

HB 390 by Rep. Jim Carns

The Franchise Business Protection Act

In 2015, the National Labor Relations Board (NLRB) changed the rules on America's small businesses. The NLRB replaced a clear, bright-line rule defining who is or is not a "joint employer," with a vague, multi-factored test that will result in increased regulatory actions and labor disputes. The NLRB's new joint-employer standard, along with its prosecution of the McDonald's corporation as a joint employer with its individual franchisees, poses a significant threat to the franchise business model.

Because of these NLRB decisions, **small business owners who own a franchise business may be jointly liable with a brand name franchisor** if the government alleges employment law violations. These NLRB decisions could:

- **Erode the traditional independence between small business owners and their franchise brands.** Some franchisors may decide to exercise greater control over wages, hiring, and other aspects of employment, essentially making individuals who thought they owned their businesses little more than company employees. Other franchisors may take a hands-off approach and no longer offer their franchisees valuable services and advice.
- **Lead to unions demanding the opportunity to bargain with the nationally branded company in any dispute with a local small business owner.**

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Ten states—including Louisiana, Georgia, and Tennessee—have passed legislation to protect their business communities from the federal government's expansive new NLRB rulings.

Although federal law broadly defines this issue, state legislatures still retain control over the standard by which state-level employment law is enforced. **HB 390** by Representative Jim Carns clarifies the definition of the employment relationship and ensures that state enforcement agencies and state courts do not adopt the expansive new joint-employer standard adopted at the federal level.

Importantly, this legislation **does not** impact existing worker rights and does not limit the potential redress of any employment claims an employee may have. The legislation simply makes clear a franchisee is the owner of the business and the ultimate employer of any individuals who work in that business.

HB 390 is supported by the following organizations:

ALABAMA **RETAIL**
ASSOCIATION



BUSINESS COUNCIL
OF ALABAMA

Making a sweet home for business

NFIB
The Voice of Small Business.®



IFA
INTERNATIONAL FRANCHISE ASSOCIATION

FRANCHISING
Building local businesses,
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