



IFA NATIONAL RESTAURANT ASSOCIATION



BUFFALO WILD WINGS



YORBA LINDA CHAMBER OF COMMERCE WHERE BUSINESS HAPPENS



April 12th, 2023

TO: Members, California State Assembly

RE: Opposition to AB 1228

Dear Speaker Rendon & Members of the Assembly:

The International Franchise Association, California Chamber of Commerce & California Restaurant Association, along with our collective members and undersigned coalition partners wish to express our **strong opposition to AB 1228**, the Fast Food Franchisor Responsibility Act introduced by Assemblymember Chris Holden. While the purported purpose of the legislation of providing safe working standards is something we all support and strive to provide on a daily basis, AB 1228 equates to a dismantling of the franchise business model in California. Employees are the backbone of the franchisee business model and their rights, working conditions and overall protections are of the utmost importance to all involved.

During a time when all small franchised business owners are doing everything possible to keep the lights on and the doors coming out of the COVID-19 pandemic, this legislation is ill-timed and would do more to hurt businesses and their employees than help them.

California has over 15,000 franchised restaurants that employ over 500,000 people across the state. These independently-owned and operated businesses employ workers in a range of jobs – from those just entering the workforce to managers to specialized professionals. Recent statistics show growing numbers of women and minorities owning franchise establishments, underscoring the importance of preserving the small business franchise model to promote minority and female entrepreneurship as well as continuing an economic recovery from the pandemic. Over the last five years, minority and women franchise ownership has grown by more than 50% across the country. Nearly 33% of all franchises across the country are owned by minorities, compared to just 18% of non-franchise businesses. Franchising – and franchise ownership – is a path toward increased job creation and economic growth among people from all walks of life and socioeconomic backgrounds.

This potential for continued growth is threatened by a common misconception of the franchise business model. This misconception, which clearly serves as the underpinning of AB 1228 is that the owner of the franchise brands – the “franchisors” – actually own and operate the stores and make employment decisions for them. In reality, franchise establishments across the state are locally owned small businesses operating under a national brand or identity. The local business owners are in charge of all employment decisions, including hiring, firing, wages and benefits. It is the local franchisee who owns and operates the establishment, not the franchisor. **In fact, the national brands have no role whatsoever in determining wages or any other day-to-day operations of a franchisees’ employees and/or employment practices of a franchisee.**

With establishment of joint liability of franchisors by AB 1228, California is making a *per se* determination that franchisors are the joint employers of franchisees. In doing so, California is also making a *per se* determination that these owners and entrepreneurs are not small business owners, but middle managers of large corporations. These small business owners made the decision to get into business for themselves. If AB 1228 is signed into law, California would be removing the equity

and livelihood of business owners that make the franchise model a melting pot of entrepreneurship.

Making labor decisions for franchisees is not a brand standard franchisors can establish or enforce under any law. AB 1228 makes the improper assumption, and reaches the improper conclusion, that franchisors and franchisees have some collective control over each other's day-to-day business affairs.

This is absolutely untrue. Additionally, passage of AB 1228 would make California an outlier: no other city, state or federal government has passed or even contemplated a similar law, primarily due to the realization that franchisors do not in fact employ those who work in a franchisee's establishment. **The *per se* liability imposed by AB 1228 is unprecedented at any level of government and completely ignores the case-by-case factual analysis that is required, and which has been used in this context in the past.**

Franchisees and franchisors are in no way employment partners with each other. No franchisor has any authority over how their franchisees choose to manage their employees on a day-to-day basis.

Independent franchisees are no different than any other independent business owner, and despite what AB 1228 is attempting to do, the legal, contractual, operational, and economic realities of the relationship will not change. **AB 1228 will impose a *per se* liability rule on entities and principals that have no role whatsoever in the issues addressed in the legislation.**

We agree with your efforts to protect workers in the state, but we urge you to adopt policies that ensure the viability of the vibrant and diverse franchise community. Ensuring a level playing field for all California businesses is paramount and assigning liability only to the responsible party is in the interest of all involved. Dismantling a business model that provides upward mobility and entrepreneurial opportunities to thousands of Californians is misguided public policy and will only serve to hamper job growth and opportunities across the state.

Sincerely,



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Ashley Hoffman
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Signers:

International Franchise Association
National Restaurant Association
National Council of Chain Restaurants
California Restaurant Association
California Chamber of Commerce
California Retailers Association
Civil Justice Association of California
Family Business Association of California
California Business Properties Association
California Fuels & Convenience Alliance
Arby's
Baskin-Robbins
Buffalo Wild Wings
Chick-fil-A
Dunkin'
Elmer's Breakfast·Lunch·Dinner
El Pollo Loco
Jimmy John's
McDonald's
Restaurant Brands International
Sonic Drive-In
Subway
Wendy's
Yum! Brands
Alhambra Chamber of Commerce
Brea Chamber of Commerce
Carlsbad Chamber of Commerce
Chino Valley Chamber of Commerce
Coalition of California Chambers - Orange County
Corona Chamber of Commerce
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Folsom Chamber of Commerce
Gilroy Chamber of Commerce
Glendora Chamber of Commerce
Greater Coachella Valley Chamber of Commerce
Greater High Desert Chamber of Commerce
Greater Riverside Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Hollywood Chamber of Commerce
Imperial Valley Regional Chamber of Commerce
La Cañada Flintridge Chamber of Commerce
Lake Elsinore Valley Chamber of Commerce
Lincoln Chamber of Commerce
Livermore Chamber of Commerce
Los Angeles Area Chamber of Commerce
Los Angeles County Business Federation (LA BizFed)
Mission Viejo Chamber of Commerce
Murrieta-Wildomar Chamber of Commerce
Newport Beach Chamber of Commerce
Oceanside Chamber of Commerce
Orange County Business Council (OCBC)
Pasadena Chamber of Commerce and Civic Association
Paso Robles Chamber of Commerce
Porterville Chamber of Commerce
Rancho Cordova Area Chamber of Commerce
Ridgecrest Chamber of Commerce
Rocklin Area Chamber of Commerce
Roseville Area Chamber of Commerce
San Diego Regional Chamber of Commerce
San Joaquin County Hispanic Chamber of Commerce
San Jose Chamber of Commerce
San Juan Capistrano Chamber of Commerce
San Marcos Chamber of Commerce
Santa Barbara South Coast Chamber of Commerce
Santa Clarita Valley Chamber of Commerce
Santa Maria Valley Chamber of Commerce
Santee Chamber of Commerce
Shingle Springs/Cameron Park Chamber of Commerce
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
Templeton Chamber of Commerce
Torrance Area Chamber of Commerce
Tri-County Chamber Alliance
United Chamber Advocacy Network (UCAN)
Walnut Creek Chamber of Commerce
Yorba Linda Chamber of Commerce
Yuba Sutter Chamber of Commerce