



Representative Edward Butler  
Chairman  
House Commerce & Consumer Affairs Committee

Representative Donna Schlachman  
Vice Chairman  
House Commerce & Consumer Affairs Committee

Opposition: The New Hampshire Small Business Investment Protection Act

Dear Chairs & Members of the Committee:

We are writing in opposition to HB 1215, sponsored by Rep. Abrami & Rep. Schlachman, “The New Hampshire Small Business Investment Protection Act,” a bill with far-reaching and harmful ramifications for franchisors, franchisees and the New Hampshire economy. The proposed legislation would create ambiguity and undermine the enforcement of franchise contracts, while promoting litigation between franchisees and franchisors, thereby resulting in sub-standard services and products being delivered to consumers in New Hampshire.

HB 1215 would further complicate and undermine the strong regulatory system already in place that governs franchising with vague language and unreasonable new regulations and frankly is a solution to a problem that does not exist. The Federal Trade Commission requires a 14-day waiting period for prospective franchisees to review a Franchise Disclosure Document (FDD), an extensive document that provides significant information to prospective investors in franchise systems. The FDD is required by law to provide franchisees with the franchisor’s background; the business’s background; the litigation history of the franchisor and with any of its franchisees; any bankruptcy filings; any initial or ongoing costs the franchisee might incur; any restrictions on suppliers or goods and services; any terminations of contracts and the terms under which the franchisor may end the franchise and the obligations to the franchisor after termination as well as the conditions under which the franchisee can renew, sell, or assign the franchise to others; the training and assistance program; the costs associated with any advertising programs required; and all contact information for ALL current and former franchisees.

Clearly, franchise agreements and the standards under which franchised businesses operate are designed to ensure a uniform and quality experience that the consuming public relies on branded franchise businesses to deliver. This is reason franchisees choose to go into franchising in the first place – franchising is a proven, structured and scalable business model that offers advantages over independent business ownership. However, if this measure were to pass, it would result in significant harm to the 3,700 franchise establishments in New Hampshire, which generate over \$3 billion in economic output and employ more than 39,000 workers.

HB 1215 seeks to introduce ambiguity into the franchise contractual relationship by layering on an amorphous concept of “good faith.” While seemingly harmless on the surface, in the context of detailed franchise contracts which govern complex and ongoing business relationships, it provides no benefit and creates uncertainty as to the enforceability of the contracts and standards, and leads to the potential for increased litigation in the state.

The provisions of this legislation water down franchise agreements to the point where they are no longer enforceable, fewer franchisors will want to expand into New Hampshire, as there is no guarantee that their best practices and quality standards will be adhered to. Rather than affording the opportunity for New Hampshire residents to own and operate a franchise small business, HB 1215 would likely end

franchising as we know it in New Hampshire, as brands will either open corporate stores in the state, or worse, leave the state altogether at the end of their current franchise agreements.

HB 1215 will actually hurt the majority of New Hampshire's existing franchise small business owners and their customers by putting the brand standards they depend on at risk. If HB 1215 takes effect, New Hampshire New Hampshire small business franchise owners will have to contend with uneven quality standards, fewer loyal customers, and shrinking opportunities for new business ventures.

Proponents of this bill claim this is a big business versus small business proposal that would "level the playing field" for franchisees in New Hampshire. The real detrimental impact of this proposal will be felt by the small, emerging franchise concepts being built right here in New Hampshire, who are thriving today under the current regulatory environment. This bill will also be harmful to New Hampshire residents interested in pursuing franchise ownership, as franchisors will be less likely to develop new franchise locations in New Hampshire due to the significant risk associated with the regulatory environment under HB 1215.

This legislation severely hinders the likelihood of success in the franchise model by eliminating consistency in products, hours, deals, quality, and customer service between franchise locations. It puts franchise small business owners who play by the rules, honor their current contracts and adhere to these quality controls feel less secure about doing business in New Hampshire. HB 1215 puts these owners, who have built so much equity in their business, at a disadvantage to those franchise owners that decide not to comply with their contractual agreements.

The franchise industry gives local entrepreneurs the means to build and grow a business within an established, successful franchise system. In this time of continued economic recovery, legislators should be focused on policies that encourage job creation and economic growth, not inhibit growth or give franchise small business owners additional concern about expanding in New Hampshire. Franchise agreements are contracts that should mean something. This legislation will only hurt New Hampshire's economy and franchising in the state. For all of the reasons set forth above, we respectfully request that the Committee oppose HB 1215.

Sincerely,

Ground Round Grill & Bar

Friendly's Ice Cream, LLC

7-Eleven, Inc.

Sport Clips, Inc.

McDonald's Corporation

FranNet Franchising, LLC

Dunkin' Brands, Inc.

The UPS Store

Boston's Restaurant & Sports Bar

Firehouse Subs

Tasti D-Lite

Merry Maids, Inc.

Planet Smoothie

FirstSevice Brands

International Franchise Association

Home Instead, Inc.

BrightStar Franchising, LLC

AmeriSpec, Inc.

Furniture Medic, Inc.

ServiceMaster Clean

Two Men And A Truck International, Inc.

Fantastic Sams

HandyPro International, LLC

CMIT Solutions, Inc.