

Legislative Analysis



APPLICATION OF EMPLOYMENT RULES TO FRANCHISEES

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House Bill 5070 as introduced
Sponsor: Rep. Eric Leutheuser

House Bill 5073 as introduced
Sponsor: Rep. Daniela R. Garcia

House Bill 5071 as introduced
Sponsor: Rep. Pat Somerville

Senate Bill 492 as passed by the Senate
Sponsor: Sen. Jack Brandenburg

House Bill 5072 as introduced
Sponsor: Rep. Nancy E. Jenkins

Senate Bill 493 as passed by the Senate
Sponsor: Sen. John Proos

Senate Committee: Commerce
House Committee: Commerce and Trade
Complete to 12-4-15

REVISED SUMMARY:

Five of these bills would allocate employer responsibilities to franchisees rather than franchisors, to the extent allowed by law, and the sixth bill would provide an exception whereby franchisees and franchisors share employer responsibilities.

Senate Bill 492 and House Bills 5070-5073 would amend the Franchise Investment Law and four employment acts to add that *franchisees are considered the sole employer of the workers for whom they provide a benefit plan or pay wages, except as specifically provided in the franchise agreement*. This clarifies that an employee may only seek compensation or redress from the franchisee for whom he or she directly works, and not from the franchisor.

Senate Bill 493 would present the specific circumstances under which a franchisee and franchisor to employer are considered joint employers.

Often, a large company (franchisor) contracts with an individual or smaller company (franchisee), so that the individual may use the business model and brand of the company for a period of time, and in exchange will pay the company a portion of its sales and additional fees. Subway, McDonald's, and 7-Eleven are three of the country's largest franchises and, along with other franchises, comprise 11 million American jobs. Although these are national brands, these bills would make clear that the employees who work in a franchise store are considered employees of that franchisee alone, unless otherwise specified in the franchise agreement.

Senate Bill 492 would add the above highlighted language to the Franchise Investment Law. (MCL 445.1501 to 445.1546)

House Bill 5070 would amend the Michigan Occupational Safety and Health Act by adding the above highlighted language to its definition of "employer." (MCL 408.1005)

House Bill 5071 would amend Public Act 390 of 1978, by replacing the Department of Labor as the department governing the payment of wages, rights and responsibilities of employers and employees, and dispute resolution, with the Department of Licensing and Regulatory Affairs. It would also add the above highlighted language to its definition of "employer." (MCL 408.471)

House Bill 5072 would amend the Workforce Opportunity Wage Act by adding the above highlighted language to its definition of "employer." (MCL 408.412)

House Bill 5073 would amend the Michigan Employment Security Act by adding the above highlighted language to its definition of "employer." (MCL 421.41)

Senate Bill 493 would amend the Worker's Disability Compensation Act of 1969 to reflect that an employee of the franchisee is not an employee of the franchisor for purposes of the act unless the following circumstances apply:

- The franchisee and franchisor share in the determination of or codetermine the matters governing the essential terms and conditions of the employee's employment, and
- The franchisee and franchisor both directly and immediately control matters relating to the employment relationship, such as hiring, firing, discipline, supervision, and direction.

Each of the bills would take effect 90 days after being enacted.

FISCAL IMPACT:

The bill would have no fiscal impact.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.