

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 436

Introduced by Hansen, 42.

Read first time January 22, 2013

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to business and labor; to amend section 87-402,
2 Reissue Revised Statutes of Nebraska; to redefine
3 franchisee under the Franchise Practices Act; and to
4 repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 87-402, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 87-402 For purposes of the Franchise Practices Act,
4 unless the context otherwise requires:

5 (1) Franchise shall mean (a) a written arrangement for a
6 definite or indefinite period, in which a person grants to another
7 person for a franchise fee a license to use a trade name, trademark,
8 service mark, or related characteristics and in which there is a
9 community of interest in the marketing of goods or services at
10 wholesale or retail or by lease, agreement, or otherwise and (b) any
11 arrangement, agreement, or contract, either expressed or implied, for
12 the sale, distribution, or marketing of nonalcoholic beverages at
13 wholesale, retail, or otherwise. Franchise shall not include any
14 arrangement, agreement, or contract, either expressed or implied, for
15 the sale, distribution, or marketing of petroleum products at
16 wholesale, retail, or otherwise;

17 (2) Person shall mean every natural person, firm,
18 partnership, limited liability company, association, or corporation;

19 (3) Franchisor shall mean a person who grants a franchise
20 to another person;

21 (4) Franchisee shall mean a person to whom a franchise is
22 offered or granted and shall not be deemed an employee under Nebraska
23 law if the franchisee is a party to a franchise agreement that is in
24 compliance with 16 C.F.R. part 436;

25 (5) Franchise fee shall include any payment made by the

1 franchisee to the franchisor other than a payment for the purchase of
2 goods or services, for a surety bond, for a surety deposit, or for
3 security for payment of debts due;

4 (6) Sale, transfer, or assignment shall mean any
5 disposition of a franchise or any interest therein, with or without
6 consideration, which shall include, but not be limited to, bequest,
7 inheritance, gift, exchange, lease, or license;

8 (7) Place of business shall mean a fixed geographical
9 location at which the franchisee displays for sale and sells the
10 franchisor's goods or offers for sale and sells the franchisor's
11 services. Place of business shall not mean an office, a warehouse, a
12 place of storage, a residence, or a vehicle; and

13 (8) Good cause for terminating, canceling, or failure to
14 renew a franchise shall be limited to failure by the franchisee to
15 substantially comply with the requirements imposed upon him or her by
16 the franchise.

17 Sec. 2. Original section 87-402, Reissue Revised Statutes
18 of Nebraska, is repealed.