

California Senate Bill 919 Threatens Independent Business Ownership Through Franchising

Discusses how California's recent minimum wage and franchise broker laws are making independent business ownership through franchising difficult.

ST. LOUIS, MISSOURI, UNITED STATES, August 9, 2024 /EINPresswire.com/ -- Earlier this year, California passed a law requiring a \$20 minimum hourly wage for fast food workers. Since that law only applies to chains with 60 or more locations, that law primarily burdens independently owned franchise businesses.

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Later this month, California is set to approve California Senate Bill 919 as an appendage to California’s Franchise Investment Law which governs franchisors and the registration and contents of their Franchise Disclosure Documents. According to Eric Riess, Founder of Aspen Legal and Co-Founder of the Franchise Broker’s Association in Orlando, the impact of these 2 pieces of legislation may

threaten independent business ownership through franchising throughout the State.

“A restaurant with a skeleton staff of 7 employees working two 8 hour shifts has to make over \$800,000 just to pay its first year minimum wage cost.” Riess stated. “Every \$1 raise adds another \$50,000 in additional revenue that that restaurant has to achieve once you add overhead, employment taxes and limited benefits.”, Riess added. “And a State government which requires a business to raise its prices beyond what customers are comfortable paying and a Federal government blaming inflation on corporate greed forces entrepreneurs the choose between being a villain or being bankrupt.” Riess concluded.

By its currently proposed language, among other things, the Bill shifts liability for improper franchising practices away from bad actors and onto people who have no authority to either offer or sell a franchise and whose function it is to educate, support and grow entrepreneurs and entrepreneurialism through independent franchise business ownership; namely; the franchise brokers. The Bill requires disclosures by franchise brokers beyond those required by Franchisors, requires disclosures of personal information which violate California Consumer Privacy Act (i.e.,

name every franchisee, everywhere, to whom you “sold” any franchise to over the last year), requires disclosures relating to other franchisees and franchisees unrelated to the franchise being purchased, requires amendments to registrations not required by franchisors, requires insurance and bonding requirements by franchise brokers not required by franchisors, lacks definitions of key terms which leaves people who provide services in connection with a franchise purchase guessing as to whether they are covered by the Bill, and makes any person who willfully violates its provisions responsible for refunding franchisees who purchase a bad franchise all the money they have invested, borrowed or otherwise committed to in connection with their bad investment. Further, the Bill not only assumes willfulness but shifts the burden of proof to the broker to provide he or she was not willful. Finally, the Bill disproportionately burdens smaller franchise systems which need franchise brokers to grow and compete with larger franchise systems.

Through the Franchise Broker’s Association, Riess and Aspen Legal has been working on redlines to the Bill which they hope will be supported by the International Franchise Association (a proponent and an author of the Bill). “In nearly all cases I have dealt with in 30 years, a franchisee who has suffered loss has done because of a failure to follow the franchisor’s system, the lack of a proven system, undercapitalization, or an improper investment disclosure or financial performance representation by the franchisor.” Riess shared. “Rarely is the loss the result of a franchise broker.”

Brokers are typically contractually prohibited by franchisors from providing the FDD, approving a candidate, making representations and warranties or acting on behalf of franchisors, and are prohibited from making any offer or sale whatsoever. To the extent brokers are agents of franchisors, existing fraud law already protects franchisees to whom misrepresentations are made through the legal theory that a principal is responsible for the misrepresentations of its agents.

Livable wages and consumer protection are both a good thing. But today’s needs should be balanced against tomorrow’s and next year’s long-range economic well-being.

“I speak and work with franchise brokers constantly from across the country. For many, the benefit of doing business in California no longer outweighs the risk.”, Riess added.

Ultimately, the ones intended to be protected may be hurt by the legislation. A former worker of a now shuttered fast food restaurant doesn’t make any wage. And a candidate who can no longer find suitable franchise offerings will find independent business ownership difficult if not impossible to achieve.

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