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HOUSE BILL NO. 1394

House Amendments in [] — January 18, 2017

A BILL to amend and reenact § 40.1-2 of the Code of Virginia, relating to the status of a franchisee and its employees as employees of the franchisor.

Patron Prior to Engrossment—Delegate Head

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 40.1-2 of the Code of Virginia is amended and reenacted as follows:

§ 40.1-2. Definitions.

As used in this title, unless the context clearly requires otherwise, the following terms have the following meanings:

"Board" means the Safety and Health Codes Board.

"Business establishment" means any proprietorship, firm or corporation where people are employed, permitted or suffered to work, including agricultural employment on a farm.

"Commission" means the Safety and Health Codes Board.

"Commissioner" means the Commissioner of Labor and Industry. Except where the context clearly indicates the contrary, any reference to "Commissioner" shall include his authorized representatives.

"Department" means the Department of Labor and Industry.

"Employ" ~~shall include~~ includes to permit or suffer to work.

"Employee" means any person who, in consideration of wages, salaries, or commissions, may be permitted, required, or directed by any employer to engage in any employment directly or indirectly. *Notwithstanding any voluntary agreement entered into between the U.S. Department of Labor and a franchisee [or franchisor], neither a franchisee nor a franchisee's employee shall be deemed to be an employee of the franchisee's franchisor for any purpose to which this section applies.*

"Employer" means an individual, partnership, association, corporation, legal representative, receiver, trustee, or trustee in bankruptcy doing business in or operating within this Commonwealth who employs another to work for wages, salaries, or on commission and shall include any similar entity acting directly or indirectly in the interest of an employer in relation to an employee.

"Female" or "woman" means a female 18 years of age or over.

"Franchisee" and "franchisor" have the same meaning ascribed to such terms in 16 C.F.R. § 436.1.

"Machinery" means machines, belts, pulleys, motors, engines, gears, vats, pits, elevators, conveyors, shafts, or tunnels, including machinery being operated on farms in connection with the production or harvesting of agricultural products.

ENGROSSED

HB1394E