

LEGISLATIVE BILL 700

Approved by the Governor April 19, 1985

Introduced by Pappas, 42

AN ACT relating to franchises; to provide for termination; to provide for trial lease and franchise agreements as prescribed; to define successor in interest; and to provide duties.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) Any franchise agreement relating to the distribution or retail sale of motor fuels and special fuels and any agreement for the lease of real or personal property which is part of any such franchise agreement shall terminate upon the death of the franchisee. However, a one-year trial lease and franchise agreement shall be granted by such franchisor to the franchisee's designated and qualified successor in interest if:

(a) The franchisee has provided the franchisor with written notice of the designation of a qualified successor in interest at least six months prior to the death of the franchisee. Such notice shall be on a form prescribed by the franchisor and made available to the franchisee at the franchisee's request; and

(b) The franchisee has been a franchisee of the same franchisor with whom he or she has a valid franchise agreement at the time of his or her death for a period of at least five consecutive years prior to his or her death.

(2) For purposes of this act, successor in interest shall be restricted to a surviving spouse, adult child, brother, sister, or parent of the franchisee who, at the time of the franchisee's death, meets reasonable qualifications then being required of franchisees by the franchisor.

(3) Unless otherwise specifically provided in this section, actions to be performed by the franchisor or by the successor in interest under this act shall be performed within a reasonable time.

Sec. 2. A franchisee may designate one primary and one alternate successor in interest. The alternate, if one is designated, shall have no rights under this act if the primary successor in interest exercises his or her rights under this act. If an alternate desires to assume and operate the franchise in the event the primary successor in interest fails to do so, the alternate shall give notice of such election within forty-five days after the death of the franchisee and shall comply with this act.

Sec. 3. (1) Upon meeting the reasonable

qualifications referred to in section 1 of this act, the successor in interest shall be entitled to enter into a one-year trial lease and franchise agreement with the franchisor as provided by the Petroleum Marketing Practices Act, 15 U.S.C. 2801.

(2) The primary successor in interest shall have twenty-one days after the death of the franchisee to give written notice of an election to enter into the trial lease and franchise. The notification shall contain such information regarding business experience and credit worthiness as is reasonably required by the franchisor.

(3) If the successor in interest assumes the franchise, the successor in interest shall account to the heirs or estate of the deceased franchisee for the value of personal property of the franchisee located at or related to the franchise.

Sec. 4. This act shall apply to franchise agreements existing on and those executed or renewed on or after the effective date of this act.