

1971

Session Law 71-61

Florida Senate & House of Representatives

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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Year	Session Law No.	71-61	LOF Cite	#pp
Prime Bill#	HB 428	Sponsor	Comp./Sim. Bills	none
JLMC Hist. Leq. Cites	Senate pp.#s	House pp.#s	70	#pp
Committee of Ref.	Senate Commerce + Lic. Bus.	House Bus. Reg.	Previous versions?	

Committee Records

H/S	Committee	Year	Record Series: Folder Title, etc.	Location Cite	#pp
4	Bus Reg	1971	Bill files: HB 428 (a few newsclips)*	19/9	
5	Com LB	1971	"Bills referred to Comm": HB 428 ^{Printed final law only}	18/23	0

Senate/House Journals

Page	?	Date	#pp	Page	?	Date	#pp

Tape Recordings

H/S	Floor	Committee/subcommittee	Date	# Tapes	Location Cite

Other Documentation

Record series title, folder title, etc.	Location Cite	#pp
* about franchises in general, not this legislation		

- 427 CONTINUED
EQUIPMENT AND THE LENGTHENING OF THE I.L.S. RUNWAY AT THE TALLAHASSEE AIRPORT.
4/06/71 HOUSE- INTRODUCED, REFERRED TO GENERAL LEGISLATION -HJ 0034
4/06/71 HOUSE- COMM. REPORT; FAVORABLE, PLACED ON CALENDAR BY GENERAL
LEGISLATION -HJ 0096
4/14/71 HOUSE- ADOPTED -HJ 0161
4/15/71 SENATE- RECEIVED, REFERRED TO JUDICIARY-CIVIL B -SJ 0110
4/27/71 SENATE- EXTENSION OF TIME GRANTED COMMITTEE JUDICIARY-CIVIL B -SJ 0181
5/03/71 SENATE- COMM. REPORT; FAVORABLE, PLACED ON CALENDAR BY JUDICIARY-CIVIL
B -SJ 0233
5/17/71 SENATE- ADOPTED; YEAS 038 NAYS 000 -SJ 0411
5/20/71 HOUSE- SIGNED BY OFFICERS AND FILED WITH SECRETARY OF STATE -HJ 0638
- 428 GENERAL BILL, BY SPICOLA
MAKES CERTAIN ACTS UNLAWFUL WHEN SELLING OR ESTABLISHING A FRANCHISE OR
DISTRIBUTORSHIP, ETC.
4/06/71 HOUSE- INTRODUCED, REFERRED TO BUSINESS REGULATION -HJ 0034
4/23/71 HOUSE- COMM. REPORT; FAVORABLE, PLACED ON CALENDAR BY BUSINESS
REGULATION -HJ 0267
4/30/71 HOUSE- PASSED AS AMENDED; YEAS 049 NAYS 000 -HJ 0336
5/04/71 SENATE- RECEIVED, REFERRED TO COMMERCE -SJ 0232
5/11/71 SENATE- WITHDRAWN FROM COMMERCE; PLACED ON CALENDAR -SJ 0321
5/14/71 SENATE- SUBSTITUTED FOR SB 107; PASSED; YEAS 041 NAYS 000 -SJ 0333
5/19/71 HOUSE- SIGNED BY OFFICERS AND PRESENTED TO GOVERNOR -HJ 0609
5/24/71 APPROVED BY GOVERNOR 05/24/71 -HJ 0701
- 429 GENERAL BILL, BY SPICOLA
CREATES SEC. 317.202, F.S., TO PROVIDE PENALTIES FOR CARELESS DRIVING WHILE
UNDER INFLUENCE OF ALCOHOL OR DRUGS.
4/06/71 HOUSE- INTRODUCED, REFERRED TO CRIMINAL JUSTICE -HJ 0034
6/04/71 HOUSE- DIED IN COMMITTEE
- 430 GENERAL BILL, BY SPICOLA (COMPANION SB 0327)
CREATES ENVIRONMENTAL PROTECTION ACT TO PROTECT AIR, WATER AND OTHER NATURAL
RESOURCES,
4/06/71 HOUSE- INTRODUCED, REFERRED TO ENVIRONMENTAL POLLUTION CONTROL,
APPROPRIATIONS -HJ 0034; WITHDRAWN FROM ORIGINALLY REFERRED COMM.
ON APPROPRIATIONS -HJ 0071
4/07/71 HOUSE- COMM. REPORT; COMM. SUB. PLACED ON CALENDAR BY ENVIRONMENTAL
POLLUTION CONTROL -HJ 0079
4/13/71 HOUSE- LAID ON TABLE UNDER RULE, COMMITTEE SUBSTITUTE SUBSTITUTED;
COMMITTEE SUBSTITUTE COMBINES THIS BILL AND HB 0306; READ SECOND
TIME -HJ 0152
4/14/71 HOUSE- COMMITTEE SUBSTITUTE PASSED AS AMENDED; YEAS 102 NAYS 005 -HJ
0158; CHECK COMPANION STATUS
4/15/71 SENATE- RECEIVED, REFERRED TO JUDICIARY-CIVIL B -SJ 0110
4/27/71 SENATE- EXTENSION OF TIME GRANTED COMMITTEE JUDICIARY-CIVIL B -SJ 0181
5/03/71 SENATE- COMM. REPORT; FAVORABLE WITH AMEND., PLACED ON CALENDAR BY
JUDICIARY-CIVIL B -SJ 0233
5/31/71 SENATE- PASSED AS AMENDED; YEAS 034 NAYS 000 -SJ 0607
6/02/71 HOUSE- CONCURRENT; PASSED AS FURTHER AMENDED; YEAS 089 NAYS 003 -HJ
0945
6/14/71 HOUSE- SIGNED BY OFFICERS AND PRESENTED TO GOVERNOR 06/14/71
5/26/71 APPROVED BY GOVERNOR 06/28/71
- 431 GENERAL BILL, BY THE SPEAKER
4/06/71 HOUSE- WITHDRAWN PRIOR TO INTRODUCTION -HJ 0034
CONTINUED ON NEXT PAGE

twelfth judicial circuit shall be based on population as determined by the latest official census; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 26.13, Florida Statutes, is amended to read:

26.13 Twelfth circuit.—

(1) The twelfth circuit is composed of Manatee, Sarasota, and DeSoto counties, and shall have one circuit judge for each 50,000 inhabitants, or major fraction thereof, in said circuit according to the latest official ~~decennial~~ census.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor May 24, 1971.

Filed in Office Secretary of State May 25, 1971.

CHAPTER 71-61
House Bill No. 428

AN ACT relating to franchises and distributorships; making certain acts unlawful when selling or establishing a franchise or distributorship, and providing a civil remedy for persons harmed through a violation of this act; authorizing injunctive relief; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Definitions.—For the purpose of this act:

(1) The term “person” means an individual, partnership, corporation, association, or other entity doing business in the State of Florida.

(2) The term “franchise or distributorship” shall mean a contract or agreement, either expressed or implied, whether oral or written, between two (2) or more persons:

(a) Wherein a commercial relationship of definite duration or continuing indefinite duration is involved;

(b) Wherein one (1) party, hereinafter called the “franchisee”, is granted the right to offer, sell, and distribute goods or services manufactured, processed, distributed or (in the case of services) organized and directed by another party;

(c) Wherein the franchisee as an independent business constitutes a component of franchisor’s distribution system;

(d) Wherein the operation of the franchisee’s business franchise is substantially reliant on franchisors for the basic supply of goods.

(3) The term “goods” means any article or thing without limitation, or any part of such article or thing, including any article or thing used or consumed by a franchisee in rendering a service established, organized, directed, or approved by a franchisor.

Section 2. Declarations.—

(1) It is unlawful, when selling or establishing a franchise or distributorship, for any person:

(a) Intentionally to misrepresent the prospects or chances for success of a proposed or existing franchise or distributorship;

(b) Intentionally to misrepresent, by failure to disclose or otherwise, the known required total investment for such franchise or distributorship;

(c) Intentionally to misrepresent, or fail to disclose, efforts to sell or establish more franchises or distributorships than is reasonable to expect the market or market area for the particular franchise or distributorship to sustain.

(2) The execution or carrying out of a scheme, plan, or corporate organization which violates any of the foregoing provisions, if knowledge or intent be proved, shall be unlawful. Each violation of a provision of this section is a misdemeanor.

Section 2A. Subsection (2) as published in section 2 of this act, is created to read:

Section 2. Declarations.—

(2) The execution or carrying out of a scheme, plan, or corporate organization which violates any of the provisions of this section, if knowledge or intent be proved, shall be a misdemeanor of the second degree, punishable as provided in sections 775.082 and 775.083.

Section 2B. In the event HB 935, introduced in the 1971 regular session of the legislature, is enacted into law, subsection (2) as published in section 2 of this act will stand repealed and be omitted from the Florida Statutes. In the event HB 935 is not enacted into law, section 2A of this act will stand repealed and be omitted from the Florida Statutes.

Section 3. Civil provisions.—Any person, who shows in a civil court of law a violation of this act may receive a judgment for all moneys invested in such franchise or distributorship. Upon such a showing, the court may award any person bringing said action reasonable attorney's fees and shall award such person reasonable costs incurred in bringing the action and execution shall thereupon issue.

Section 4. Injunctions.—The attorney general, or jointly the attorney general and the commissioner of the department of agriculture and consumer services, may sue in behalf of the people of this state for injunctive relief against franchise or distributorship plans or activities in violation of sections 2(1)(a) and 2(1)(b) of this act.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor May 24, 1971.

Filed in Office Secretary of State May 25, 1971.

CHAPTER 71-62

House Bill No. 440

AN ACT relating to textbook allocation; amending section 233.33, Florida Statutes, to provide that up to ten percent

(10%) of the textbook allocation may be used for instructional materials not on the adopted list; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 233.33, Florida Statutes, is amended to read:

233.33 List of books adopted; unlawful not to use.—The department of education, as soon as practicable after it shall have adopted books and completed all contracts and approved bonds for the faithful performance of contracts for furnishing or supplying books for use in the public schools of the state, shall issue a statement announcing such fact to the people of the state, and direct the use of books adopted. The books adopted as a uniform system of textbooks for use in the high schools and in the elementary schools shall be introduced and used as textbooks in all public schools of the state; *provided, that each school district may use up to ten percent (10%) of its textbook allocation for instructional materials that are not included on the adopted list. Such materials shall be approved by the district school board. The state board of education shall adopt such regulations and procedures relating to these unlisted materials as it deems necessary. Except as provided herein, it is unlawful to use in the public schools of the state, to the exclusion of a book adopted for the same subject, any book not on the adopted list.*

Section 2. This act shall take effect July 1, 1971.

Approved by the Governor May 24, 1971.

Filed in Office Secretary of State May 25, 1971.

CHAPTER 71-63

House Bill No. 506

AN ACT relating to the Uniform Principal and Income Law; specifying methods of valuing bonds and other obligations for the payment of money comprising any part of the principal and designating the impact of loss or gain realized thereon;

By Representative Spicola

Prefiled February, 1971

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A bill to be entitled
AN ACT relating to franchises and dis-
tributorships; making certain acts
unlawful when selling or establishing
a franchise or distributorship, and
providing a civil remedy for persons
harmed through a violation of this act;
authorizing injunctive relief; provid-
ing an effective date.

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13

Be It Enacted by the Legislature of the State of
Florida:

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15

Section 1. Definitions.—For the purpose of
this act:

16

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18

(1) The term "person" means an individual,
partnership, corporation, association, or other
entity doing business in the State of Florida.

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(2) The term "franchise or distributorship"
shall mean a contract or agreement, either expressed
or implied, whether oral or written, between two (2)
or more persons:

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(a) Wherein a commercial relationship of
definite duration or continuing indefinite duration
is involved;

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(b) Wherein one (1) party, hereinafter called
the "franchisee", is granted the right to offer, sell,
and distribute goods or services manufactured, pro-
cessed, distributed or (in the case of services)
organized and directed by another party;

31

(c) Wherein the franchisee as an independent

1 business constitutes a component of franchisor's
2 distribution system;

3 (d) Wherein the operation of the franchisee's
4 business franchise is substantially reliant on
5 franchisors for the basic supply of goods.

6 (3) The term "goods" means any article or
7 thing without limitation, or any part of such article
8 or thing, including any article or thing used or con-
9 sumed by a franchisee in rendering a service estab-
10 lished, organized, directed, or approved by a fran-
11 chisor.

12 Section 2. Declarations.—

13 (1) It is unlawful, when selling or estab-
14 lishing a franchise or distributorship, for any
15 person:

16 (a) Intentionally to misrepresent the pros-
17 pects or chances for success of a proposed or existing
18 franchise or distributorship;

19 (b) Intentionally to misrepresent, by failure
20 to disclose or otherwise, the known required total
21 investment for such franchise or distributorship;

22 (c) Intentionally to misrepresent, or fail
23 to disclose, efforts to sell or establish more
24 franchises or distributorships than is reasonable
25 to expect the market or market area for the particular
26 franchise or distributorship to sustain.

27 (2) The execution or carrying out of a scheme,
28 plan, or corporate organization which violates any of
29 the foregoing provisions, if knowledge or intent be
30 proved, shall be unlawful. Each violation of a pro-
31 vision of this section is a misdemeanor.

1 Section 3. Civil provisions.—Any person,
2 who shows in a civil court of law a violation of
3 this act may receive a judgment for all moneys in-
4 vested in such franchise or distributorship. Upon
5 such a showing, the court may award any person
6 bringing said action reasonable attorney's fees and
7 shall award such person reasonable costs incurred in
8 bringing the action and execution shall thereupon
9 issue.

10 Section 4. Injunctions.—The attorney general,
11 or jointly the attorney general and the commissioner
12 of the department of agriculture and consumer ser-
13 vices, may sue in behalf of the people of this state
14 for injunctive relief against franchise or distri-
15 butorship plans or activities in violation of sec-
16 tions 2(1) (a) and 2(1) (b) of this act.

17 Section 5. This act shall take effect upon
18 becoming law.

LEGISLATIVE SERVICE BUREAU SUMMARY

Defines "franchise or distributorship" as an agreement between two or more persons which involves a commercial relationship of definite duration or continuing indefinite duration wherein the "franchisee" is granted the right to offer, sell and distribute goods or services manufactured, processed, distributed or organized and directed by another party and said franchisee's business constitutes a component of franchisor's distribution system and is substantially reliant on franchisor for the basic supply of goods. Declares it unlawful and a misdemeanor when selling or establishing a franchise or distributorship, for any person to intentionally misrepresent (a) the chances for success of a franchise, (b) by failure to disclose the known required total investment for such franchise, (c) or fail to disclose efforts to establish more franchises than the market can reasonably sustain.

Representative s Yancey

HB 428

SB _____

offered the following amendment:

On page 2 after /line 31, ~~###~~ insert the following:

Section 2A. Subsection (2) as published in section 2 of ~~§~~
this act, is created to read:

Section 2. Declarations.--

(2) The execution or carrying out of a scheme, plan, or ~~co~~
corporate ~~o~~ organization ~~whi~~ which violates any of the
provisions of this section, if knowledge or intent be proved, shall
be a misdemeanor of the second degree, punishable as provided in
sections 775.082 and 775.083.

Section 2B. In the event HB 935, introduced in the 1971

~~and insert the following~~
~~regular session of the legislature~~

regular session of the legislature, is enacted into law, sub-
section (2) as published in section 2 of this act will ~~be~~ stand
repealed and be omitted from the Florida Statutes. In the event
HB 935 is not enacted into law, section 2A of this act will
stand ~~repealed~~ repealed and be omitted from the Florida Statutes.

COPY

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FLORIDA STATE ARCHIVES
DEPARTMENT OF STATE
R. A. GRAY BUILDING
Tallahassee, FL 32399-0250

Series _____ Carton _____

Adopted
4/30/71

Mr. _____ moved the adoption of the amendment,

which was adopted.

which failed of adoption.

COMMITTEE INFORMATION RECORD

House of Representatives

The Committee on Business Regulation met at 5 p.m. o'clock on April 22, 19 71, in Room 331-H and considered HB 428.

On motion to report the bill FAVORABLE
 FAVORABLE WITH _____ AMENDMENTS
 (number)
 FAVORABLE WITH SUBSTITUTE

the vote was:

YEA	MEMBER	NAY	YEA	MEMBER	NAY	
	Clark, Dick		X	Murphy		
X	Clark, John		X	Nergard		
X	Dixon		X	Singleton		
	Dubbin		X	Walker		
X	Forbes		X	Whitson, Jr.		
X	Gallen		X	Hartnett (VCHM)		
	Glisson		X	Andrews (CHM.)		
X	Grizzle					
	Hess					
X	Lancaster			<i>Bill Andrews,</i>		
X	Libertore			Bill Andrews, Chairman		
X	Martinez					
X	Mooney					
TOTAL YEAS			16	TOTAL NAYS		0

COMMITTEE APPEARANCE RECORD

The following persons (other than legislators) appeared before the committee during consideration of this bill:

NAME	REPRESENTING	ADDRESS
Donald Conn	Representative Spicola	