

LEGISLATIVE HISTORY CHECKLIST

NJSA: 56:1¹⁰ et seq.

"Franchise Practice Act"

LAWS OF: 1971

CHAPTER: 356

Bill No: A2063

Sponsor(s): Vander Plaats and others

Date Introduced: January 28, 1971

Committee: Assembly: Judiciary

Senate: -----

Amended during passage: Yes Amendments denoted by asterisks.

Date of Passage: Assembly: May 3, 1971

Senate: May 10, 1971

Date of Approval: December 21, 1971

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly No

Senate No

Fiscal Note: No

Veto Message: Yes

Message on Signing: Yes

Following were printed:

Reports: No

Hearings: Yes

974.90 New Jersey. Legislature. Assembly Judicial Committee.
C762 Public hearing on A2063, held 3-29-71. Trenton, 1971.
1971e

See newspaper clippings-- attached

McLaughlin, John, "Franchises line up against franchises," Trenton Evening Times,
January 26, 1971.

"Curbing competition," Newark Evening News (editorial) 4-19-71.

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ASSEMBLY, No. 2063

STATE OF NEW JERSEY

INTRODUCED JANUARY 28, 1971

By Assemblymen VANDER PLAAT, COSTA, McDONOUGH, A. S.
SMITH, FLORIO, LITTELL, FORAN, FRIEDLAND,
Assemblywoman FENWICK and Assemblyman KRAVARIK

Referred to Committee on Judiciary

AN ACT to prohibit unfair practices in franchising and supplement-
ing Title 56 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Franchise
2 Practices Act."

1 2. The Legislature finds and declares that distribution and sales
2 through franchise arrangements in the State of New Jersey vitally
3 affects the general economy of the State, the public interest and
4 the public welfare. It is therefore necessary in the public interest
5 to define the relationship and responsibilities of franchisors and
6 franchisees in connection with franchise arrangements.

1 3. As used in this act:

2 a. "Franchise" means ****[an oral or]**** ****a**** written arrange-
3 ment for a definite or indefinite period, in which a person grants to
4 another person a license to use a trade name, trade mark, service
5 mark, or related characteristics, and in which there is a community
6 of interest in the marketing of goods or services at wholesale, retail,
7 by lease, agreement, or otherwise.

8 b. "Person" means a natural person, corporation, partnership,
9 trust, or other entity and, in case of an entity, it shall include any
10 other entity which has a majority interest in such entity or effec-
11 tively controls such other entity as well as the individual officers,
12 directors, and other persons in active control of the activities of
13 each such entity.

14 c. "Franchisor" means a person who grants a franchise to
15 another person.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

16 d. "Franchisee" means a person to whom a franchise is offered
17 or granted.

18 e. "Sale, transfer or assignment" means any disposition of a
19 franchise or any interest therein, with or without consideration,
20 to include but not limited to bequest, inheritance, gift, exchange,
21 lease or license.

22 *f. "Place of business" means a fixed geographical location at
23 which the franchisee displays for sale and sells the franchisor's
24 goods or offers for sale and sells the franchisor's services. Place
25 of business shall not mean an office, a warehouse, a place of storage,
26 a residence or a vehicle.*

1 4. This act applies only to a franchise (1) the performance of
2 which contemplates or requires the franchisee to establish or main-
3 tain a place of business within the State of New Jersey, (2) where
4 gross sales of products or services between the franchisor and
5 franchisee covered by such franchise shall have exceeded \$35,000.00
6 for the 12 months next preceding the institution of suit pursuant
7 to this act, and (3) where more than 20% of the franchisee's gross
8 sales are intended to be or are derived from such franchise.

1 5. It shall be a violation of this act for any franchisor directly or
2 indirectly through any officer, agent, or employee to terminate,
3 cancel, or fail to renew a franchise ***[for any reason whatsoever]***
4 without having first given written notice setting forth all the
5 reasons for such termination, cancellation, or intent not to renew
6 to the franchisee at least ***[180]* *60*** days in advance of such ter-
7 mination, cancellation, or failure to renew*, *except (1) where the*
8 *alleged grounds are voluntary abandonment by the franchisee of*
9 *the franchise relationship in which event the aforementioned*
10 *written notice may be given 15 days in advance of such termination,*
11 *cancellation, or failure to renew; and (2) where the alleged grounds*
12 *are the conviction of the franchisee in a court of competent juris-*
13 *diction of an indictable offense directly related to the business*
14 *conducted pursuant to the franchise in which event the afore-*
15 *mentioned termination, cancellation or failure to renew may be*
16 *effective immediately upon the delivery and receipt of written notice*
17 *of same at any time following the aforementioned conviction.** It
18 shall be a ****[complete defense under this act for the franchisor to**
19 **prove that the stated reasons were for]**** ****violation of this act for**
20 **a franchisor to terminate, cancel or fail to renew a franchise with-**
21 **out**** good cause. For the purposes of this act, good cause for
22 terminating, canceling, or failing to renew a franchise shall be
23 limited to failure by the franchisee to substantially comply with
24 those requirements imposed upon him by the franchise ****[which**

25 requirements must be *~~essential,~~* reasonable and nondiscrimina-
26 tory**.

1 6. It shall be a violation of this act for any franchisee to transfer,
2 assign or sell a franchise or interest therein to another person
3 unless the franchisee shall first notify the franchisor of such in-
4 tention by written notice setting forth in the notice of intent the
5 prospective transferee's name, address, statement of financial
6 qualification and business experience during the previous 5 years.
7 The franchisor shall within 60 days after receipt of such notice
8 either approve in writing to the franchisee *~~of~~* such sale to pro-
9 posed transferee or by written notice advise the franchisee of the
10 unacceptability of the proposed transferee setting forth material
11 reasons relating to the character, financial ability or business ex-
12 perience of the proposed transferee **~~which reasons must be~~
13 *~~essential,~~* reasonable and nondiscriminatory**. If the fran-
14 chisor does not reply within the specified 60 days, his approval is
15 deemed granted. ***No such transfer, assignment or sale hereunder*
16 *shall be valid unless the transferee agrees in writing to comply with*
17 *all the requirements of the franchise then in effect.***

1 **~~7.~~ It shall be a violation of this act, where any franchise desig-
2 nates a franchisee's geographical area, for any franchisor to grant
3 an additional franchise to be operated in such area unless the
4 franchisor shall give to the existing franchisee 180 days notice of
5 its intention to grant an additional franchise and such franchisee
6 shall have failed to substantially comply with *~~essential,~~* reason-
7 able and nondiscriminatory requirements imposed upon him by the
8 franchise, the burden of proving such failure being upon the
9 franchisor.**

1 **~~8.~~ **~~7.~~ It shall be a violation of this for any franchisor,
2 directly or indirectly, through any officer, agent or employee, to
3 engage in any of the following practices:

4 a. To require a franchisee ***at time of entering into a franchise*
5 *arrangement*** to assent to a release, assignment, novation, waiver
6 or estoppel which would relieve any person from liability imposed
6A by this act.

7 b. To prohibit directly or indirectly the right of free association
8 among franchisees **for any lawful purpose.**

9 c. To require or prohibit any change in management of any
10 franchisee unless such requirement or prohibition of change shall
11 be for good cause, which cause shall be stated in writing by the
12 franchisor.

13 **~~d.~~ To restrict or prohibit the sale or issuance of any equity
14 interest in any corporate owner of a franchise, whether such equity

15 interest shall be common stock, preferred stock or a security con-
 16 vertible into either, or a security within the definition of said term
 17 set forth in the "Uniform Securities Law (1967)" P. L. 1967, c. 98
 18 (C. 49:3-47 et seq.)**

19 ***d. To restrict the sale of any equity or debenture issue or the*
 20 *transfer of any securities of a franchise or in any way prevent or*
 21 *attempt to prevent the transfer, sale or issuance of shares of stock*
 22 *or debentures to employees, personnel of the franchisee, or heir of*
 23 *the principal owner, as long as basic financial requirements of the*
 24 *franchisor are complied with, and provided any such sale, transfer*
 25 *or issuance does not have the effect of accomplishing a sale of the*
 26 *franchise.***

27 e. To impose unreasonable standards of performance upon a
 28 franchisee.

29 f. To provide any term or condition in any lease or other agree-
 30 ment ancillary or collateral to a franchise, which term or condition
 31 directly or indirectly violates this act.

1 ****[9.]**** ****8.**** This act shall not apply to a franchise ****[for a**
 2 **definite period of time]**** granted prior to the effective date of this
 3 act, provided, however, that a renewal of a franchise or an amend-
 4 ment to an existing franchise shall not be excluded from the appli-
 5 cation of this act.

1 ****[*10.]*** ****9.**** *It shall be a defense for a franchisor, to any ac-*
 2 *tion brought under this act by a franchisee, if it be shown that said*
 3 *franchisee has failed to substantially comply with ****[reasonable***
 4 *and nondiscriminatory]*** requirements imposed by the franchise*
 5 ***and other agreements ancillary or collateral thereto**.*

1 ****[10.]*** ****[*11.]*** ****10.**** Any franchisee may bring an action
 2 against its franchisor for violation of this act in the Superior Court
 3 of the State of New Jersey to recover ****[treble]**** damages sustained
 4 by reason of any violation of this act and, where appropriate, shall
 5 be entitled to injunctive relief. Such franchisee*, *if successful,**
 6 shall also be entitled to the costs of the action including but not
 7 limited to reasonable attorney's fees.

1 ****[11.]*** ****[*12.]*** ****11.**** If any provision of this law or the
 2 application thereof to any person or circumstance is held invalid,
 3 the invalidity shall not affect other provisions or applications of the
 4 law which can be given effect without the invalid provision or
 5 application, and to this end the provisions of this law are severable.

1 ****[*13.]*** ****12.**** *No liability on the part of and no cause of*
 2 *action of any nature other than as provided by this act shall arise*
 3 *against any franchisor, its officers, agents or employees furnishing*
 4 *information as to reasons for termination, cancellation, intent not to*

5 *renew, failure to renew, unacceptability of a proposed transferee, or*
6 *relating to the character, financial ability or business experience of*
7 *a proposed transferee, or for statements made or evidence sub-*
8 *mitted at any hearing or trial conducted in connection therewith.**

1 ***[12.]*** ****[*14.*]**** **13.****** This act shall take effect immedi-
2 ately.

ASSEMBLY, No. 2063

STATE OF NEW JERSEY

INTRODUCED JANUARY 28, 1971

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4 the public welfare. It is therefore necessary in the public interest
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5 related characteristics, and in which there is a community of
6 interest in the marketing of goods or services at wholesale, retail,
7 by lease, agreement, or otherwise.

8 b. "Person" means a natural person, corporation, partnership,
9 trust, or other entity and, in case of an entity, it shall include any
10 other entity which has a majority interest in such entity or effec-
11 tively controls such other entity as well as the individual officers,
12 directors, and other persons in active control of the activities of
13 each such entity.

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15 another person.

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17 or granted.

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19 franchise or any interest therein, with or without consideration,
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6 for the 12 months next preceding the institution of suit pursuant
7 to this act, and (3) where more than 20% of the franchisee's gross
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2 indirectly through any officer, agent, or employee to terminate,
3 cancel, or fail to renew a franchise for any reason whatsoever
4 without having first given written notice setting forth all the
5 reasons for such termination, cancellation, or intent not to renew
6 to the franchisee at least 180 days in advance of such termination,
7 cancellation, or failure to renew. It shall be a complete defense
8 under this act for the franchisor to prove that the stated reasons
9 were for good cause. For the purposes of this act, good cause for
10 terminating, canceling, or failing to renew a franchise shall be
11 limited to failure by the franchisee to substantially comply with
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11 relating to the character, financial ability or business experience
12 of the proposed transferee which reasons must be essential, reason-
13 able and nondiscriminatory. If the franchisor does not reply within
14 the specified 60 days, his approval is deemed granted.

1 7. It shall be a violation of this act, where any franchise desig-
2 nates a franchisee's geographical area, for any franchisor to grant
3 an additional franchise to be operated in such area unless the
4 franchisor shall give to the existing franchisee 180 days notice of

5 its intention to grant an additional franchise and such franchisee
6 shall have failed to substantially comply with essential, reasonable
7 and nondiscriminatory requirements imposed upon him by the
8 franchise, the burden of proving such failure being upon the
9 franchisor.

1 8. It shall be a violation of this act for any franchisor, directly
2 or indirectly, through any officer, agent or employee, to engage in
3 any of the following practices:

4 a. To require a franchisee to assent to a release, assignment,
5 novation, waiver or estoppel which would relieve any person from
6 liability imposed by this act.

7 b. To prohibit directly or indirectly the right of free association
8 among franchisees.

9 c. To require or prohibit any change in management of any
10 franchisee unless such requirement or prohibition of change shall
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17 set forth in the "Uniform Securities Law (1967)" P. L. 1967, c. 98
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19 e. To impose unreasonable standards of performance upon a
20 franchisee.

21 f. To provide any term or condition in any lease or other agree-
22 ment ancillary or collateral to a franchise, which term or condition
23 directly or indirectly violates this act.

1 9. This act shall not apply to a franchise for a definite period of
2 time granted prior to the effective date of this act, provided, how-
3 ever, that a renewal of a franchise or an amendment to an existing
4 franchise shall not be excluded from the application of this act.

5 10. Any franchisee may bring an action against its franchisor
6 for violation of this act in the Superior Court of the State of New
7 Jersey to recover treble damages sustained by reason of any viola-
8 tion of this act and, where appropriate, shall be entitled to in-
9 junctive relief. Such franchisee shall also be entitled to the costs
10 of the action including but not limited to reasonable attorneys' fees.

1 11. If any provision of this law or the application thereof to any
2 person or circumstance is held invalid, the invalidity shall not
3 affect other provisions or applications of the law which can be
4 given effect without the invalid provision or application, and to
5 this end the provisions of this law are severable.

1 12. This act shall take effect immediately.

Sponsor STATEMENT

Franchising has developed into a major field of business endeavor throughout the United States. Not only is it familiar in relatively new enterprises such as fast food, lodging, specialized retailing, special auto repair and supply services and other undertakings, but franchising also is a fact of life in longer established businesses such as appliance and auto dealerships and gasoline stations. Thousands of businessmen and tens of thousands of their employees in New Jersey are affected by the operation of franchise systems.

A number of states already have moved to protect the interests of franchisors and franchisees by clearly defining the rights of each group in a matter vital to their economic existence.

New Jersey would do the same in this bill which, through the courts, would rule out arbitrary and capricious cancellation of franchises while preserving the right of franchisors to safeguard their interests through the application of clear and nondiscriminatory standards. The bill would protect the substantial investment—tangible and intangible—of both parties in the various franchises. It would rule out economic coercion as a business tactic in this most sensitive field.

The New Jersey Legislature has been asked many times in the past to deal on a piecemeal basis with various problems growing out of the franchise relationship. This bill would provide a comprehensive statutory formula for resolving a wide range of questions growing out of the franchise relationship.

A 2063 (1971)

ASSEMBLY COMMITTEE AMENDMENTS TO
ASSEMBLY, No. 2063

STATE OF NEW JERSEY

ADOPTED APRIL 5, 1971

Amend page 2, section 3, line 21, insert new section 3 f. as follows:

“f. ‘Place of business’ means a fixed geographical location at which the franchisee displays for sale and sells the franchisor’s goods or offers for sale and sells the franchisor’s services. Place of business shall not mean an office, a warehouse, a place of storage, a residence or a vehicle.”.

Amend page 2, section 5, line 3, delete “for any reason whatsoever”.

Amend page 2, section 5, line 6, delete “180”, insert “60”.

Amend page 2, section 5, line 7, after “renew”, insert the following:

“, except (1) where the alleged grounds are voluntary abandonment by the franchisee of the franchise relationship in which event the aforementioned written notice may be given 15 days in advance of such termination, cancellation, or failure to renew; and (2) where the alleged grounds are the conviction of the franchisee in a court of competent jurisdiction of an indictable offense directly related to the business conducted pursuant to the franchise in which event the aforementioned termination, cancellation or failure to renew may be effective immediately upon the delivery and receipt of written notice of same at any time following the aforementioned conviction.”.

Amend page 2, section 5, line 13, delete “essential,”.

Amend page 2, section 6, line 8, delete “of”.

Amend page 2, section 6, line 12, delete “essential,”.

Amend page 3, section 7, line 6, delete “essential,”.

Amend page 3, section 8b, line 8, after “franchisees”, insert “for any lawful purpose”.

Amend page 3, section 9, after line 4, insert new section as follows:

“10. It shall be a defense for a franchisor, to any action brought under this act by a franchisee, if it be shown that said franchisee has failed to substantially comply with reasonable and nondiscriminatory requirements imposed by the franchise.”.

Amend page 3, section 10, line 5, delete "10.", and insert "11."

Amend page 3, section 10, line 7, delete "treble".

Amend page 3, section 10, line 9, after "Such franchisee", add ", if successful,".

Amend page 3, section 11, line 1, delete "11.", and insert "12."

Amend page 3, section 11, after line 5, insert new section as follows:

"13. No liability on the part of and no cause of action of any nature other than as provided by this act shall arise against any franchisor, its officers, agents or employees furnishing information as to reasons for termination, cancellation, intent not to renew, failure to renew, unacceptability of a proposed transferee, or relating to the character, financial ability or business experience of a proposed transferee, or for statements made or evidence submitted at any hearing or trial conducted in connection therewith."

Amend page 3, section 12, line 1, delete "12.", and insert "14."

Ret'd. with
Gov. Recom'ds. 12.2.71

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7 to reasonable attorney's fees.

1 ***[11.]* *12.*** If any provision of this law or the application
2 thereof to any person or circumstance is held invalid, the invalidity
3 shall not affect other provisions or applications of the law which
4 can be given effect without the invalid provision or application,
5 and to this end the provisions of this law are severable.

1 **13. No liability on the part of and no cause of action of any*
2 *nature other than as provided by this act shall arise against any*
3 *franchisor, its officers, agents or employees furnishing information*
4 *as to reasons for termination, cancellation, intent not to renew,*
5 *failure to renew, unacceptability of a proposed transferee, or*
6 *relating to the character, financial ability or business experience of*
7 *a proposed transferee, or for statements made or evidence sub-*
8 *mitted at any hearing or trial conducted in connection therewith.**

1 ***[12.]* *14.*** This act shall take effect immediately.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

December 2, 1971

ASSEMBLY BILL NO. 2063 (OCR)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 2063 (OCR), with my objections, for reconsideration.

This bill would regulate the conduct of parties to franchise agreements. Arrangements involving the use of trademarks and related characteristics in which there is a community of interest in the marketing of goods or services would be held to be franchises in the contemplation of this bill. Franchises with gross receipts of less than \$35,000 or which do not have a place of business in New Jersey for the display and sale of the franchisor's goods or services are excluded from the bill.

Assembly Bill No. 2063 (OCR) is a far-reaching bill and would make the following substantial changes:

1. A franchisor would be prohibited from terminating, cancelling or failing to renew a franchise unless the franchisee had failed to substantially comply with requirements imposed on him by the franchise, which requirements must be reasonable and non-discriminatory. Further, 60 days' notice to do so must be given by the franchisor. Lesser notice is required in limited situations.
2. In the event of a proposed sale, transfer or assignment of a franchise, the franchisor, if he objects, is required to set forth in writing his reasons relating to the character, financial ability or business experience of the proposed transferee. Immunity from suit is granted with regard to the statement of any such reasons.
3. Where a franchisor has designated a particular geographical area for a franchisee, he is precluded from granting an additional franchise in such area unless the franchisee has failed to substantially comply with reasonable and non-discriminatory requirements of the franchise. 180 days' notice is also required.

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ASSEMBLY BILL NO. 2063 (OCR)

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4. The bill would also prohibit the franchisor from:
- a) requiring releases, novations, etc., to relieve liability under the act.
 - b) prohibiting the right of free association among franchisees.
 - c) requiring changes in management without good cause.
 - d) interfering in the sale or issuance of stock in corporate franchises.
 - e) imposing unreasonable standards of performance upon a franchisee.
 - f) providing terms or conditions in an agreement collateral or ancillary to a franchise which violate the act.

A right of action by a franchisee for damages and injunctive relief for violations is provided. The failure of a franchisee to comply with reasonable and non-discriminatory requirements of the franchise would be a defense for the franchisor to any such action.

The act would not apply to franchises for a definite period of time granted prior to its effective date but would apply to amendments and renewals of existing franchises.

The language in the bill dealing with termination, cancellation and non-renewal (Section 5) is unclear and subject to more than one interpretation. It would appear that a franchise could be terminated, cancelled or not renewed without qualification provided the appropriate notice was given. On the other hand, the same section provides a complete defense to the franchisor if he can prove that the stated reasons for his actions were for good cause, which is limited to a failure by the franchisee to substantially comply with reasonable and non-discriminatory provisions of the franchise. This latter provision is a strong indication that termination, cancellation and non-renewal require good

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EXECUTIVE DEPARTMENT

ASSEMBLY BILL NO. 2063 (OCR)

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cause. It is my recommendation that this language be clarified to positively state that it shall be a violation of the act for a franchisor to terminate, cancel or fail to renew a franchise without good cause. Further, the language requiring the franchisor to prove that the terms of the franchise agreement are "reasonable and non-discriminatory" is, in itself, unreasonable. It places the franchisor in the position of having to comply with the terms of the agreement but suffer the possibility that the franchisee will not have to comply unless the franchisor can, at all times, shoulder this burden. It is my feeling that the terms "reasonable and non-discriminatory" be deleted from the bill.

In the event a franchisor opposes the transfer, assignment or sale of a franchise, he is again required to show that his reason for opposing the proposed transfer, assignment or sale are "reasonable and non-discriminatory." I would delete this phrase for the same reason indicated above. In addition, I would require that any such purchaser of a franchise agree, in writing, to comply with all the requirements of the existing franchise.

The provision of the bill (Section 7) which precludes a franchisor from granting an additional franchise where he has designated a franchisee's geographical area have the effect of sanctioning a restriction on competition which I feel is unwise from the standpoint of public policy. Moreover, this provision conflicts with the federal anti-trust laws which would prohibit such an agreement if it were unreasonable considering the economic structure of the industry, the geographical scope of the exclusive territory and the length of the agreement. I recommend this entire section be deleted from the bill.

Section 8a, which prohibits a franchisor from requiring a franchisee to assent to a release, assignment, novation waiver or estoppel and thus relieve any person from liability imposed by the act, has an unintended result. It would effectively prohibit parties from settling disputes by way of new agreements or releases for a consideration. It is my understanding that the intent is to prohibit the compelling of such releases on waivers of liability

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EXECUTIVE DEPARTMENT

ASSEMBLY BILL NO. 2063 (OCR)

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at the time the franchise is entered into. I recommend that the language of the bill be amended to comply with this intent.

Section 8d would prohibit a franchisor from interfering with the sale of stock of a corporate franchise. This provision would have the effect of circumventing any control the franchisor has over the sale of the franchise. It would be a simple matter to sell the controlling interest in the form of shares of stock. It is my recommendation that sale or transfer of stock of a corporate franchise be limited to the family or employees of the franchisee provided the basic financial requirements of the franchisor are complied with and provided further such sale of stock does not have the effect of accomplishing a sale of the franchise.

Section 9 of the bill provides that the act shall not apply to a franchise for a definite period of time granted prior to its effective date. As drafted, this language infers that the act would apply to franchises for an "indefinite period of time" granted prior to the effective date. If such were the case, it would have the effect of impairing the obligation of existing contracts. This is prohibited by both the United States and New Jersey Constitution. It is my recommendation that this language be amended so that the act shall not apply to any existing franchises. It is to be noted, however, that any amendment or renewal of an existing franchise after the effective date of this act would come within the provisions of the act.

Section 9 of the bill provides a defense for a franchisor to actions hereunder if it is shown that the franchisee failed to substantially comply with "reasonable and non-discriminatory" requirements imposed by the franchise. For reasons previously stated, it is my recommendation that the term "reasonable and non-discriminatory" be deleted from this section. In addition, in many instances ancillary and collateral agreements accompany a franchise agreement. The same defense should be made available to a franchisor for violations of these ancillary and collateral agreements.

Finally, the bill as drafted would apply to "oral agreements." It is my feeling that a law so far-reaching should be limited to agreements reduced to writing.

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EXECUTIVE DEPARTMENT

ASSEMBLY BILL NO. 2063 (OCR)

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It is my belief that this bill as originally presented to me had the potential of adversely affecting consumers. It would tend to insulate franchisees from any control by franchisors. This would not best serve the interests of the consuming public.

On the other hand, I am concerned over the plight of franchisees who have devoted their lifetime and considerable money to building a business. They should be protected against indiscriminate terminations and cancellations by franchisors.

With the amendments I am recommending, the ultimate consumer is protected and the great existing disparity between franchisors and franchisees is modified through assisting the franchisee without unduly restricting the franchisors.

Accordingly, I herewith return Assembly Bill No. 2063 (OCR) for reconsideration and recommend that it be amended as follows:

Page 1, Section 3, Line 2: After "means" delete "an oral or" and insert "a"

Page 2, Section 5, Lines 18-19: Delete "complete defense under this act for the franchisor to prove that the stated reasons were for" and insert "violation of this act for a franchisor to terminate, cancel or fail to renew a franchise without"

Page 2, Section 5, Lines 23-24: Delete "which requirements must be reasonable and nondiscriminatory"

Page 3, Section 6, Lines 12-13: Delete "which reasons must be reasonable and nondiscriminatory"

Page 3, Section 6, Line 15: After "granted." insert "No such transfer, assignment or sale hereunder shall be valid unless the transferee agrees in writing to comply with all the requirements of the franchise then in effect."

Page 3, Section 7, Lines 1-9: Delete in their entirety.

Page 3, Section 8, Line 1: Delete "8" and insert "7"

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ASSEMBLY BILL NO. 2063 (OCR)

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Page 3, Section 8, Line 4: After "franchisee" insert "at time of entering into a franchise arrangement"

Page 3, Section 8, Lines 13-18: Delete in their entirety and insert " d. To restrict the sale of any equity or debenture issue or the transfer of any securities of a franchise or in any way prevent or attempt to prevent the transfer, sale or issuance of shares of stock or debentures to employees, personnel of the franchisee, or heir of the principal owner, as long as basic financial requirements of the franchisor are complied with, and provided any such sale, transfer or issuance does not have the effect of accomplishing a sale of the franchise."

Page 4, Section 9, Line 1: Delete "9" and insert "8"

Page 4, Section 9, Lines 1-2: Delete "for a definite period of time"

Page 4, Section 10, Line 1: Delete "10" and insert "9"

Page 4, Section 10, Lines 3-4: Delete "reasonable and nondiscriminatory"

Page 4, Section 10, Line 4: After "franchise" insert "and other agreements ancillary or collateral thereto"

Page 4, Section 11, Line 1: Delete "11" and insert "10"

Page 4, Section 12, Line 1: Delete "12" and insert "11"

Page 4, Section 13, Line 1: Delete "13" and insert "12"

Page 4, Section 14, Line 1: Delete "14" and insert "13"

Respectfully,

/s/ William T. Cahill

GOVERNOR

[seal]

Attest:

/s/ Jean E. Mulford

Acting Secretary to the Governor

ASSEMBLY AMENDMENTS TO
ASSEMBLY, No. 2063
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED DECEMBER 2, 1971

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"d. To restrict the sale of any equity or debenture issue or the transfer of any securities of a franchise or in any way prevent or attempt to prevent the transfer, sale or issuance of shares of stock or debentures to employees, personnel of the franchisee, or heir of the principal owner, as long as basic financial requirements of the franchisor are complied with, and provided any such sale, transfer or issuance does not have the effect of accomplishing a sale of the franchise.".

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ASSEMBLY AMENDMENTS TO
ASSEMBLY, No. 2063

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STATE OF NEW JERSEY

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FROM THE OFFICE OF THE GOVERNOR

DECEMBER 21, 1971

FOR RELEASE:
IMMEDIATE

Governor William T. Cahill today signed into law a bill which provides safeguards for franchise-holders against arbitrary cancellations.

In signing Assembly Bill 2063, Cahill said that the new law, which embodies amendments recommended in his conditional veto earlier this month, establishes a balance in regulating the conduct of all parties involved in franchise agreements.

Cahill added that, "Those who have devoted their energies and resources to building a business are protected from indiscriminate termination of their franchise. On the other hand, the franchiser maintains the authority to enforce the terms of the franchise agreement."

In addition, the measure, sponsored by Assemblyman Richard Vander Plaat (R., Bergen), provides that:

- an individual may sell his franchise provided the purchaser is of good character and agrees to comply with the terms of the existing franchise agreement;
- franchisers are prohibited from interfering with the management of the franchise-holder;
- the right of free association of franchise-holders is preserved;
- the franchiser may not impose unreasonable standards of performance on the franchise-holder;
- the franchise-holder may transfer stock of a corporate franchise to his heirs and employees.

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STATEMENT IN OPPOSITION TO A-2063

(FRANCHISE PRACTICES ACT)

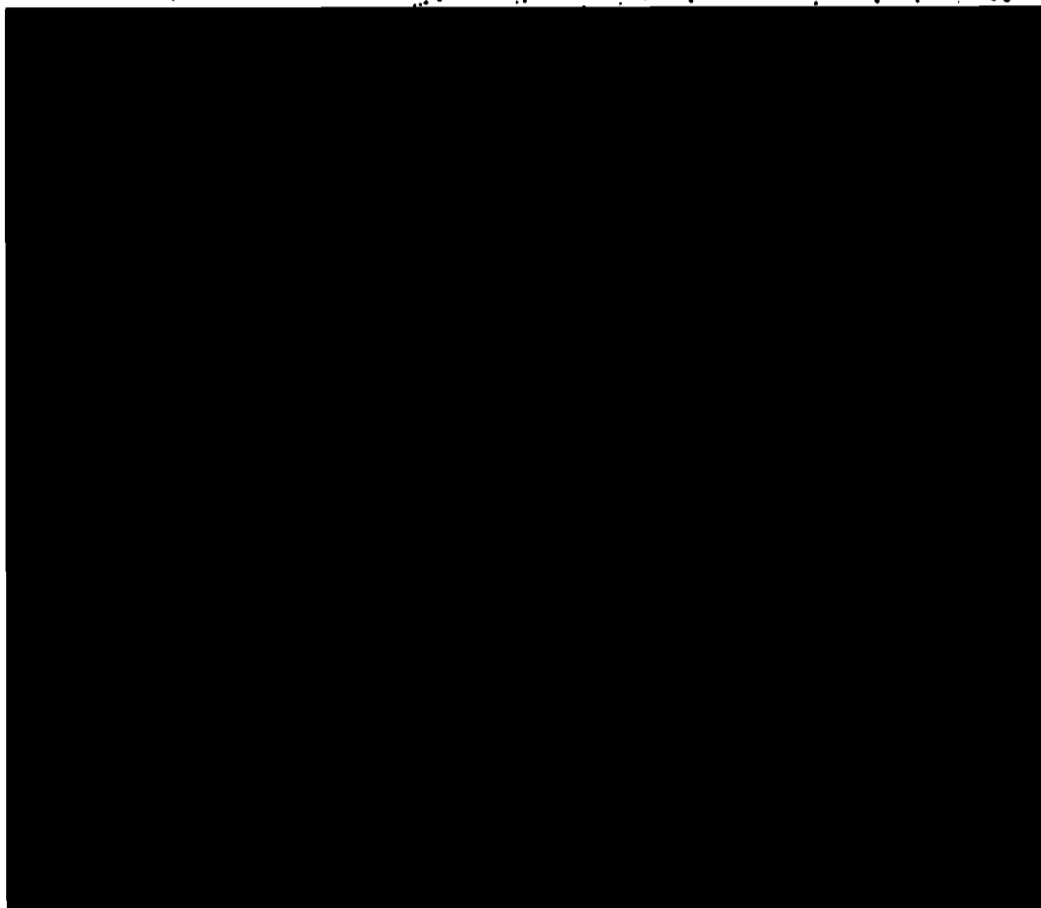
To: Members of the General Assembly

On behalf of General Motors Corporation we oppose the above bill for the reasons, among others, set forth in the following editorial:

The Evening News

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Newark, N.J., Monday, April 19, 1971



We hope A-2063 will be rejected by the Conference Committee.

Respectfully yours,

Augustus Nasmith

Augustus Nasmith