
SENATE BILL 5539

State of Washington

53rd Legislature

1993 Regular Session

By Senator A. Smith

Read first time 02/02/93. Referred to Committee on Law & Justice.

1 AN ACT Relating to the relationship between franchisors and
2 franchisees; amending RCW 19.100.250 and 19.100.190; and adding a new
3 section to chapter 19.100 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 19.100.250 and 1972 ex.s. c 116 s 15 are each amended
6 to read as follows:

7 (1) The director may from time to time make, amend, and rescind
8 such rules, forms, and orders as are necessary or appropriate to carry
9 out the ((provisions)) purposes of this chapter including rules and
10 forms governing applications and reports and defining any terms whether
11 or not used in this chapter insofar as the definitions are consistent
12 with this chapter. The director may classify franchises, persons, and
13 matters within the director's jurisdiction, and prescribe different
14 requirements for different classes. No rule, form, or order may be
15 made unless the director finds that the action is necessary or
16 appropriate in the public interest or for the protection of franchisees
17 and consistent with the purposes fairly intended by the policy and
18 provisions of this chapter.

1 (2) The director (~~(in his discretion)~~) may honor requests from
2 interested persons for interpretive opinions.

3 **NEW SECTION. Sec. 2.** A new section is added to chapter 19.100 RCW
4 to read as follows:

5 If the director finds with regard to any classification of
6 franchise established by rule that adequate regulation cannot be
7 achieved by the means of the registration provisions of RCW 19.100.040
8 through 19.100.110, for the reason that franchisees lack the customary
9 education, business experience, or English language skills, the
10 director may make, amend, or repeal such rules, forms, and orders as
11 are necessary or appropriate for the protection of franchisees to
12 require the franchisor to provide any one or more of the following:

13 (1) A cancellation period of up to thirty days from the date of
14 sale of the franchise;

15 (2) An offering circular as required by RCW 19.100.040 and any
16 addition or amendment under RCW 19.100.070 in a language other than
17 English;

18 (3) A purchaser representative including, if necessary, a
19 translator fluent in the language of the franchisee prior to the date
20 of sale of the franchise; or

21 (4) A limitation on the sale of the franchise requiring that the
22 franchisor and any person acting on its behalf shall have reasonable
23 grounds to believe and after making reasonable inquiry does believe
24 that the investment is suitable for the franchisee upon the basis of
25 the franchisee's financial situation and needs.

26 **Sec. 3.** RCW 19.100.190 and 1972 ex.s. c 116 s 11 are each amended
27 to read as follows:

28 (1) The commission of any unfair or deceptive acts or practices or
29 unfair methods of competition prohibited by RCW 19.100.180 as now or
30 hereafter amended shall constitute an unfair or deceptive act or
31 practice under the provisions of chapter 19.86 RCW.

32 (2) Any person who sells or offers to sell a franchise in violation
33 of this chapter shall be liable to the franchisee or subfranchisor who
34 may sue at law or in equity for damages caused thereby, for rescission,
35 or other relief as the court may deem appropriate. If the court finds
36 that the franchisee has been exploited by reason of lack of education,
37 business experience, or English language skills or fluency, the court

1 may in lieu of other relief grant rescission. In the case of a
2 violation of RCW 19.100.170 rescission is not available to the
3 plaintiff if the defendant proves that the plaintiff knew the facts
4 concerning the untruth or omission or that the defendant exercised
5 reasonable care and did not know or if he or she had exercised
6 reasonable care would not have known of the untruth or omission.

7 (3) The suit authorized under subsection (2) of this section may be
8 brought to recover the actual damages sustained by the plaintiff and
9 the court may in its discretion increase the award of damages to an
10 amount not to exceed three times the actual damages sustained:
11 PROVIDED, That the prevailing party may in the discretion of the court
12 recover the costs of said action including a reasonable attorneys' fee.

13 (4) Any person who becomes liable to make payments under this
14 section may recover contributions as in cases of contracts from any
15 persons who, if sued separately, would have been liable to make the
16 same payment.

17 (5) A final judgment, order, or decree heretofore or hereafter
18 rendered against a person in any civil, criminal, or administrative
19 proceedings under the United States anti-trust laws, under the Federal
20 Trade Commission Act, under the Washington State Consumer Protection
21 Act, or this chapter shall be regarded as evidence against such persons
22 in any action brought by any party against such person under
23 subsections (1) and (2) of this section as to all matters which said
24 judgment or decree would be an estoppel between the parties thereto.

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