

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2091
(Industry, Business and Labor Committee)
(At the request of the Securities Commissioner)

AN ACT to amend and reenact subsection 2 of section 51-19-04 and subdivisions f and g of subsection 2 of section 51-19-13 of the North Dakota Century Code, relating to franchise registration exemptions and the powers of the securities commissioner regarding the issuance of orders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 51-19-04 of the North Dakota Century Code is amended and reenacted as follows:

2. The offer or sale of a franchise by a franchisee for the franchisee's own account or the offer or sale of the entire area franchise owned by a subfranchisor for the subfranchisor's own account is exempted from the provisions of section 51-19-03 if the sale is not effected by or through a franchisor; provided, however, that no ~~franchisee or~~ subfranchisor may offer or sell a franchise under this subsection without first obtaining the written approval of the commissioner. The commissioner may require that the ~~franchisee or~~ subfranchisor and the franchisor provide the prospective purchaser and the commissioner with such information and disclosures as the commissioner deems necessary or appropriate to carry out the purposes of this chapter. A sale is not effected by or through a franchisor merely because a franchisor has a right to approve or disapprove a different franchisee.

SECTION 2. AMENDMENT. Subdivisions f and g of subsection 2 of section 51-19-13 of the North Dakota Century Code are amended and reenacted as follows:

- f. If, in the opinion of the commissioner, the offer of any franchise is subject to registration under this chapter and it is being or has been offered for sale without the offer first being registered, the commissioner may order the franchisor or offeror of the franchise to desist and refrain from the further offer or sale of the franchise unless and until the offer has been duly registered under this chapter. In addition to any other remedy authorized by this chapter, the commissioner may impose by order and collect a civil penalty in an amount not to exceed ten thousand dollars for each violation against any person found in an administrative action to have violated this chapter. The commissioner may bring an action in district court to recover penalties under this section. If, within fifteen days after the order has been made served on the respondent, a request for a hearing is filed in writing by the person to whom the order was directed, a hearing must be held. ~~Unless the hearing is commenced within fifteen business days after the request is made or unless the person persons affected consents consent to a later date, the order is rescinded.~~ If a request for hearing is not made within the fifteen days permitted herein, the order is final.
- g. If, in the opinion of the commissioner, the offer of any franchise exempt from registration under this chapter is being or has been offered for sale without complying with section 51-19-04 or subsection 2 of section 51-19-11, the commissioner may order the franchisor or offeror of the franchise to desist and refrain from the further offer or sale of the franchise unless and until an offer is made in compliance with this chapter. In addition to any other remedy authorized by this chapter, the commissioner may impose by order and collect a civil penalty in an amount not to exceed ten thousand dollars for each violation against any person found in an

administrative action to have violated this chapter. The commissioner may bring an action in district court to recover penalties under this section. If, within fifteen days after the order has been ~~made~~ served on the respondent, a request for a hearing is filed in writing by the person to whom the order was directed, a hearing must be held: ~~Unless the hearing is commenced within fifteen business days after the date, the order is rescinded.~~ If a request for hearing is not made within the fifteen days permitted herein, the order is final.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2091.

Senate Vote: Yeas 49 Nays 0 Absent 0

House Vote: Yeas 97 Nays 0 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State