

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 941

Introduced by Lippincott, 34.

Read first time January 09, 2026

Committee: Business and Labor

1 A BILL FOR AN ACT relating to franchises; to amend sections 48-114,
2 48-116, 48-603, 48-1102, 48-1202, 48-1229, and 48-1231, Reissue
3 Revised Statutes of Nebraska; to define and redefine terms; to
4 exclude certain franchisors from being considered employers of
5 franchisees and franchisees' employees as provided; and to repeal
6 the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** (1) For purposes of this section:

2 (a) Franchise has the same meaning as in 16 C.F.R. 436.1;

3 (b) Franchisee has the same meaning as in 16 C.F.R. 436.1; and

4 (c) Franchisor has the same meaning as in 16 C.F.R. 436.1.

5 (2) Except as provided in subsection (3) of this section, a
6 franchisor shall not be considered an employer of a franchisee or a
7 franchisee's employees.

8 (3)(a) A franchisor shall be considered an employer of a franchisee
9 or a franchisee's employees if the franchisor exercises direct and
10 immediate control over one or more essential terms or conditions of
11 employment of the franchisee or franchisee's employees.

12 (b) A franchisor exercises direct and immediate control over one or
13 more essential terms or conditions of employment of a franchisee or
14 franchisee's employees if the franchisor:

15 (i) Determines the wage rate, salary, or other rate of pay that is
16 paid to a franchisee's individual employees or job classifications;

17 (ii) Determines the fringe benefits to be provided or offered to a
18 franchisee's employees. A franchisor does not exercise direct and
19 immediate control by permitting a franchisee under an arm's length
20 contract to participate in such franchisor's benefits plan, including a
21 health benefits plan, pension plan, and tuition assistance;

22 (iii) Determines work schedules or the work hours of a franchisee's
23 employees. A franchisor does not exercise direct and immediate control
24 over scheduling by establishing a franchisee's operating hours or by
25 establishing minimum staffing levels to satisfy the franchise's service
26 standards;

27 (iv) Determines which particular employees will be hired or which
28 employees will not be hired. A franchisor does not exercise direct and
29 immediate control by encouraging or recommending changes in staffing
30 levels or by setting minimal recruiting or hiring standards, including
31 those required by law for consumer or employee safety or for brand

1 protection;

2 (v) Decides to terminate the employment of, suspend, or discipline a
3 franchisee's employee. A franchisor does not exercise direct and
4 immediate control by bringing misconduct or poor performance to the
5 attention of a franchisee, by expressing a negative opinion of a
6 franchisee's employee, or by setting minimal standards of performance or
7 conduct;

8 (vi) Consistently and directly instructs a franchisee's employees on
9 how to perform work or by issuing employee performance appraisals. A
10 franchisor does not exercise direct and immediate control if the
11 franchisor (A) offers instructions that are limited and routine, (B) sets
12 brand standards for the performance of work, (C) offers training
13 materials for a franchisee to use to train such franchisee's employees,
14 (D) establishes minimum training requirements for a franchisee's
15 employees, or (E) provides operational support, guidance, and assistance
16 to the franchisee to promote and protect the brand's goodwill and quality
17 of products and services provided to a consumer; or

18 (vii) Assigns particular employees of a franchisee to individual
19 work schedules, positions, and tasks. A franchisor does not exercise
20 direct and immediate control by offering resources and tools for a
21 franchisee to consider using to direct such franchisee's employees'
22 individual work schedule, position, or tasks.

23 **Sec. 2.** Section 48-114, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 48-114 (1) The following shall constitute employers subject to the
26 Nebraska Workers' Compensation Act: (a) ~~(1)~~ The state and every
27 governmental agency created by it; and (b) ~~(2)~~ every person, firm, or
28 corporation, including any public service corporation, who is engaged in
29 any trade, occupation, business, or profession as described in section
30 48-106, and who has any person in service under any contract of hire,
31 express or implied, oral or written.

1 (2) A franchisor shall not be considered an employer subject to the
2 Nebraska Workers' Compensation Act unless such franchisor is considered
3 an employer under section 1 of this act.

4 **Sec. 3.** Section 48-116, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 48-116 (1) Any person, firm, or corporation creating or carrying
7 into operation any scheme, artifice, or device to enable him or her,
8 them, or it to execute work without being responsible to the workers for
9 the provisions of the Nebraska Workers' Compensation Act shall be
10 included in the term employer, and with the immediate employer shall be
11 jointly and severally liable to pay the compensation herein provided for
12 and be subject to all the provisions of such act.

13 (2) This section, however, shall not be construed as applying to (a)
14 an owner who lets a contract to a contractor in good faith, or a
15 contractor, who, in good faith, lets to a subcontractor a portion of his
16 or her contract, if the owner or principal contractor, as the case may
17 be, requires the contractor or subcontractor, respectively, to procure a
18 policy or policies of insurance from an insurance company licensed to
19 write such insurance in this state, which policy or policies of insurance
20 shall guarantee payment of compensation according to the Nebraska
21 Workers' Compensation Act to injured workers or (b) a franchisor except
22 if such franchisor is considered an employer under section 1 of this act.

23 **Sec. 4.** Section 48-603, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 48-603 As used in the Employment Security Law, unless the context
26 clearly requires otherwise, employer shall mean:

27 (1) Any individual or type of organization, including any
28 partnership, limited liability company, association, trust, estate,
29 joint-stock company, insurance company or corporation, whether domestic
30 or foreign, or the receiver, trustee in bankruptcy, trustee or successor
31 thereof, or the legal representative of a deceased person, which for some

1 portion of a day but not necessarily simultaneously in each of twenty
2 different calendar weeks, whether or not such weeks are or were
3 consecutive, within either the current or preceding calendar year, and
4 for the purpose of this definition, if any week includes both December 31
5 and January 1, the days up to January 1 shall be deemed one calendar week
6 and the days beginning January 1 another such week, has or had in
7 employment one or more individuals, irrespective of whether the same
8 individuals are or were employed in each such day; all individuals
9 performing services for any employer of any person in this state, who
10 maintains two or more separate establishments within this state, shall be
11 deemed to be employed by a single employer; any artifice or device,
12 including any contract or subcontract, by an employer for the performance
13 of work, which is a part of such employer's usual trade, occupation,
14 profession, or business, entered into for the purpose or with the intent
15 of evading the application of this section to such employer, is hereby
16 prohibited and declared to be unlawful;

17 (2) Any employer of any person in this state who in any calendar
18 quarter in either the current or preceding calendar year has paid wages
19 for employment in the total sum of fifteen hundred dollars or more;

20 (3) Any individual or employer of any person in this state which
21 acquired the organization, trade, or business, or substantially all the
22 assets thereof, of another employer which, at the time of such
23 acquisition, was an employer subject to the Employment Security Law;

24 (4) Any employer of any person in this state, which acquired the
25 organization, trade, or business, or substantially all the assets
26 thereof, of another employer of any person in this state, not an employer
27 subject to such law, and which, if subsequent to such acquisition it were
28 treated as a single unit with such other employer, would be an employer
29 under subdivision (1) or (2) of this section;

30 (5) Any employer of any person in this state which, having become an
31 employer under any provision of the Employment Security Law and which has

1 not, under section 48-661, ceased to be an employer subject to such law;

2 (6) For the effective period of its election pursuant to section
3 48-661, any other employer of any person in this state who has elected to
4 become fully subject to the Employment Security Law;

5 (7) Any employer of any person in this state not an employer by
6 reason of any other subdivision of this section (a) for which services in
7 employment are or were performed with respect to which such employer is
8 liable for any federal tax against which credit may be taken for
9 contributions required to be paid into a state unemployment compensation
10 fund; or (b) which, as a condition for approval of the Employment
11 Security Law for full tax credit against the tax imposed by the Federal
12 Unemployment Tax Act, is required, pursuant to such act, to be an
13 employer under the Employment Security Law;

14 (8) The state or any political subdivision thereof and any
15 instrumentality of any one or more of the foregoing;

16 (9) Any organization for which service in employment as defined in
17 subdivision (4)(b) of section 48-604 is performed;

18 (10) Any individual or employing unit for which service in
19 employment as defined in subdivision (4)(c) of section 48-604 is
20 performed;

21 (11) Any individual or employing unit for which service in
22 employment as defined in subdivision (4)(d) of section 48-604 is
23 performed; and

24 (12)(a) In determining whether or not an employing unit for which
25 service other than domestic service is also performed is an employer
26 under subdivision (1) or (10) of this section, the wages earned or the
27 employment of an employee performing domestic service shall not be taken
28 into account; and

29 (b) In determining whether or not an employing unit for which
30 agricultural labor is also performed is an employer under subdivision
31 (11) of this section, the wages earned or the employment of an employee

1 performing services in agricultural labor shall not be taken into
2 account. If an employing unit is determined an employer of agricultural
3 labor, such employing unit shall be determined an employer for the
4 purposes of subdivision (1) of this section; and -

5 (13) A franchisor only if such franchisor is considered an employer
6 under section 1 of this act.

7 **Sec. 5.** Section 48-1102, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 48-1102 For purposes of the Nebraska Fair Employment Practice Act,
10 unless the context otherwise requires:

11 (1) Person shall include one or more individuals, labor unions,
12 partnerships, limited liability companies, associations, corporations,
13 legal representatives, mutual companies, joint-stock companies, trusts,
14 unincorporated organizations, trustees, trustees in bankruptcy, or
15 receivers;

16 (2) Employer shall mean a person engaged in an industry who has
17 fifteen or more employees for each working day in each of twenty or more
18 calendar weeks in the current or preceding calendar year, any agent of
19 such a person, and any party whose business is financed in whole or in
20 part under the Nebraska Investment Finance Authority Act regardless of
21 the number of employees and shall include the State of Nebraska,
22 governmental agencies, and political subdivisions, but such term shall
23 not include (a) the United States, a corporation wholly owned by the
24 government of the United States, or an Indian tribe, ~~or~~ (b) a bona fide
25 private membership club, other than a labor organization, which is exempt
26 from taxation under section 501(c) of the Internal Revenue Code, or (c) a
27 franchisor if such franchisor is not considered an employer under section
28 1 of this act;

29 (3) Labor organization shall mean any organization which exists
30 wholly or in part for one or more of the following purposes: Collective
31 bargaining; dealing with employers concerning grievances, terms, or

1 conditions of employment; or mutual aid or protection in relation to
2 employment;

3 (4) Employment agency shall mean any person regularly undertaking
4 with or without compensation to procure employees for an employer or to
5 procure for employees opportunities to work for an employer and shall
6 include an agent of such a person but shall not include an agency of the
7 United States, except that such term shall include the United States
8 Employment Service and the system of state and local employment services
9 receiving federal assistance;

10 (5) Covered entity shall mean an employer, an employment agency, a
11 labor organization, or a joint labor-management committee;

12 (6) Privileges of employment shall mean terms and conditions of any
13 employer-employee relationship, opportunities for advancement of
14 employees, and plant conveniences;

15 (7) Employee shall mean an individual employed by an employer;

16 (8) Commission shall mean the Equal Opportunity Commission;

17 (9) Disability shall mean (a) a physical or mental impairment that
18 substantially limits one or more of the major life activities of such
19 individual, (b) a record of such an impairment, or (c) being regarded as
20 having such an impairment. Disability shall not include homosexuality,
21 bisexuality, transvestism, transsexualism, pedophilia, exhibitionism,
22 voyeurism, gender-identity disorders not resulting in physical
23 impairments, other sexual behavior disorders, problem gambling,
24 kleptomania, pyromania, or psychoactive substance use disorders resulting
25 from current illegal use of drugs;

26 (10)(a) Qualified individual with a disability shall mean an
27 individual with a disability who, with or without reasonable
28 accommodation, can perform the essential functions of the employment
29 position that such individual holds or desires. Consideration shall be
30 given to the employer's judgment as to what functions of a job are
31 essential, and if an employer has prepared a written description before

1 advertising or interviewing applicants for the job, this description
2 shall be considered evidence of the essential functions of the job;

3 (b) Qualified individual with a disability shall not include any
4 employee or applicant who is currently engaged in the illegal use of
5 drugs when the covered entity acts on the basis of such use; and

6 (c) Nothing in this subdivision shall be construed to exclude as a
7 qualified individual with a disability an individual who:

8 (i) Has successfully completed a supervised drug rehabilitation
9 program or otherwise been rehabilitated successfully and is no longer
10 engaging in the illegal use of drugs;

11 (ii) Is participating in a supervised rehabilitation program and is
12 no longer engaging in such use; or

13 (iii) Is erroneously regarded as engaging in such use but is not
14 engaging in such use;

15 (11) Reasonable accommodation, with respect to disability, shall
16 include making existing facilities used by employees readily accessible
17 to and usable by individuals with disabilities, job restructuring, part-
18 time or modified work schedules, reassignment to a vacant position,
19 acquisition or modification of equipment or devices, appropriate
20 adjustment or modification of examinations, training manuals, or
21 policies, the provision of qualified readers or interpreters, and other
22 similar accommodations for individuals with disabilities. Reasonable
23 accommodation, with respect to pregnancy, childbirth, or related medical
24 conditions, shall include acquisition of equipment for sitting, more
25 frequent or longer breaks, periodic rest, assistance with manual labor,
26 job restructuring, light-duty assignments, modified work schedules,
27 temporary transfers to less strenuous or hazardous work, time off to
28 recover from childbirth, or break time and appropriate facilities for
29 breast-feeding or expressing breast milk. Reasonable accommodation shall
30 not include accommodations which the covered entity can demonstrate
31 require significant difficulty or expense thereby posing an undue

1 hardship upon the covered entity. Factors to be considered in determining
2 whether an accommodation would pose an undue hardship shall include:

3 (a) The nature and the cost of the accommodation needed under the
4 Nebraska Fair Employment Practice Act;

5 (b) The overall financial resources of the facility or facilities
6 involved in the provision of the reasonable accommodation, the number of
7 persons employed at such facility, the effect on expenses and resources,
8 or the impact otherwise of such accommodation upon the operation of the
9 facility;

10 (c) The overall financial resources of the covered entity, the
11 overall size of the business of a covered entity with respect to the
12 number of its employees, and the number, type, and location of its
13 facilities; and

14 (d) The type of operation or operations of the covered entity,
15 including the composition, structure, and functions of the work force of
16 such entity, and the geographic separateness and administrative or fiscal
17 relationship of the facility or facilities in question to the covered
18 entity;

19 (12) Marital status shall mean the status of a person whether
20 married or single;

21 (13) Because of sex or on the basis of sex shall include, but not be
22 limited to, because of or on the basis of pregnancy, childbirth, or
23 related medical conditions;

24 (14) Harass because of sex shall include making unwelcome sexual
25 advances, requesting sexual favors, and engaging in other verbal or
26 physical conduct of a sexual nature if (a) submission to such conduct is
27 made either explicitly or implicitly a term or condition of an
28 individual's employment, (b) submission to or rejection of such conduct
29 by an individual is used as the basis for employment decisions affecting
30 such individual, or (c) such conduct has the purpose or effect of
31 unreasonably interfering with an individual's work performance or

1 creating an intimidating, hostile, or offensive working environment;

2 (15) Unlawful under federal law or the laws of this state shall mean
3 acting contrary to or in defiance of the law or disobeying or
4 disregarding the law;

5 (16) Drug shall mean a controlled substance as defined in section
6 28-401;

7 (17) Illegal use of drugs shall mean the use of drugs, the
8 possession or distribution of which is unlawful under the Uniform
9 Controlled Substances Act, but shall not include the use of a drug taken
10 under supervision by a licensed health care professional or any other use
11 authorized by the Uniform Controlled Substances Act or other provisions
12 of state law;

13 (18) Individual who is pregnant, who has given birth, or who has a
14 related medical condition shall mean an individual with a known
15 limitation who, with or without reasonable accommodation, can perform the
16 essential functions of the employment position that such individual
17 holds, desires, or may be temporarily assigned to. Consideration shall be
18 given to the employer's judgment as to what functions of a job are
19 essential, and if an employer has prepared a written description before
20 advertising or interviewing applicants for the job, this description
21 shall be considered evidence of the essential functions of the job;

22 (19) Race is inclusive of characteristics such as skin color, hair
23 texture, and protective hairstyles; and

24 (20) Protective hairstyles includes braids, locks, and twists.

25 **Sec. 6.** Section 48-1202, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 48-1202 For purposes of the Wage and Hour Act, unless the context
28 otherwise requires:

29 (1) Employ shall include to permit to work;

30 (2) Employer shall include any individual, partnership, limited
31 liability company, association, corporation, business trust, legal

1 representative, or organized group of persons employing four or more
2 employees at any one time except for seasonal employment of not more than
3 twenty weeks in any calendar year, acting directly or indirectly in the
4 interest of an employer in relation to an employee, but shall not include
5 (a) the United States, the state, or any political subdivision thereof or
6 (b) a franchisor if such franchisor is not considered an employer under
7 section 1 of this act;

8 (3) Employee shall include any individual employed by any employer
9 but shall not include:

10 (a) Any individual employed in agriculture;

11 (b) Any individual employed as a baby-sitter in or about a private
12 home;

13 (c) Any individual employed in a bona fide executive,
14 administrative, or professional capacity or as a superintendent or
15 supervisor;

16 (d) Any individual employed by the United States or by the state or
17 any political subdivision thereof;

18 (e) Any individual engaged in the activities of an educational,
19 charitable, religious, or nonprofit organization when the employer-
20 employee relationship does not in fact exist or when the services
21 rendered to such organization are on a voluntary basis;

22 (f) Apprentices and learners otherwise provided by law;

23 (g) Veterans in training under supervision of the United States
24 Department of Veterans Affairs;

25 (h) A child in the employment of his or her parent or a parent in
26 the employment of his or her child; or

27 (i) Any person who, directly or indirectly, is receiving any form of
28 federal, state, county, or local aid or welfare and who is physically or
29 mentally disabled and employed in a program of rehabilitation, who shall
30 receive a wage at a level consistent with his or her health, efficiency,
31 and general well-being;

1 (4) Occupational classification shall mean a classification
2 established by the Dictionary of Occupational Titles prepared by the
3 United States Department of Labor; and

4 (5) Wages shall mean all remuneration for personal services,
5 including commissions and bonuses and the cash value of all remunerations
6 in any medium other than cash.

7 **Sec. 7.** Section 48-1229, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 48-1229 For purposes of the Nebraska Wage Payment and Collection
10 Act, unless the context otherwise requires:

11 (1) Employee means any individual permitted to work by an employer
12 pursuant to an employment relationship or who has contracted to sell the
13 goods or services of an employer and to be compensated by commission.
14 Services performed by an individual for an employer shall be deemed to be
15 employment, unless it is shown that (a) such individual has been and will
16 continue to be free from control or direction over the performance of
17 such services, both under his or her contract of service and in fact, (b)
18 such service is either outside the usual course of business for which
19 such service is performed or such service is performed outside of all the
20 places of business of the enterprise for which such service is performed,
21 and (c) such individual is customarily engaged in an independently
22 established trade, occupation, profession, or business. This subdivision
23 is not intended to be a codification of the common law and shall be
24 considered complete as written;

25 (2)(a) {2} Employer means the state or any individual, partnership,
26 limited liability company, association, joint-stock company, trust,
27 corporation, political subdivision, or personal representative of the
28 estate of a deceased individual, or the receiver, trustee, or successor
29 thereof, within or without the state, employing any person within the
30 state as an employee. ÷

31 (b) A franchisor shall not be considered an employer unless such

1 franchisor is considered an employer under section 1 of this act;

2 (3) Federally insured financial institution means a state or
3 nationally chartered bank or a state or federally chartered savings and
4 loan association, savings bank, or credit union whose deposits are
5 insured by an agency of the United States Government;

6 (4) Fringe benefits includes sick and vacation leave plans,
7 disability income protection plans, retirement, pension, or profit-
8 sharing plans, health and accident benefit plans, and any other employee
9 benefit plans or benefit programs regardless of whether the employee
10 participates in such plans or programs;

11 (5) Payroll debit card means a stored-value card issued by or on
12 behalf of a federally insured financial institution that provides an
13 employee with immediate access for withdrawal or transfer of his or her
14 wages through a network of automatic teller machines. Payroll debit card
15 includes payroll debit cards, payroll cards, and paycards; and

16 (6) Wages means compensation for labor or services rendered by an
17 employee, including fringe benefits, when previously agreed to and
18 conditions stipulated have been met by the employee, whether the amount
19 is determined on a time, task, fee, commission, or other basis. Paid
20 leave, other than earned but unused vacation leave, provided as a fringe
21 benefit by the employer shall not be included in the wages due and
22 payable at the time of separation, unless the employer and the employee
23 or the employer and the collective-bargaining representative have
24 specifically agreed otherwise. Unless the employer and employee have
25 specifically agreed otherwise through a contract effective at the
26 commencement of employment or at least ninety days prior to separation,
27 whichever is later, wages includes commissions on all orders delivered
28 and all orders on file with the employer at the time of separation of
29 employment less any orders returned or canceled at the time suit is
30 filed.

31 **Sec. 8.** Section 48-1231, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 48-1231 (1) An employee having a claim for wages which are not paid
3 within thirty days of the regular payday designated or agreed upon may
4 institute suit for such unpaid wages in the proper court. If an employee
5 establishes a claim and secures judgment on the claim, such employee
6 shall be entitled to recover the full amount of the judgment and all
7 costs of such suit, including reasonable attorney's fees. If the cause is
8 taken to an appellate court and the employee recovers a judgment, the
9 appellate court shall award reasonable attorney's fees to the employee.
10 If the employee fails to recover a judgment in excess of the amount that
11 may have been tendered within thirty days of the regular payday by an
12 employer, such employee shall not recover the attorney's fees provided by
13 this subsection. If the court finds that no reasonable dispute existed as
14 to the fact that wages were owed or as to the amount of such wages, the
15 court may order the employee to pay the employer's attorney's fees and
16 costs of the action as assessed by the court.

17 (2) If an employee works for an employer that is not subject to the
18 Nebraska Fair Employment Practice Act and such employee is aggrieved by a
19 violation of section 48-1235, the employee may bring a suit against such
20 employer in the proper court to recover the damages sustained by reason
21 of such violation. If an employee prevails in a suit brought pursuant to
22 this subsection, such employee shall be entitled to recover the full
23 amount of the judgment and all costs of such suit, including reasonable
24 attorney's fees. If the cause is taken to an appellate court and the
25 employee recovers a judgment, the appellate court shall award reasonable
26 attorney's fees to the employee.

27 (3) An employer who fails to furnish a wage statement under
28 subsection (2) of section 48-1230 shall be guilty of an infraction as
29 defined in section 29-431 and shall be subject to a fine pursuant to
30 section 29-436.

31 (4) If an employee institutes suit against an employer under

1 subsection (1) or (2) of this section, any citation that is issued
2 against such employer under section 48-1234 and that relates directly to
3 the facts in dispute shall be admitted into evidence unless specifically
4 excluded by the court. If a citation has been contested as described in
5 subsection (3) of section 48-1234, it shall not be admitted into evidence
6 under this subsection until after such contest has been resolved.

7 (5) A franchisor shall not be liable for wages owed by a franchisee
8 unless such franchisor is considered an employer under section 1 of this
9 act.

10 **Sec. 9.** Original sections 48-114, 48-116, 48-603, 48-1102, 48-1202,
11 48-1229, and 48-1231, Reissue Revised Statutes of Nebraska, are repealed.