HOUSE DOCKET, NO. 3771 FILED ON: 5/25/2011

HOUSE . . . . . No. 3513

By Mr. Keenan of Salem, a petition (accompanied by bill, House, No. [BILL NUMBER]) of John D Keenan for legislation to clarify the status of employees of franchisors. Community Development and Small Businesses.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to clarifying franchises.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 148B of chapter 149 of the Massachusetts General Laws, as amended by section 26 of chapter 193 of the acts of 2004, is hereby amended by inserting at the end thereof the following:-

(f) Notwithstanding the provisions of this section, an individual who owns a franchise, or is a party to a franchise agreement under which he or she is authorized to sell products and/or services (a) in accordance with prescribed methods and procedures; and (b) under service marks, trademarks, trade names and other intellectual property licensed under such agreement, shall not be considered an employee of the franchisor. For the purposes of this section, “Franchise" has the same meaning ascribed to it by the Federal Trade Commission in 16 CFR 436 through 436.11"

SECTION 2. Section 2 of chapter 151A of the Massachusetts General Laws is hereby amended by inserting at the end thereof the following:-

Notwithstanding the provisions of this section, an individual who owns a franchise, or is a party to a franchise agreement under which he or she is authorized to sell products and/or services (a) in accordance with prescribed methods and procedures; and (b) under service marks, trademarks, trade names and other intellectual property licensed under such agreement, shall not be considered to be engaged in an employment relationship with the franchisor subject to this chapter. For the purposes of this section, “Franchise" has the same meaning ascribed to it by the Federal Trade Commission in 16 CFR 436 through 436.11".

20 SECTION 3. Paragraph (4) of section 1 of chapter 152 of the Massachusetts General
21 Laws is hereby amended by inserting at the end thereof the following:-

22 Notwithstanding the provisions of this section, an individual who owns a franchise, or is
23 a party to a franchise agreement under which he or she is authorized to sell products and/or
24 services (a) in accordance with prescribed methods and procedures; and (b) under service marks,
25 trademarks, trade names and other intellectual property licensed under such agreement, shall not
26 be considered an employee of the franchisor. For the purposes of this section, “Franchise" has
27 the same meaning ascribed to it by the Federal Trade Commission in 16 CFR 436 through
28 436.11".