

quarter, and a segregation of employment in the different classes established pursuant to this title, and shall pay his premium thereon to the appropriate fund. The sufficiency of such statement shall be subject to the approval of the director: PROVIDED, That the director may in his discretion and for the effective administration of this title require an employer in individual instances to furnish a supplementary report containing the name of each individual workman, his hours worked, his rate of pay and the class or classes in which such work was performed: PROVIDED, FURTHER, That in the event an employer shall furnish the department with four consecutive quarterly reports wherein each such quarterly report indicates that no premium is due the department may close the account: AND, PROVIDED FURTHER, That the department may promulgate rules and regulations in accordance with chapter 34.04 RCW to establish other reporting periods and payment due dates in lieu of reports and payments following each calendar quarter, and may also establish terms and conditions for payment of premiums and assessments based on estimated payrolls, with such payments being subject to approval as to sufficiency of the estimated payroll by the department, and also subject to appropriate periodic adjustments made by the department based on actual payroll.

Passed the House March 17, 1973.

Passed the Senate April 6, 1973.

Approved by the Governor April 14, 1973.

Filed in Office of Secretary of State April 14, 1973.

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CHAPTER 33  
[House Bill No. 782]  
BUSINESS PRACTICES--CHAIN DISTRIBUTOR  
SCHEMES--FRANCHISES

AN ACT Relating to business practices; amending section 1, chapter 252, Laws of 1971 ex. sess. as amended by section 1, chapter 116, Laws of 1972 ex. sess. and RCW 19.100.010; amending section 18, chapter 252, Laws of 1971 ex. sess. as amended by section 10, chapter 116, Laws of 1972 ex. sess. and RCW 19.100.180; prescribing penalties; and adding a new chapter to Title 19 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. (1) "Chain distributor scheme" is a sales device whereby a person, under a condition that he make an investment, is granted a license or right to recruit for consideration one or more additional persons who are also granted

such license or right upon condition of making an investment, and may further perpetuate the chain of persons who are granted such license or right upon such condition. A limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility for the above license or right to recruit or the receipt of profits therefrom, does not change the identity of the scheme as a chain distributor scheme.

(2) "Person" means a natural person, corporation, partnership, trust, or other entity and in the case of an entity, it shall include any other entity which has a majority interest in such an entity or effectively controls such other entity as well as the individual officers, directors, and other persons in act of control of the activities of each such entity.

(3) "Investment" is any acquisition, for a consideration other than personal services, of personal property, tangible or intangible, for profit or business purposes, and includes, without limitation, franchises, business opportunities, services and inventory for resale. It does not include sales demonstration equipment and materials, furnished at cost for use in making sales and not for resale.

NEW SECTION. Sec. 2. No person shall promote, offer or grant participation in a chain distributor scheme. Any violation of this chapter shall be construed for purposes of the application of the Consumer Protection Act, chapter 19.86 RCW, to constitute an unfair or deceptive act or practice or unfair method of competition in the conduct of trade or commerce.

Sec. 3. Section 1, chapter 252, Laws of 1971 ex. sess. as amended by section 1, chapter 116, Laws of 1972 ex. sess. and RCW 19.100.010 are each amended to read as follows:

When used in this chapter, unless the context otherwise requires:

(1) "Advertisement" means any written or printed communication or any communication by means of recorded telephone messages or spoken on radio, television, or similar communication media published in connection with an offer or sale of a franchise.

(2) "Community interest" means a continuing financial interest between the franchisor and franchisee in the operation of the franchise business.

(3) "Director" means the director of department of motor vehicles.

(4) "Franchise" means an oral or written contract or agreement, either expressed or implied, in which a person grants to another person, a license to use a trade name, service mark, trade mark, logotype or related characteristic in which there is a community interest in the business of offering, selling, distributing

goods or services at wholesale or retail, leasing, or otherwise and in which the franchisee is required to pay, directly or indirectly, a franchise fee: PROVIDED, That none of the following shall be construed as a franchise within the meaning of this chapter:

(a) The payment of a reasonable service charge to the issuer of a credit card by an establishment accepting or honoring such credit card or any transaction relating to a bank credit card plan;

(b) Actions or transactions otherwise permitted, prohibited or regulated under laws administered by the insurance commissioner of this state;

(c) Any motor vehicle dealer franchise subject to the provisions of chapter 46.70 RCW.

(5) "Bank credit card plan" means a credit card plan in which the issuer of credit cards as defined by RCW 9.26A.010 (1) is a national bank, state bank, trust company or any other banking institution subject to the supervision of the supervisor of banking of this state or any parent or subsidiary of such bank.

(6) "Franchisee" means a person to whom a franchise is offered or granted.

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

(8) "Area franchise" means any contract or agreement between a franchisor or subfranchisor whereby the subfranchisor is granted the right to sell or negotiate the sale of franchises in the name or on behalf of the franchisor.

(9) "Subfranchisor" means a person to whom an area franchise is granted.

(10) "Franchise broker or selling agent" means a person who directly or indirectly engages in the sale of franchises.

(11) "Franchise fee" means any fee or charge that a franchisee or subfranchisor is required to pay or agrees to pay for the right to enter into a business or to continue a business under a franchise agreement, including, but not limited to, the payment either in lump sum or by installments of an initial capital investment fee, any fee or charges based upon a percentage of gross or net sales whether or not referred to as royalty fees, any payment for the mandatory purchase of goods or services or any payment for goods or services available only from the franchisor, or any training fees or training school fees or charges; however, the following shall not be considered payment of a franchise fee: (a) the purchase or agreement to purchase goods at a bona fide wholesale price; (b) the purchase or agreement to purchase goods by consignment; if, and only if the proceeds remitted by the franchisee from any such sale shall reflect only the bona fide wholesale price of such goods; (c) a bona fide loan to the franchisee from the franchisor; (d) the purchase or

agreement to purchase goods at a bona fide retail price subject to a bona fide commission or compensation plan that in substance reflects only a bona fide wholesale transaction; (e) the purchase or lease or agreement to purchase or lease supplies or fixtures necessary to enter into the business or to continue the business under the franchise agreement at their fair market or rental value; (f) the purchase or lease or agreement to purchase or lease real property necessary to enter into the business or to continue the business under the franchise agreement at the fair market or rental value; (g) amounts paid for trading stamps redeemable in cash only; (h) amounts paid for trading stamps to be used as incentives only and not to be used in, with, or for the sale of any goods.

(12) "Person" means a natural person, corporation, partnership, trust, or other entity and in the case of an entity, it shall include any other entity which has a majority interest in such an entity or effectively controls such other entity as well as the individual officers, directors, and other persons in act of control of the activities of each such entity.

(13) "Publish" means publicly to issue or circulate by newspaper, mail, radio, or television or otherwise to disseminate to the public.

(14) "Sale or sell" includes every contract of sale, contract to sell, or disposition of a franchise.

(15) "Offer or offer to sell" includes every attempt or offer to dispose of or solicitation of an offer to buy a franchise or an interest in a franchise.

((16) "Chain distributor scheme" is a sales device whereby a person, under a condition that he make an investment, is granted a license or right to recruit for consideration one or more additional persons who are also granted such license or right upon condition of making an investment, and may further perpetuate the chain of persons who are granted such license or right upon such condition: A limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility for the above license or right to recruit or the receipt of profits therefrom, does not change the identity of the scheme as a chain distributor scheme.))

Sec. 4. Section 18, chapter 252, Laws of 1971 ex. sess. as amended by section 10, chapter 116, Laws of 1972 ex. sess. and RCW 19.100.180 are each amended to read as follows:

Without limiting the other provisions of this chapter, the following specific rights and prohibitions shall govern the relation between the franchisor or subfranchisor and the franchisees:

- (1) The parties shall deal with each other in good faith.
- (2) For the purposes of this chapter and without limiting its

general application, it shall be an unfair or deceptive act or practice or an unfair method of competition and therefor unlawful and a violation of this chapter for any person to:

(a) Restrict or inhibit the right of the franchisees to join an association of franchisees.

(b) Require a franchisee to purchase or lease goods or services of the franchisor or from approved sources of supply unless and to the extent that the franchisor satisfies the burden of proving that such restrictive purchasing agreements are reasonably necessary for a lawful purpose justified on business grounds, and do not substantially affect competition: PROVIDED, That this provision shall not apply to the initial inventory of the franchise. In determining whether a requirement to purchase or lease goods or services constitutes an unfair or deceptive act or practice or an unfair method of competition the courts shall be guided by the decisions of the courts of the United States interpreting and applying the anti-trust laws of the United States.

(c) Discriminate between franchisees in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any other business dealing, unless and to the extent that the franchisor satisfies the burden of proving that any classification of or discrimination between franchisees is reasonable, is based on franchises granted at materially different times and such discrimination is reasonably related to such difference in time or on other proper and justifiable distinctions considering the purposes of this chapter, and is not arbitrary.

(d) Sell, rent, or offer to sell to a franchisee any product or service for more than a fair and reasonable price.

(e) Obtain money, goods, services, anything of value, or any other benefit from any other person with whom the franchisee does business on account of such business unless such benefit is disclosed to the franchisee.

(f) If the franchise provides that the franchisee has an exclusive territory, which exclusive territory shall be specified in the franchise agreement, for the franchisor or subfranchisor to compete with the franchisee in an exclusive territory or to grant competitive franchises in the exclusive territory area previously granted to another franchisee.

(g) Require franchisee to assent to a release, assignment, novation, or waiver which would relieve any person from liability imposed by this chapter.

(h) Impose on a franchisee by contract, rule, or regulation, whether written or oral, any standard of conduct unless the person so doing can sustain the burden of proving such to be reasonable and necessary.

(i) Refuse to renew a franchise without fairly compensating the franchisee for the fair market value, at the time of expiration of the franchise, of the franchisee's inventory, supplies, equipment, and furnishings purchased from the franchisor, and good will, exclusive of personalized materials which have no value to the franchisor, and inventory, supplies, equipment and furnishings not reasonably required in the conduct of the franchise business: PROVIDED, That compensation need not be made to a franchisee for good will if (i) the franchisee has been given one year's notice of nonrenewal and (ii) the franchisor agrees in writing not to enforce any covenant which restrains the franchisee from competing with the franchisor: PROVIDED FURTHER, That a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to the franchisor.

(j) To terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include, without limitation, the failure of the franchisee to comply with lawful material provisions of the franchise or other agreement between the franchisor and the franchisee and to cure such default after being given written notice thereof and a reasonable opportunity, which in no event need be more than thirty days, to cure such default, or if such default cannot reasonably be cured within thirty days, the failure of the franchisee to initiate within thirty days substantial and continuing action to cure such default: PROVIDED, That a franchisor may terminate a franchise without giving prior notice or opportunity to cure a default if the franchisee (i) is adjudicated a bankrupt or insolvent; (ii) makes an assignment for the benefit of creditors or similar disposition of the assets of the franchise business; (iii) voluntarily abandons the franchise business; or (iv) is convicted of or pleads guilty or no contest to a charge of violating any law relating to the franchise business. Upon termination for good cause, the franchisor shall purchase from the franchisee at a fair market value at the time of termination, the franchisee's inventory and supplies, exclusive of (i) personalized materials which have no value to the franchisor; (ii) inventory and supplies not reasonably required in the conduct of the franchise business; and (iii), if the franchisee is to retain control of the premises of the franchise business, any inventory and supplies not purchased from the franchisor or on his express requirement: PROVIDED, That a franchisor may offset against amounts owed to a franchisee under this subsection any amounts owed by such franchisee to the franchisor.

((k) Promote; offer or grant participation in a chain distributor scheme.))

NEW SECTION. Sec. 5. There is added to Title 19 RCW a new

chapter to read as set forth in sections 1 and 2 of this 1973 amendatory act.

Passed the House April 12, 1973.  
Passed the Senate April 12, 1973.  
Approved by the Governor April 14, 1973.  
Filed in Office of Secretary of State April 16, 1973.

CHAPTER 34  
[House Bill No. 428]  
BENTON-FRANKLIN MENTAL HEALTH CENTER--WHATCOM  
FAMILY SERVICE CENTER--APPROPRIATIONS

AN ACT Relating to mental health; making an appropriation; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. There is hereby appropriated from the state general fund for the biennium ending June 30, 1975, the sum of seventy-six thousand one hundred seventy-one dollars, or so much thereof as may be necessary to be used for the construction of the Benton-Franklin mental health and family counseling center located at Richland, Washington.

NEW SECTION. Sec. 2. There is hereby appropriated from the state general fund for the biennium ending June 30, 1975, the sum of fifty-seven thousand ninety-nine dollars, or so much thereof as may be necessary to be used for the construction of the Whatcom family service center located at Bellingham, Washington.

NEW SECTION. Sec. 3. This 1973 act is necessary for the immediate preservation of the public peace, health, safety, the support of state government and its existing public institutions, and shall take effect immediately.

Passed the House April 6, 1973.  
Passed the Senate April 12, 1973.  
Approved by the Governor April 14, 1973.  
Filed in Office of Secretary of State April 16, 1973.

CHAPTER 35  
[House Bill No. 753]  
PUBLIC ASSISTANCE GRANTS--HIGH SCHOOL,  
VOCATIONAL INSTITUTE STUDENTS

AN ACT Relating to public assistance; and adding new sections to