

By: Senator(s) Fillingane

To: Finance

SENATE BILL NO. 2110

1 AN ACT TO PROVIDE THAT A FRANCHISOR IS NOT CONSIDERED TO BE
 2 AN EMPLOYER OR CO-EMPLOYER OF A FRANCHISEE OR AN EMPLOYEE OF A
 3 FRANCHISEE UNLESS THE FRANCHISOR AGREES, IN WRITING, TO ASSUME THE
 4 ROLE OF AN EMPLOYER OR CO-EMPLOYER OF THE FRANCHISEE OR THE
 5 EMPLOYEE OF A FRANCHISEE; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** (1) As used in this section:

8 (a) "Franchise" means any continuing commercial
 9 relationship or arrangement, whatever it may be called, in which
 10 the terms of the offer or contract specify, or the franchise
 11 seller promises or represents, orally or in writing, that:

12 (i) The franchisee will obtain the right to
 13 operate a business that is identified or associated with the
 14 franchisor's trademark, or to offer, sell or distribute goods,
 15 services or commodities that are identified or associated with the
 16 franchisor's trademark;

17 (ii) The franchisor will exert or has authority to
 18 exert a significant degree of control over the franchisee's method



19 of operation, or provide significant assistance in the
20 franchisee's method of operation; and

21 (iii) As a condition of obtaining or commencing
22 operation of the franchise, the franchisee makes a required
23 payment of commits to make a required payment to the franchisor or
24 its affiliate.

25 (b) "Franchisee" means any person who is granted a
26 franchise.

27 (c) "Franchisor" means any person who grants a
28 franchise and includes subfranchisors.

29 (d) "Subfranchisor" means a person who functions as a
30 franchisor by engaging in both pre-sale activities and post-sale
31 performance.

32 (2) A franchisor is not considered to be an employer or
33 co-employer of a franchisee or an employee or a franchisee unless
34 the franchisor agrees, in writing, to assume the role of an
35 employer or co-employer of the franchisee or the employee of a
36 franchisee. This section applies notwithstanding a voluntary
37 agreement between the United States Department of Labor and a
38 franchisor.

39 **SECTION 2.** This act shall take effect and be in force from
40 and after July 1, 2017.

