

which are a part of a reciprocal placement program based on contracts with institutions in foreign countries shall be exempt from the limitation in subsection (1) of this section; and

((~~(d)~~)) (c) Tuition and fee waiver programs authorized by RCW 28B.15.742 and 28B.15.744.

Passed the House February 20, 1980.

Passed the Senate February 14, 1980.

Approved by the Governor March 3, 1980.

Filed in Office of Secretary of State March 3, 1980.

CHAPTER 63

[Substitute House Bill No. 1510]

FRANCHISES—AGREEMENT TERMINATION—LAW ENFORCEMENT

AN ACT Relating to the franchise investment protection act; amending section 18, chapter 252, Laws of 1971 ex. sess. as last amended by section 4, chapter 33, Laws of 1973 1st ex. sess. and RCW 19.100.180; and amending section 21, chapter 252, Laws of 1971 ex. sess. as last amended by section 1, chapter 13, Laws of 1979 ex. sess. and RCW 19.100.210.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 18, chapter 252, Laws of 1971 ex. sess. as last amended by section 4, chapter 33, Laws of 1973 1st 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 therefore 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) ~~((F))~~ 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 after three wilful and material breaches of the same term of the franchise agreement occurring within a twelve-month period, for which the franchisee has been given notice and an opportunity to cure as provided in this subsection, the franchisor may terminate the agreement upon any subsequent wilful and material breach of the same term within the twelve-month period without providing notice or opportunity to cure: PROVIDED FURTHER, 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.

Sec. 2. Section 21, chapter 252, Laws of 1971 ex. sess. as last amended by section 1, chapter 13, Laws of 1979 ex. sess. and RCW 19.100.210 are each amended to read as follows:

(1) The attorney general or director may bring an action in the name of the state against any person to restrain and prevent the doing of any act herein prohibited or declared to be unlawful. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The prevailing party may in the discretion of the court recover the costs of such action including a reasonable attorneys' fee.

(2) Every person who shall violate the terms of any injunction issued as in this chapter provided shall forfeit and pay a civil penalty of not more than twenty-five thousand dollars.

Every person who violates RCW 19.100.020, 19.100.080, 19.100.150 and 19.100.170 as now or hereafter amended shall forfeit a civil penalty of not more than two thousand dollars for each violation.

For the purpose of this section the superior court issuing an injunction shall retain jurisdiction and the cause shall be continued and in such cases

the attorney general or director acting in the name of the state may petition for the recovery of civil penalties.

In the enforcement of this chapter, the attorney general or director may accept an assurance of discontinuance with the provisions of this chapter from any person deemed by the attorney general or director in violation hereof. Any such assurance shall be in writing, shall state that the person giving such assurance does not admit to any violation of this chapter or to any facts alleged by the attorney general or director, and shall be filed with and subject to the approval of the superior court of the county in which the alleged violator resides or has his principal place of business, or in Thurston county. Proof of failure to comply with the assurance of discontinuance shall be prima facie evidence of a violation of this chapter.

(3) Any person who wilfully violates any provision of this chapter or who wilfully violates any rule adopted or order issued under this chapter shall upon conviction be fined not more than five thousand dollars or imprisoned for not more than ten years or both, but no person may be imprisoned for the violation of any rule or order if he proves that he had no knowledge of the rule or order. No indictment or information may be returned under this chapter more than five years after the alleged violation.

(4) Nothing in this chapter limits the power of the state to punish any person for any conduct which constitutes a crime by statute or at common law.

Passed the House February 20, 1980.

Passed the Senate February 18, 1980.

Approved by the Governor March 3, 1980.

Filed in Office of Secretary of State March 3, 1980.

CHAPTER 64

[Substitute House Bill No. 1558]

FIRE FIGHTING APPARATUS—RESIDENTIAL ROADWAY ACCESS—LOCAL CONTROL

AN ACT Relating to building codes; amending section 6, chapter 96, Laws of 1974 ex. sess. as amended by section 2, chapter 282, Laws of 1975 1st ex. sess. and RCW 19.27.060; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 6, chapter 96, Laws of 1974 ex. sess. as amended by section 2, chapter 282, Laws of 1975 1st ex. sess. and RCW 19.27.060 are each amended to read as follows:

(1) Except as permitted or provided otherwise under the provisions of RCW 19.27.040 and subsections (3) (~~and~~), (4), and (5) of this section, the state building code supersedes all county, city or town building regulations containing less than the minimum performance standards and objectives contained in the state building code.