

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

A Bill

ACT 310 OF 1993
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

12 **"PROCEDURAL FAIRNESS FOR RESTAURANT**
13 **FRANCHISEES."**

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

SECTION 1. Definitions.

For purposes of this Act:

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

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

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

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

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

31 **(iii) the franchisee pays or is required to pay directly or indirectly, a franchise**
32 **fee.**

33 **SECTION 2. A party to a restaurant franchise may commence a civil action or, if the**
34 **restaurant franchise allows or compels arbitration of disputes, may initiate an arbitration**
35 **proceeding including an action or proceeding for violation of this act in Arkansas if either**
36 **party to the restaurant franchise is a resident of Arkansas. Such action may be brought or**

1 arbitration initiated in the county in which the franchised restaurant is located or expected to
2 be located or in which the *principal place of business* of the franchisee or franchisor is located.

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

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12 **SECTION 4. This act applies to a restaurant franchise operated in whole or in part in**
13 **Arkansas and to the parties to the restaurant franchise. This act may not be waived, and its**
14 **application to a restaurant franchise or a party to a restaurant franchise may not be avoided, in**
15 **whole or in part by agreement or by conduct, except as part of a settlement of a bona fide**
16 **dispute.**

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18 **SECTION 5. All provisions of this act of a general and permanent nature are**
19 **amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision**
20 **Commission shall incorporate the same in the Code.**

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22 **SECTION 6. If any provision of this act or the application thereof to any person or**
23 **circumstance is held invalid, such invalidity shall not affect other provisions or applications of**
24 **the act which can be given effect without the invalid provision or application, and to this end**
25 **the provisions of this act are declared to be severable.**

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27 **SECTION 7. All laws and parts of laws in conflict with this act are hereby repealed.**

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/s/ Senator Bookout

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APPROVED: 03/01/93

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