

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Bookout**

A Bill

SENATE BILL 227

For An Act To Be Entitled

8 "AN ACT TO ASSURE PROPER VENUE AND PROCEDURAL FAIRNESS IN
9 THE STATE OF ARKANSAS FOR RESTAURANT FRANCHISEES IN
10 DEALING WITH FRANCHISORS; AND FOR OTHER PURPOSES."

Subtitle

13 "PROCEDURAL FAIRNESS FOR RESTAURANT FRANCHISEES."

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

17 SECTION 1. Definitions.

18 For purposes of this Act:

19 (a) "Franchisee" means a person to whom a restaurant franchise is
20 granted.

21 (b) "Franchisor" means a person who grants or has granted a restaurant
22 franchise.

23 (c) "Restaurant Franchise" means a contract or agreement, either
24 expressed or implied, whether oral or written, between two or more persons by
25 which:

26 (i) a franchisee is granted the right to engage in the business
27 of offering, selling or distributing food or beverages intended or suitable
28 for immediate consumption on or off the premises of the franchisee under a
29 marketing plan or system prescribed in substantial part by a franchisor; and

30 (ii) operation of the franchisee_s business pursuant to that plan
31 or system is substantially associated with the franchisor_s trademark, service
32 mark, trade name, logotype, advertising, or other commercial symbol
33 designating the franchisor or its affiliate; and

34 (iii) the franchisee pays or is required to pay directly or
35 indirectly, a franchise fee.

1 SECTION 2. A party to a restaurant franchise may commence a civil
2 action or, if the restaurant franchise allows or compels arbitration of
3 disputes, may initiate an arbitration proceeding including an action or
4 proceeding for violation of this act in Arkansas if either party to the
5 restaurant franchise is a resident of Arkansas. Such action may be brought
6 or arbitration initiated in the county in which the franchised restaurant is
7 located or expected to be located or in which the *principal place of business*
8 of the franchisee or franchisor is located.

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10 *Section 3. Neither a franchisee nor a franchisor shall be deprived of*
11 *the application and benefits of this act by a provision of a franchise*
12 *purporting to designate the law of another jurisdiction as governing or*
13 *interpreting the franchise, or to designate a venue outside of Arkansas for*
14 *the resolution of disputes. To the extent permitted by the Constitution of*
15 *the United States and of the State of Arkansas, this act is intended to apply*
16 *to franchises granted, transferred, renewed, amended, replaced, or in*
17 *existence on and after the effective date of this act.*

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19 SECTION 4. This act applies to a restaurant franchise operated in whole
20 or in part in Arkansas and to the parties to the restaurant franchise. This
21 act may not be waived, and its application to a restaurant franchise or a
22 party to a restaurant franchise may not be avoided, in whole or in part by
23 agreement or by conduct, except as part of a settlement of a bona fide
24 dispute.

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26 SECTION 5. All provisions of this act of a general and permanent nature
27 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
28 Revision Commission shall incorporate the same in the Code.

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30 SECTION 6. If any provision of this act or the application thereof to
31 any person or circumstance is held invalid, such invalidity shall not affect
32 other provisions or applications of the act which can be given effect without
33 the invalid provision or application, and to this end the provisions of this
34 act are declared to be severable.

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