

LEGISLATIVE REFERENCE BUREAU

L.R.B. Form No. 4 (Rev. 1/11/17)

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No. _____

LEGISLATIVE REFERENCE BUREAU

AN ACT

Amending Title 12 (Commerce and Trade) of the Pennsylvania Consolidated Statutes, in commercial protection, providing for franchises.

INTRODUCED _____ 20 _____

By _____ District NO. _____

By _____ District NO. _____

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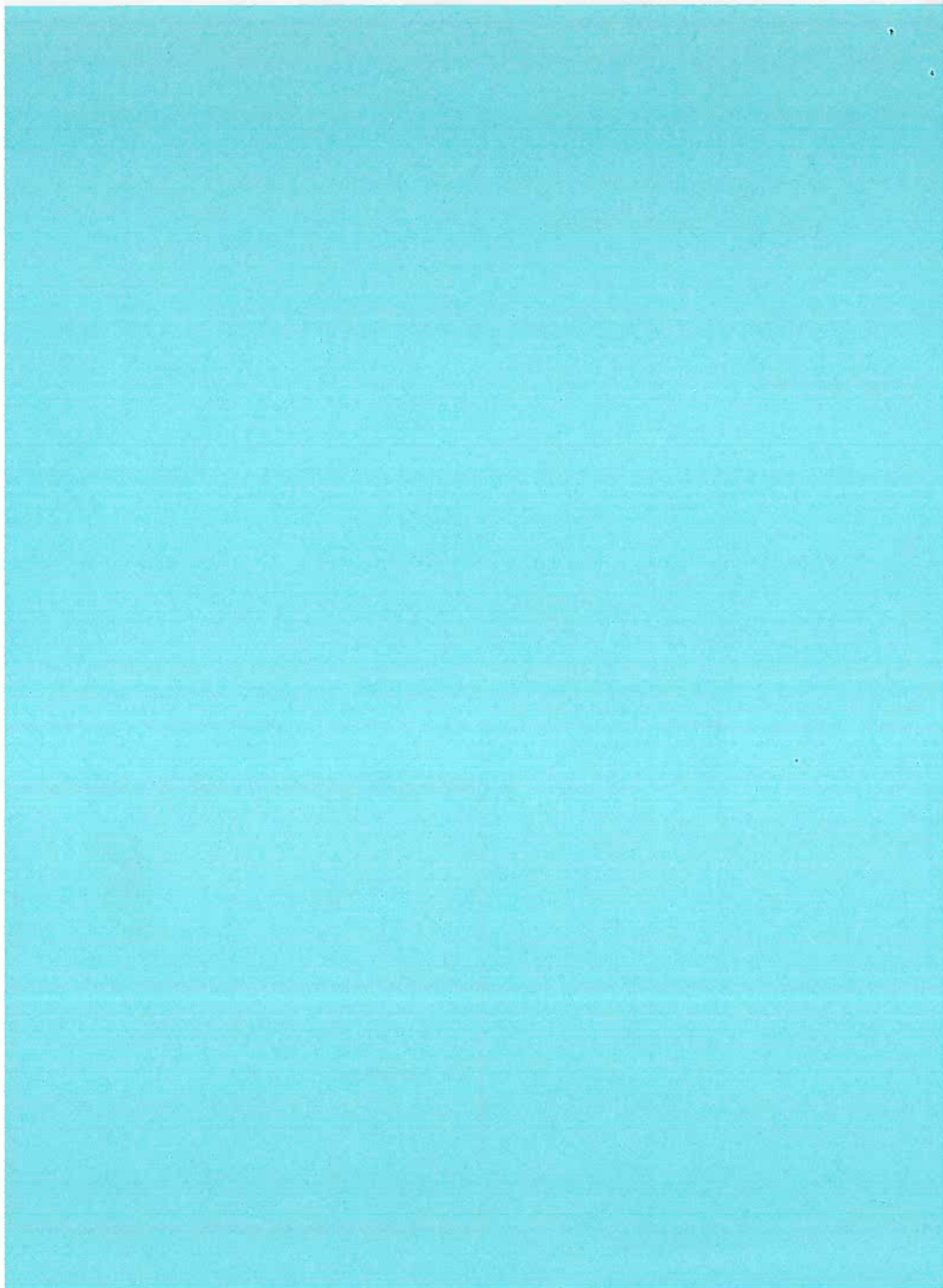
By _____ District NO. _____

See next page for additional co-sponsors.

Prior Session _____

Referred to Committee on	
Date _____	20 _____
Reported _____	20 _____
As Committed-Amended	
Recommendation	

By Hon. _____	



AN ACT

1 Amending Title 12 (Commerce and Trade) of the Pennsylvania
2 Consolidated Statutes, in commercial protection, providing
3 for franchises.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 12 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 55

9 FRANCHISES

10 Subchapter

11 A. Preliminary Provisions

12 B. Payment Processing Services

13 SUBCHAPTER A

14 PRELIMINARY PROVISIONS

15 Sec.

16 5501. Scope of chapter.

17 5502. Definitions.

18 § 5501. Scope of chapter.

1 This chapter relates to franchises.

2 § 5502. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Area franchise." A franchise in which a subfranchisor is
7 granted the right, for consideration given in whole or in part
8 for the right, to sell or negotiate the sale of a franchise in
9 the name or on behalf of the franchisor.

10 "Franchise." As follows:

11 (1) Any of the following:

12 (i) An express or implied agreement between a
13 franchisor and a franchisee, whether oral or written,
14 which includes all the following:

15 (A) The franchisee is granted the right to
16 offer, sell or distribute goods or services under a
17 marketing plan or system prescribed or suggested in
18 substantial part by the franchisor.

19 (B) The operation of the business is allowed to
20 be substantially associated with a trademark, service
21 mark, trade name, logotype, advertising or other
22 commercial symbol owned, controlled or used by the
23 franchisor.

24 (C) The franchisee is required to pay a
25 franchise fee.

26 (ii) An area franchise.

27 (iii) A franchise involving a subfranchisor.

28 (iv) A commercial relationship entered into in
29 reasonable reliance on representations of the criteria of
30 subparagraph (i).

1 (2) The term does not include any of the following:

2 (i) A nonprofit organization operated on a
3 cooperative basis by and for independent retailers which
4 wholesales goods and services primarily to the
5 organization's member retailers and to which all of the
6 following apply:

7 (A) Each member has substantially the same
8 control and ownership of the cooperative control and
9 ownership is apportioned by number of retail units
10 owned.

11 (B) Only persons that will avail themselves of
12 the services furnished by the organization may be
13 members.

14 (C) Transfer of ownership is prohibited or
15 limited.

16 (D) Capital investment receives no return.

17 (E) Benefits to members are made on the basis of
18 patronage of the cooperative or on the basis of
19 retail units owned.

20 (F) A member is not personally liable for
21 obligations of the organization in the absence of a
22 direct undertaking or authorization by the member.

23 (G) Services of the organization are furnished
24 primarily for the use of a member.

25 (H) No part of the receipts, income or profit of
26 the organization is paid to a for-profit entity. This
27 subparagraph does not include an arms-length payment
28 for necessary goods and services.

29 (I) A member is not required to purchase goods
30 or services from a designated for-profit entity other

1 than an approved supplier selected on an objective
2 basis.

3 (ii) A contract regulated by the Petroleum Marketing
4 Practices Act (Public Law 95-297, 15 U.S.C. § 2801 et
5 seq.).

6 (iii) A contract or business relationship between a
7 contractor and an automobile club that is a corporation
8 not-for-profit and that:

9 (A) directs or refers the automobile club's
10 members and other customers to the contractor for
11 roadside assistance, auto battery, auto repair, auto
12 body repair or other motor-vehicle-related services;
13 or

14 (B) authorizes the contractor to display the
15 automobile club's trademark, service mark or other
16 commercial symbol as an indication of the
17 contractor's affiliation with the automobile club.

18 (iv) An equipment dealer which is a person,
19 partnership or corporation that is primarily engaged in
20 the business of retail sales of any of the following:

21 (A) Farm and utility equipment.

22 (B) Forestry equipment.

23 (C) Industrial and construction equipment.

24 (D) Farm implements.

25 (E) Farm machinery.

26 (F) Yard and garden equipment.

27 (G) Attachments, accessories and repair parts.

28 (3) The term does not apply to any of the following:

29 (i) A distribution agreement under section 431 of
30 the act of April 12, 1951 (P.L.90, No.21), known as the

1 Liquor Code.

2 (ii) A contract regulated by the act of December 22,
3 1983 (P.L.306, No.84), known as the Board of Vehicles
4 Act.

5 "Franchisee." A person who is granted a franchise.

6 "Franchisor." A person who grants a franchise.

7 "Payment processing service." A financial service involving
8 an electronic credit card, a credit card, a credit
9 identification, a debit card, a prepaid card or another
10 transaction authorization card.

11 "Person." An individual, corporation, partnership, limited
12 liability company, joint venture, association, joint stock
13 company, trust or an unincorporated organization.

14 "Subfranchisee." A person who is granted a franchise by a
15 subfranchisor.

16 "Subfranchisor." A franchisee that has the right to sell or
17 subdivide the franchise to a subfranchisee while having and
18 retaining all or part of the franchisor's interest or rights
19 under the franchise with the subfranchisee.

20 SUBCHAPTER B

21 PAYMENT PROCESSING SERVICES

22 Sec.

23 5511. Scope of subchapter.

24 5512. Standards for payment processing services.

25 5513. Unfair trade practices.

26 § 5511. Scope of subchapter.

27 This subchapter relates to payment processing services
28 involving franchises.

29 § 5512. Standards for payment processing services.

30 (a) General rule.--Subject to subsection (b), a franchisor

1 may establish reasonable and specific written standards
2 regarding the nature and quality of a payment processing service
3 or a provider of payment processing services used or to be used
4 by a franchisee.

5 (b) Exception.--Notwithstanding subsection (a), a franchisor
6 may not restrain a franchisee, directly or indirectly, from
7 using a provider of payment processing services of the
8 franchisee's choosing if the payment processing services
9 constitute, or could be reasonably anticipated to constitute, a
10 substantial amount of the franchisee's commercial transactions.

11 § 5513. Unfair trade practices.

12 A violation of a provision of this chapter shall constitute
13 an unfair method of competition and unfair or deceptive act or
14 practice within the meaning of section 2(4) of the act of
15 December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade
16 Practices and Consumer Protection Law, and shall be subject to
17 the enforcement provisions, civil penalties and private rights
18 of action contained in the Unfair Trade Practices and Consumer
19 Protection Law.

20 Section 2. This act shall take effect in 60 days.