

COUNCIL OF THE DISTRICT OF COLUMBIA

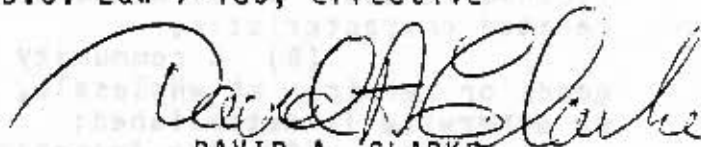
NOTICE

D.C. LAW 7-185

"Franchising Act of 1988".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 7-439 on first and second readings September 27, 1988, and October 11, 1988, respectively. Following the signature of the Mayor on October 25, 1988, this legislation was assigned Act No. 7-244, published in the November 4, 1988, edition of the D.C. Register, (Vol. 35 page 7906) and transmitted to Congress on January 23, 1989 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 7-185, effective March 16, 1989.



DAVID A. CLARKE
Chairman to the Council

Dates Counted During the 30-day Congressional Review Period:

January 24,25,26,27,30,31

February 1,2,3,6,7,8,9,21,22,23,24,27,28

March 1,2,3,6,7,8,9,10,13,14,15

EFFECTIVE DATE MAR 16 1988

AN ACT

D.C. ACT 7 - 244

Codification,
New Chapter 12
of title 29,
District of Columbia
Code (1989 Supp.)

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCT 25 1988

To establish uniform standards for franchise agreements in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Franchising Act of 1988".

Sec. 2. Definitions.

For the purposes of this act, the term:

New, Sec
29-1201

(1) "Person" means a natural person, partnership, joint venture, corporation, or other entity.

(2) "Franchise" means a written or an oral agreement entered into or effective in the District of Columbia for a definite or an indefinite period of time, pursuant to which:

(A) A person grants to another person a license to use a trade name, trademark, service mark, or related characteristic;

(B) A community interest in the marketing of goods or services at wholesale, retail, by lease agreement, or otherwise is established;

(C) The franchisee is required to pay, either directly or indirectly, a franchise fee in excess of \$500;

(D) The franchisee is obligated to deposit the receipts from the business subject to the franchise into a bank account controlled by the franchisor or jointly controlled by the franchisee and the franchisor; and

(E) Revenue from the business subject to the franchise is shared by the franchisor and franchisee in accordance with an agreed formula, after deductions from revenue are made for costs of goods sold and other operating expenses.

(3) "Franchisor" means a person who grants a franchise to another person.

(4) "Franchisee" means a person to whom a franchise is granted.

(5) "Franchise fee" means any fee or charge that a franchisee is required to pay for the right to enter into a business subject to a franchise including, but not limited to, any payment for goods and services.

(6) "Sale, transfer, or assignment" means any disposition of a franchise or any interest in a franchise, with or without consideration, including, but not limited to, bequest, inheritance, gift, exchange, lease, or license.

(7) "Good cause" means:

(A) Failure by the franchisee to comply substantially with requirements imposed upon the franchisee by the franchise; or

(B) Lack of good faith by the franchisee in carrying out the terms of the franchise.

(8) "Good faith" means honesty in fact and observance of reasonable commercial standards of fair dealing in the trade.

(9) "Voluntary abandonment" means failure by a franchisee or his agent to operate a business subject to a franchise for 5 consecutive days during which the franchisee is required to operate the business under the terms of the franchise, unless the failure to operate is due to unforeseeable causes beyond the control of the franchisee.

Sec. 3. Termination, cancellation, or failure to renew franchise.

New, Sec
29-1202

(a) It shall be a violation of this act for any franchisor to terminate, cancel, or fail to renew a franchise without prior written notice to the franchisee setting forth all reasons for the termination, cancellation, or failure to renew at least 60 days prior to the termination, cancellation, or failure to renew, except that:

(1) Written notice may be given 15 business days in advance of the termination, cancellation, or failure to renew, when the alleged grounds are voluntary abandonment of the franchise by the franchisee; and

(2) Written notice may be given immediately prior to the termination, cancellation, or failure to renew when the alleged grounds are the conviction of the franchisee in a court of competent jurisdiction of an offense punishable by a term of imprisonment in excess of 1 year and directly related to the business conducted pursuant to the franchise.

(b) A franchisor shall provide written notification to the Advisory Neighborhood Commission and ward Councilmember 60 days prior to closing any store subject to a franchise that is located within the boundaries of the ward or neighborhood commission area. Written notification shall not be required pursuant to this subsection, if a store is temporarily closed due to a natural disaster, the exercise of health department regulations, or fire.

Sec. 4. Good cause; opportunity to cure.

New, Sec:
29-1203

For purposes of this act, there shall be good cause, as defined in section 2(7) of this act, for terminating, cancelling, failing to renew; or failing to consent to the transfer of a franchise. A franchisee shall have 60 days from the date of notification of termination, cancellation, or failure to renew or consent to the transfer of the franchise to cure the alleged cause for the termination, cancellation, or failure to renew or consent to the transfer.

Sec. 5. Transfer, assignment, or sale of franchise.

New, Sec:
29-1204

(a) It shall be a violation of this act for any franchisee to transfer, assign, or sell a franchise or an interest in a franchise to another person without prior written notification to the franchisor of the intention. The notice shall set forth the prospective transferee's name, address, statement of financial qualification, and business experience during the previous 5 years. The franchisor shall, in writing, within 60 days after receipt of the notice either approve the sale to the proposed transferee or disapprove the proposed transfer and advise the franchisee of the unacceptability of the proposed transferee and all reasons for the disapproval. If the franchisor does not disapprove, in writing, within the 60 day period, the proposed transfer is deemed approved.

(b) No transfer, assignment, or sale under this section shall be valid unless the transferee agrees, in writing, to comply with all requirements of the franchise to be transferred. No franchisor, directly or indirectly, shall refuse to consent or unreasonably delay consent to the assignment, sale, transfer, bequeath, or intestate succession of a franchise to any person unless the person fails to meet reasonable qualifications of the franchisor.

Sec. 6. Nonjudicial Dispute Resolution.

New, Sec:
29-1205

Parties to a franchise may agree to arbitration, mediation, or other nonjudicial resolution of an existing dispute related to the franchise.

Sec. 7. Remedies.

New, Sec:
29-1206

Any party to a franchise may bring an action for a violation of this act in the Superior Court of the District of Columbia to recover damages or request injunctive relief. The franchisee, if successful, shall be entitled to the costs of the action including, but not limited to, attorney's fees.

Sec. 8. Conflict.

New, Sec:
29-1207

If any other law of the District of Columbia conflicts with the provisions of this act, this act shall prevail, except that this act shall not affect the applicability of the District of Columbia Antitrust Act of 1980, effective March 5, 1980 (D.C. Law 3-169; D.C. Code, sec. 28-4501 et seq.), the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code, sec. 1-2501 et seq.), or sections 16 or 17 of the Cable Television Communications Act of 1981, effective August 21, 1982 (D.C. Law 4-142; D.C. Code, secs. 43-1815 or 43-1816).

Sec. 9. Application of act.

New, Sec
29-1208

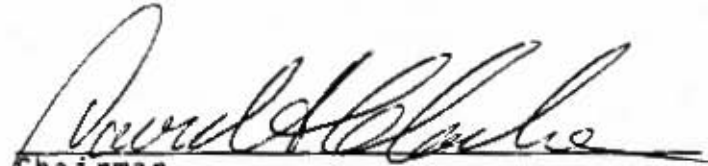
(a) This act shall apply to any business subject to a franchise with yearly gross annual receipts to the franchisee from the franchise of \$25,000 or more.

(b) This act shall apply to any existing franchise, a franchise granted, renewed, or modified after the effective date of this act, or an amendment to an existing franchise.

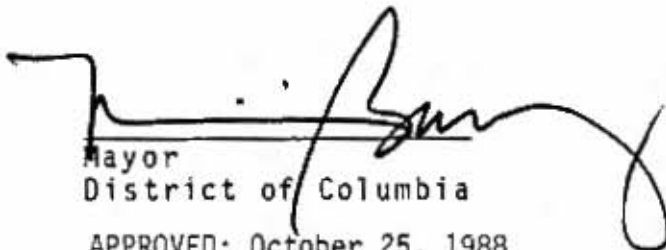
Sec. 10. Effective Date.

This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia

Statutes-at-Large, or the District of Columbia Municipal Regulations.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED: October 25, 1988



COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Seven

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: Bill 7-439

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 9-27-88

VOICE VOTE: Approved, Member Kane voted no

Recorded vote on request

Absent: Winter and Schwartz

ROLL CALL VOTE: — RESULT _____

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					NATHANSON					THOMAS SR.				
CRAWFORD					RAY					WILSON				
JARVIS					ROLARK					WINTER				
KANE					SCHWARTZ									
MASON					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Rosemary Suter
Secretary to the Council

10-18-88
Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 10-11-88

VOICE VOTE: Approved

Recorded vote on request

Absent: all present

ROLL CALL VOTE: — RESULT _____

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					NATHANSON					THOMAS, SR.				
CRAWFORD					RAY					WILSON				
JARVIS					ROLARK					WINTER				
KANE					SCHWARTZ									
MASON					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Rosemary Suter
Secretary to the Council

10-18-88
Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: — RESULT _____

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					NATHANSON					THOMAS, SR.				
CRAWFORD					RAY					WILSON				
JARVIS					ROLARK					WINTER				
KANE					SCHWARTZ									
MASON					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date