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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

1995-96

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Insurance, Securities and Corporate Policy...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Assembly Committee on Insurance, Securities, and Corporate Policy

DATE 2-26-96
 Moved by Lozge Seconded by Green
 AB 782 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 A _____ SR _____ Other _____
 A/S Amdt 3510 _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- Passage
 - Introduction *of amend amendment*
 - Adoption
 - Rejection
 - Indefinite Postponement
 - Tabling
 - Concurrence
 - Nonconcurrence
 - Confirmation

	Committee Member	Aye	No	Absent	Not Voting
1.	Rep. Sheryl Albers, Chair	✓			
2.	Rep. William Lozge, Vice-Chair	✓			
3.	Rep. Gregg Underheim	✓			
4.	Rep. Robin Kreibich	✓			
5.	Rep. Mary Lazich	✓			
6.	Rep. Tim Hoven	✓			
7.	Rep. Frank Lasee	✓			
8.	Rep. Mark Green	✓			
9.	Rep. Al Baldus	✓			
10.	Rep. Barbara Notestein	✓			
11.	Rep. Judy Robson	✓			
12.	Rep. David Cullen	✓			
13.	Rep. Robert Ziegelbauer	✓			
14.					
15.					
16.					
17.					
18.					
Totals		12	0		

MOTION CARRIED

MOTION FAILED

Assembly Committee on Insurance, Securities, and Corporate Policy

DATE 2-26-96

Moved by ~~Green~~ Cullen

Seconded by Lorge

Robson

AB 782 SB _____ Clearinghouse Rule _____

AJR _____ SJR _____ Appointment _____

A _____ SR _____ Other _____

A/S Amdt. _____

A/S Amdt. _____ to A/S Amdt. _____

A/S Sub Amdt. _____

A/S Amdt. _____ to A/S Sub Amdt. _____

A/S Amdt. _____ to A/S Amdt. _____ to A/S Sub Amdt. _____

- Be recommended for:
- Passage or amended
 - Introduction
 - Adoption
 - Rejection
 - Indefinite Postponement of bill
 - Tabling
 - Concurrence
 - Nonconcurrence
 - Confirmation

	Committee Member	Aye	No	Absent	Not Voting
1.	Rep. Sheryl Albers, Chair		✓		
2.	Rep. William Lorge, Vice-Chair		✓		
3.	Rep. Gregg Underheim		✓		
4.	Rep. Robin Kreibich		✓		
5.	Rep. Mary Lazich		✓		
6.	Rep. Tim Hoven		✓		
7.	Rep. Frank Lasee		✓		
8.	Rep. Mark Green		✓		
9.	Rep. Al Baldus	✓	✓		
10.	Rep. Barbara Notestein	✓			
11.	Rep. Judy Robson	✓			
12.	Rep. David Cullen	✓			
13.	Rep. Robert Ziegelbauer	✓			
14.					
15.					
16.					
17.					
18.					
Totals		4	8		

MOTION CARRIED

MOTION FAILED

Assembly Committee on Insurance, Securities, and Corporate Policy

DATE 2-26-96
 Moved by Green Seconded by Lorge
 AB 782 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 A _____ SR _____ Other _____
 A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

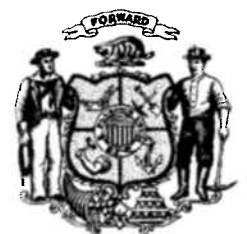
- Be recommended for:
- Passage *or amended*
 - Introduction
 - Adoption
 - Rejection
 - Indefinite Postponement
 - Tabling
 - Concurrence
 - Nonconcurrence
 - Confirmation

	Committee Member	Aye	No	Absent	Not Voting
1.	Rep. Sheryl Albers, Chair	✓			
2.	Rep. William Lorge, Vice-Chair	✓			
3.	Rep. Gregg Underheim	✓			
4.	Rep. Robin Kreibich	✓			
5.	Rep. Mary Lazich	✓			
6.	Rep. Tim Hoven	✓			
7.	Rep. Frank Lasee	✓			
8.	Rep. Mark Green	✓			
9.	Rep. Al Baldus	✓			
10.	Rep. Barbara Notestein		✓		
11.	Rep. Judy Robson		✓		
12.	Rep. David Cullen		✓		
13.	Rep. Robert Ziegelbauer		✓		
14.					
15.					
16.					
17.					
18.					
Totals		9	3		

MOTION CARRIED MOTION FAILED



WISCONSIN STATE LEGISLATURE



Testimony of Eugene M. Rackley
Director of State Government Relations
International Franchise Association

before the
Wisconsin Assembly Committee on Insurance, Securities and
Corporate Policy
Thursday, February 8, 1996

INTRODUCTION

Good morning, Madame Chair and members of the committee. My name is Eugene Rackley, and I am Director of State Government Relations for the International Franchise Association (IFA). I would like to thank you for the opportunity to submit written testimony in support of AB 782.

The IFA, the world's largest franchising association, represents more than 30,000 franchisors, franchisees and franchise suppliers doing business in 65 different industries in 43 nations. For more than 35 years the IFA has served as the voice of the franchising community as it continues to grow worldwide. IFA takes a particular interest in legislation which affects franchising.

WHAT IS FRANCHISING

A common misperception about franchising is that it is an "industry" that can be easily regulated. Quite to the contrary, franchising is not an industry but rather a business strategy that is employed by many different industries as a means for growth and expansion. A careful balance of interests between franchisors and franchisees has made franchising so successful. That is,

franchisees remain independent business owners given an opportunity to enter a well-established business and reap the benefits of being part of a larger system, while franchisors build the strength and recognition of their trademark and image through growth and a unique concept of expansion.

This method of expansion is achieved through a contractual arrangement between free and willing individuals. If either franchisor or franchisee is not pleased with the agreement or provisions contained therein, either may "walk away from the agreement." Extensive pre-sale disclosure regulations, both federal and state, ensure that a prospective purchaser of a franchise has more than adequate information upon which to evaluate the terms of the franchise agreement. Terms of the franchise agreement will vary from franchisor to franchisor according to the competitive forces and market considerations at work within each industry. As an example, Cousins Subs Systems and Snap-On-Tools have chosen to expand their business via franchising, yet they represent very different industries. Selling sandwiches is vastly different from selling professional mechanic tools and equipment.

STATE AND FEDERAL LEGISLATION

Franchising in the U.S. is currently regulated at both the state and federal level. The Wisconsin Franchise Investment Law (Ch. 553), which became law in 1971, requires franchisors to file a comprehensive application and registration with the Offices of the Commissioner of Securities (OCS) prior to selling franchises in

Wisconsin. The need for this comprehensive state registration diminished when the Federal Trade Commission (FTC) promulgated the FTC Rule on Franchising (FTC Rule) in 1979. The FTC Rule requires that franchisors make exhaustive pre-sale disclosure to prospective purchasers of franchises. The Rule requires disclosure regarding the provisions of the franchise agreement addressing termination, transfer and non-renewal of the franchise, territorial protections granted the franchise operator, the operation of advertising funds and corresponding fees, restrictions on source of supplies and services purchased by the franchisee and numerous other disclosures. In short, the FTC Rule already provides extensive information on the items addressed in the Wisconsin Franchise Investment Law, permitting franchise operators more than adequate opportunity to review the terms of the agreement prior to entering into the contract.

The North American Securities Administrators Association (N.A.S.A.A.) guidelines for the disclosure of this information have recently been amended to require that disclosures be made in "plain english" and provide more comprehensive information for certain items. Therefore based on federal disclosure laws, franchisees are more than adequately protected under these laws, again negating the need for additional regulations.

Wisconsin AB 782 would replace the current franchise registration process with a simplified "notice filing" procedure for franchisors. Franchisors would be required to file annual

notices with the OCS that would identify the franchisor, the names under which the franchisor intends to do business in Wisconsin, the franchisor's address, and a consent to service of process. Franchisors would still be required to provide the detailed information mentioned above in the pre-sale offering circular to prospective franchisees under the FTC Rule. AB 782 and the FTC Rule provide ample protection and disclosure to prospective franchisees.

SELF-REGULATION

In addition to these statutory protections, franchisors and franchisees have taken significant steps in the direction of self-regulation. These self-regulatory efforts will add significantly to the protection available to franchisees without creating another statutory layer which will inevitably lead to costly and time-consuming litigation.

In November of 1992, the IFA adopted its newly revised Code of Standards and Principles of Conducts which sets forth standards for dealings between franchisors and franchisees. Subsequently, an IFA committee, chaired by a franchisee member, was formed as the mechanism designed to enforce the Code.

Based on a realization that established rules alone would not solve or prevent the inevitable conflict that is sure to arise among franchisors and franchisees due to the interdependent nature of franchising, the IFA and a group of major franchise companies

joined to create the "National Franchise Mediation Program," an alternative dispute resolution mediation process offered to all franchisees and franchisors as a means to resolve conflicts. The Center for Public Resources (CPR), which administers this program, was chosen to organize a franchise panel of mediators and manage mediator selection as disputes arise. In this program, a time limit for resolution of the conflict is set. If mediation fails, other options of resolution are not foreclosed.

Finally, the IFA has embraced the concept of "franchisee inclusion," inviting franchisees full membership in the association and naming franchisees to the Board of Directors, the Executive Committee and all other standing committees. This commitment is borne out of a general recognition by franchisees and franchisors alike that for franchising to continue as the economic success it so clearly is, we will have to resolve our differences as partners. IFA believes that by working together we will preserve the dynamism and opportunity of franchising.

CONCLUSION

Passage of AB 782 would not inhibit the ability of a prospective franchisee from receiving full and complete disclosure from respective franchisors, and AB 782 would simplify the application and registration process for franchisors and thus ease the burden for Wisconsin franchisees as well. I urge the committee to consider how this legislation would affect the small franchise entrepreneurs of this state. In doing so, it will be apparent to

the members of this committee that this legislation holds a far greater potential to assist small business development than to damage or stifle it. For these reasons, ~~the IFA urges members of~~ the Assembly Committee on Insurance, Securities and Corporate Policy to support AB 782. Thank you for the opportunity to submit my remarks. If you have any questions, please contact me at (202) 628-8000.





FEB 12 1996

Wisconsin Merchants Federation

The Voice Of Wisconsin Retailing

30 West Mifflin Street
Madison, Wisconsin 53703
Telephone 608/257-3541
Fax 608/257-8755

MEMORANDUM

OFFICERS

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The Board**
Alan Rudnick
B. Rudnick, Inc.
Sheboygan

Vice Chairman
John Herma
Kohls Department Stores
Menomonee Falls

Secretary
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Shopko Stores
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Treasurer
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Madison

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President/CEO
Chris C. Tackett

**Sr. Vice President
& General Counsel**
Douglas Q. Johnson

V.P./Administration
Mary C. Kaja

TO: Members of the Assembly Committee on Insurance, Securities and Corporate Policy

FROM: Chris C. Tackett, President & CEO

DATE: February 8, 1996

RE: AB 782: Update Franchise Law

Please be advised that the Wisconsin Merchants Federation supports AB 782 and asks you to do the same. AB 782 makes several overdue changes to our franchise laws that will make Wisconsin an even better place to do business. It will expand business and job opportunities.

Wisconsin's franchise laws are among the most demanding in the United States. In some cases our franchise laws are excessive and counterproductive. AB 782 makes reasonable corrections by simplifying the law. Consider that the federal government already has an FDC rule covering franchising that was implemented in 1979.

A duplicative Wisconsin registration requirement is unnecessary. Thank you for your support.

ab782,.sup





MARY A. SCHELL
Director of Government Relations

MAR 04 1996

February 29, 1996

Honorable Sheryl Albers
126 West State Capitol
P.O. Box 8952
Madison, Wisconsin 53708

Dear Rep. Albers:

I am writing in support of passage of AB 782 which would revise the Wisconsin Franchise Investment Law. This bill, sponsored by Majority Leader Scott Jensen, would replace the current franchise registration process with a more simplified "notice filing" procedure for franchisers. This is already done in other states and makes it far easier for franchisers to do business where the filings are simplified.

Under this bill, as a franchiser, we would still be required to provide a detailed pre-sale offering circular to prospective franchisees.

Any favorable consideration that you could give to AB 782 would be greatly appreciated.

Sincerely yours,

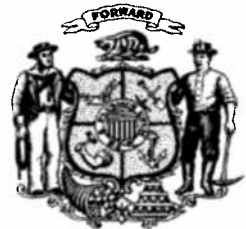
A handwritten signature in cursive script, appearing to read "Mary A. Schell".

Mary A. Schell
Director, Government Relations

c. Rep. Scott Jensen
Christ Tackett, Wisconsin Merchants Federation
Eugene Rackly, International Franchise Association



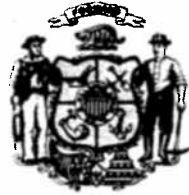
WISCONSIN STATE LEGISLATURE



State of Wisconsin Office of the Commissioner of Securities

Tommy G. Thompson
Governor

Patricia D. Struck
Commissioner



Mailing Address:
101 E. Wilson Street, Fourth Floor
Post Office Box 1768
Madison, WI 53701

Information	(608) 266-3431
Registration	(608) 266-1064
Franchise	(608) 266-8557
Licensing	(608) 266-3693
Legal Services	(608) 266-9886

Summary of Assembly Amendment 1 to AB 782

Assembly Amendment 1 to AB 782 makes several remedial/technical corrections to AB 782 that were noted after the bill was introduced. Assembly Amendment 1 also makes substantive changes contained in Items 6 and 7 that are necessary to carry through the major theme and intent of the bill--namely, to replace the substantive regulatory review process for registration of franchises with a notification filing process.

- ▶ The amendment in Item 1 makes a technical correction to a federal code citation.
- ▶ The amendments in Items 2, 3 and 4 are technical changes to add specific references to a notice "form" to be used by franchisors making a notification filing.
- ▶ The amendments in Items 6 and 7 revise s. 553.28 of the franchise law relating to the agency's ability to revoke or suspend franchise registrations.

The amendments in Item 6 replace the general authority provision in sub. (a) (regarding "failures to comply with Ch. 553 or rules thereunder") and the anti-fraud provisions in (b) and (c) with two specific bases for revoking or suspending a franchise registration relating to: (i) failure to provide the full disclosure document to a franchise purchaser within the 10-days-prior-to purchase requirement in s. 553.27(4); and (ii) anti-fraud grounds where a sale of a franchise to a purchaser in Wisconsin involved any material misrepresentations or omissions to state material facts.

The amendment in Item 7 removes what amounts to "fair and equitable"/"merit review" bases for revocation or suspension of a franchise registration under s. 553.28(1)(g) and (h) relating to the franchisor's financial condition or a "method of business that is illegal where performed," because there will be no "merit review" given to franchise registration filings as a result of AB 782.

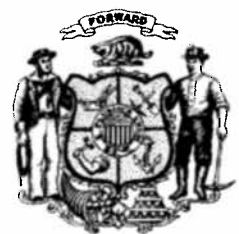
[AA 1 to AB 782 Cont'd]

- ▶ The amendments in Items 8 and 9 correct what turns out to have been a problem in the anti-fraud provision in s. 553.41(1) of the Wisconsin Franchise Law when it was originally created in 1972. The amendments will clarify that the anti-fraud provisions prohibiting a franchisor filing with the agency documents containing material omissions should not be limited to situations involving filings of amended disclosure materials under 553.31(1).
- ▶ The amendment in Item 10 corrects a reference to "subfranchisor's."
- ▶ The amendments in Items 11 and 12 clarify that the written notice given under s. 553.51(4) must be from or on behalf of the person upon whom civil liability under that section may be imposed. These amendments parallel identical amendments contained in one section of recently-introduced SB 484 which is this agency's remedial legislation bill introduced by the Law Revision Committee.
- ▶ The amendment in Item 13 [which is corrected in the "slash/2" draft of Assembly Amendment 1] is a technical change to reflect amendments made under AB 782 to the civil liability section cross-referenced in s. 553.54(2)(a).

* * * * *



WISCONSIN STATE LEGISLATURE



To: Insurance, Securities and Corporate Policy Committee
From: Patricia D. Struck, Commissioner of Securities
Subject: 1995 AB 782, relating to the regulation of sales of franchises in Wisconsin

Background

- The Wisconsin Franchise Investment Law (Chapter 553, Wis. Stats.) currently requires franchisors to register with the Office of the Commissioner of Securities (OCS) which involves a review of disclosure form and content. The franchisor must deliver disclosure documents (in the form of an offering circular) to a prospective franchisee prior to any offer or sale of a franchise in Wisconsin.
- Federally, the FTC regulations establish federal presale disclosure requirements in an offering circular.

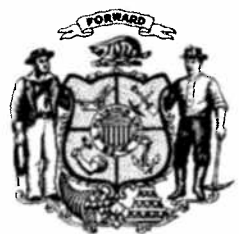
Purpose and necessity of this legislation

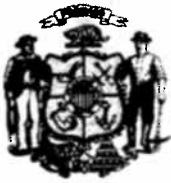
- This legislation would substitute a “notification” procedure for the current franchise registration review.
- **This “notification” procedure would greatly simplify the requirements for a franchisor to do business in Wisconsin.**
- **The Office of the Commissioner of Securities (OCS) would be able to focus its resources on enforcement of disclosure and anti-fraud protections provided in the statute.**
- Under the bill, franchisors would be required to file annually a “notice” with the Office of the Commissioner of Securities (OCS) that would include a copy of the Uniform Franchise Offering Circular (UFOC) and a filing fee.
- Franchisors would still be required by this bill to provide a detailed offering circular to prospective franchisees prior to the sale of the franchise.
- This proposal is similar to the Michigan Franchise Investment Law.

I will be calling to schedule an appointment to meet with you individually and respond to any questions you may have. In addition, I may be contacted at 266-3431.



WISCONSIN STATE LEGISLATURE





**ASSEMBLY AMENDMENT ,
TO 1995 ASSEMBLY BILL 782**

*makes bill identical
to the senate
version*

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 12, line 9: on lines 9 and 10, delete the underscored material.
- 3 **(END)**

*deletes "The expiration
of one year after the discovery
by the franchisee of the fact that
constitutes the violation"*