
Labor & Workplace Standards Committee

HB 1757

Brief Description: Addressing the employer status of franchisors.

Sponsors: Representatives Mosbrucker, Springer, Chandler, Corry, Vick, Van Werven, Eslick, Steele, Orwall and Barkis.

Brief Summary of Bill

- Provides that a franchisor is not the employer of a franchisee or of the franchisee's employees under workers' compensation, unemployment compensation, minimum wage, and other employment laws.

Hearing Date: 2/3/20

Staff: Lily Smith (786-7175).

Background:

In general terms, a franchise is a form of business relationship in which one party, the "franchisee," is granted the right by the other party, the "franchisor," to sell goods or services under the franchisor's marketing plan, using a trademark or other commercial symbol owned by the franchisor, for a fee. The franchisee may or may not have employees. Franchises are regulated by state law.

Various employment requirements, such as minimum wage, workers' compensation, and unemployment insurance, apply if there is an employer-employee relationship. Court made and statutory tests apply to determine whether there is an employer-employee relationship, and for some laws, certain occupations are exempt by statute.

Under the concept of joint employment, more than one entity may share in the legal responsibility for employees. Under the Minimum Wage Act, workers' compensation, and the

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Washington Industrial Health and Safety Act (WISHA), court-made tests apply to determine if joint employment exists. These tests generally address the extent to which an entity exercises control over a workplace and the employees, and whether joint employment exists depends on the particular facts.

In a 2016 case, the Washington Supreme Court held that workers' compensation laws apply to franchises and that a franchisor may be an employer of a franchisee with no employees.

Summary of Bill:

For purposes of several employment laws, a franchisor is not the employer of a franchisee or of the franchisee's employees. The laws included are:

- the WISHA;
- the Minimum Wage Act;
- wage deductions;
- Washington Law Against Discrimination;
- workers' compensation;
- unemployment insurance; and
- Industrial Welfare Act (basis for meal and rest breaks and other employment standards).

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.