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SB-1247 Franchises. (2021-2022)

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ENROLLED SEPTEMBER 02, 2022
PASSED IN SENATE AUGUST 30, 2022
PASSED IN ASSEMBLY AUGUST 24, 2022
AMENDED IN ASSEMBLY JUNE 29, 2022
AMENDED IN ASSEMBLY JUNE 08, 2022
AMENDED IN SENATE APRIL 25, 2022
AMENDED IN SENATE MARCH 16, 2022

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

SENATE BILL

NO. 1247

Introduced by Senator Hueso

February 17, 2022

An act to add Article 5.5 (commencing with Section 20033) to Chapter 5.5 of Division 8 of the Business and Professions Code, and to add Section 31222 to the Corporations Code, relating to franchises.

LEGISLATIVE COUNSEL'S DIGEST

SB 1247, Hueso. Franchises.

The California Franchise Relations Act sets forth certain requirements relating to the termination, nonrenewal, and transfer of franchises between a franchisor, subfranchisor, and franchisee, as those terms are defined.

This bill would require a franchisor and its affiliated companies, within 120 days of the end of the franchisor's fiscal accounting year, to report to its California franchisees, upon their request, any moneys, goods, services, anything of value, or any other benefit from any other entity with whom the franchisee does business on account of that business.

Existing law, the Franchise Investment Law, requires a franchisor to register with the Department of Financial Protection and Innovation before the offer or sale of a franchise in this state, unless the franchisor meets prescribed requirements, including that the franchisor discloses specified terms and conditions of the franchise agreement to a prospective franchisee and provides a copy of the typical franchise agreement in this state. Existing law prohibits specified fraudulent or unfair practices and makes a violation of those provisions a crime.

This bill would prohibit a franchisor from executing an agreement that requires the assignment or waiver of a franchisee's right to a rebate, promotion, allowance, or other monetary incentive for the sale of a product within the state unless the agreement states the potential or current gross value of that right. The bill would specify that violation of this provision is not a crime.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 5.5 (commencing with Section 20033) is added to Chapter 5.5 of Division 8 of the Business and Professions Code, to read:

Article 5.5. Reporting Requirements

20033. Within 120 days of the end of the franchisor's fiscal accounting year, the franchisor and its affiliated companies shall report to its California franchisees, upon a franchisee's request, any moneys, goods, services, anything of value, or any other benefit received by the franchisor from an entity with whom the franchisee does business on account of the franchise. The reported data shall be detailed by each entity that provides the benefit.

SEC. 2. Section 31222 is added to the Corporations Code, to read:

31222. It shall be a violation of this division for a franchisor to execute an agreement that requires the assignment or waiver of a franchisee's right to a rebate, promotion, allowance, or other monetary incentive for the sale of a product within the state unless the agreement states the potential or current gross value of that right. Where the actual gross value of the right is unknown, the franchisor shall include a reasonable estimate of the value based on the average value for similarly situated franchises. Notwithstanding Section 31410, a violation of this section shall not constitute a crime.