discipline, supervision, and direction. 7 (2) (4) As used in this Subsection: 8 (a) "Franchise" means any continuing commercial relationship created by 9 any arrangement or arrangements as defined in 16 Code of Federal Regulations 10 436.2(a) 436.1(h). 11 (b) "Franchisee" means any person who participates in a franchise 12 relationship as a franchisee, partner, shareholder with at least a ten percent interest 13 in the franchisee, executive officer of the franchisee, or a person to whom an interest 14 in a franchise is sold, as defined in 16 Code of Federal Regulations 436.2(d) 15 436.1(h), provided that no person shall be included in this definition unless he has 16 signed an agreement expressly binding him to the provisions thereof. 17 "Franchisor" means any person who participates in a franchise 18 relationship as a franchisor as defined in 16 Code of Federal Regulations 436.2(c) 19 436.1(k). 20 SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED:

PRESIDENT OF THE SENATE