

**TESTIMONY OF DEAN HEYL
INTERNATIONAL FRANCHISE ASSOCIATION
S. 114 – OPPOSITION
JOINT COMMITTEE ON COMMUNITY DEVELOPMENT AND SMALL
BUSINESS
JUNE 9, 2015**

Chairwomen and Members of the Committee, thank you for taking the time today to listen to our organization's strong concerns with Senate Bill 114. While this Bill is entitled, "An Act Protecting Small Business Investments," IFA believes that, if enacted, SB 114 would irreparably damage the franchise industry in Massachusetts.

My name is Dean Heyl and I am testifying on behalf of the International Franchise Association. The IFA is the world's oldest and largest organization representing franchise industry. Our membership includes franchisors in over 100 different business format categories, more than 17,000 individual franchisees, and companies that support the industry in marketing, law and business development. **In Massachusetts, there are more than 13,500 franchise establishments employing over 149,000 individuals.** Clearly, franchising is a tremendous economic engine in Massachusetts and the industry has thrived under the current regulatory climate.

While the IFA is a Washington, DC based trade group, we are best represented by our members at the grassroots level. Therefore, the testimony you'll hear today outlining our opposition to Senate Bill 114 bill will be from witnesses based in Massachusetts.

It's also extremely important to understand the IFA's opposition to this bill is based on opposition from ALL three segments of the franchising industry that we represent:

- The franchisors, who own the trademarks and the brands themselves;
- The franchisees who purchase the rights from the franchisor to own and operate a franchised business under the terms of a mutually-agreed upon contract that governs a fixed period of time (often 10-20 years);
- And the suppliers, including legal experts who work for both franchisors and franchisees to ensure the contracts each party freely enters into are fair, equitably, and most importantly, understand by both parties to the franchise agreement.

Over the last few years, several states have considered franchise relationship bills such as Senate Bill 114. All of them have failed to become law, including repeated attempts in Massachusetts during the last two legislative sessions. Most notably, last year, California Governor Brown vetoed a franchise relationship bill, which was much narrower in scope than the one we are discussing today.

Franchising offers many benefits not found in other businesses. A franchise provides an established product or service which may already enjoy widespread brand-name recognition. This gives the franchisee the benefits of a pre-sold customer base which would ordinarily takes years to establish.

A franchise increases the chances of business success because franchisees are associating with proven products and methods.

Franchises may offer consumers the attraction of a certain level of quality and consistency because it is mandated by the franchise agreement.

However, Senate Bill 114 would greatly diminish or eliminate all of the above advantages to operating a franchise.

Although some 18 states have some type of "franchise" laws, these statutes vary widely from mere registration of franchisors to disclosures to franchisees. However, none of them mirror the provisions in Senate Bill 114. While on the subject of franchise relationship laws, there were significant negative consequences for franchising and the Iowa economy following the enactment of the franchise relationship law in 1992, which was strongly opposed by IFA and the business community in the state. From 1992 to 2006, the growth rate of franchise businesses in Iowa was approximately 30 percent lower than national average *among a study of 74 brands*. Compared to other states in Midwest, Iowa had the slowest growth rate in the four years following enactment of the law. Clearly, this law did not do anything to improve franchise relations while it had a significant negative impact on the Iowa economy.

Fundamentally, IFA and our members believe the successful resolution of the infrequent disputes that arise between franchisors and franchisees should be done without legislation. The IFA's franchisee and franchisor members have a very successful ombudsman program, a Franchise Relations Committee and a Set of Guiding Principles that all aim to find solutions that do not require governmental intervention.

Senate Bill 114 would undermine franchise agreements that are at the core of every relationship between franchisees and franchisors. For us, it seems like a solution in search of problem that fundamentally does not exist in Massachusetts or elsewhere.

In conclusion, the IFA respectfully believes contracts should mean something. Senate Bill 114 is at odds with this premise.

I'd be glad to answer any questions you may have.

Thank you.