

1 State of Arkansas

2 80th General Assembly

3 Regular Session, 1995

4 By: Representative J. Wilson

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## 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."

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12

### Subtitle

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

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18 SECTION 1. Definitions.

19 For purposes of this Act:

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

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

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

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

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

35 (iii) the franchisee pays or is required to pay directly or

1 indirectly, a franchise fee.

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

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

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

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27       SECTION 5. Every franchisor must file with the Secretary of State no  
28 later than January 31 of each year a plan indicating how the franchisor plans  
29 to comply with the Arkansas Civil Rights Act and shall include a statement  
30 that the franchisor has established a goal of procuring at least ten percent  
31 (10%) of its goods and services through minority owned or controlled  
32 businesses.

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34       SECTION 6. (a) Every person granting a franchise in this state must  
35 file with the Secretary of State their anti-discrimination policy together

1 with a list of all minority franchisees which shall identify the franchisee\_s  
2 race, gender, and national origin.

3 (b) Each franchisor shall also file with the Secretary of State a  
4 five-year plan outlining its efforts to encourage minority owned franchises  
5 and outline its method of doing the same including in-house financing.

6 (c) Franchisors must comply with this section no later than January 31  
7 of each year and failure so to do shall be grounds for voiding any and all  
8 franchises granted by the franchisor within this state.

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10 SECTION 7. All provisions of this act of a general and permanent  
11 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
12 Code Revision Commission shall incorporate the same in the Code.

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14 SECTION 8. If any provision of this act or the application thereof to  
15 any person or circumstance is held invalid, such invalidity shall not affect  
16 other provisions or applications of the act which can be given effect without  
17 the invalid provision or application, and to this end the provisions of this  
18 act are declared to be severable.

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20 SECTION 9. All laws and parts of laws in conflict with this act are  
21 hereby repealed.

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