

118TH CONGRESS
1ST SESSION

S. 1104

To ensure that an employment relationship is not established between a franchisor and a franchisee if the franchisor engages in certain activities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 30, 2023

Mr. BRAUN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To ensure that an employment relationship is not established between a franchisor and a franchisee if the franchisor engages in certain activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protections for Socially
5 Good Activities Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **EMPLOYMENT RELATIONSHIP.**—The term
9 “employment relationship” means any type of joint

1 employer relationship, single employer relationship,
2 or other employment-related status or relationship
3 under any of the laws described in section 3(b).

4 (2) FRANCHISEE.—The term “franchisee”
5 means a franchisee, as defined—

6 (A) in section 436.1(i) of title 16, Code of
7 Federal Regulations, as in effect on the day be-
8 fore the date of enactment of this Act; or

9 (B) under an applicable State franchise
10 law.

11 (3) FRANCHISOR.—The term “franchisor”
12 means a franchisor, as defined—

13 (A) in section 436.1(k) of title 16, Code of
14 Federal Regulations, as in effect on the day be-
15 fore the date of enactment of this Act; or

16 (B) under an applicable State franchise
17 law.

18 **SEC. 3. SAFE HARBOR.**

19 (a) IN GENERAL.—For the purposes of each law de-
20 scribed in subsection (b), none of the following may be
21 construed, alone or in combination with any other factor,
22 as establishing an employment relationship between a
23 franchisor (or any employee of the franchisor) and a
24 franchisee (or any employee of the franchisee):

1 (1) The franchisor (or any employee of the
2 franchisor) provides the franchisee (or any employee
3 of the franchisee) with, or requires the franchisee
4 (or any employee of the franchisee) to use, a hand-
5 book, or other training, on sexual harassment,
6 human trafficking, workplace violence, discrimina-
7 tion, or opportunities for apprenticeships or scholar-
8 ships.

9 (2) The franchisor (or any employee of the
10 franchisor) requires the franchisee (or any employee
11 of the franchisee) to adopt a policy on sexual harass-
12 ment, human trafficking, workplace violence, dis-
13 crimination, opportunities for apprenticeships or
14 scholarships, childcare, or paid leave, including a re-
15 quirement for the franchisee (or any employee of the
16 franchisee) to report to the franchisor (or any em-
17 ployee of the franchisor) any violations or suspected
18 violations of such policy.

19 (3) The franchisor (or any employee of the
20 franchisor) requires the franchisee (or any employee
21 of the franchisee) to adopt a policy based on the
22 novel coronavirus (referred to in this paragraph as
23 “COVID–19”) pandemic such as the use of personal
24 protective equipment or other policies, or the
25 franchisor (or any employee of the franchisor) pro-

1 vides the franchisee (or any employee of the
2 franchisee) with personal protective equipment or
3 other material goods or compensation to help the
4 franchisee (or any employee of the franchisee) dur-
5 ing or due to the COVID–19 pandemic.

6 (b) LAWS.—The laws described in this subsection are
7 each of the following:

8 (1) The National Labor Relations Act (29
9 U.S.C. 151 et seq.).

10 (2) The Fair Labor Standards Act of 1938 (29
11 U.S.C. 201 et seq.).

12 (3) The Occupational Safety and Health Act of
13 1970 (29 U.S.C. 651 et seq.).

14 **SEC. 4. PREEMPTION.**

15 Except with respect to the definitions of the terms
16 “franchisee” and “franchisor” under section 2, this Act
17 shall preempt any State law to the extent that such State
18 law is inconsistent with the provisions of this Act.

○