

FRANCHISE & DISTRIBUTION

BRITISH COLUMBIA (CANADA) INTRODUCES UNIFORM FRANCHISE LEGISLATION, COULD TAKE EFFECT IN 2016

by Andrae J. Marrocco

The British Columbia (Canada) government has introduced a bill that will make it the sixth province in Canada to regulate franchising along with the provinces of Alberta, Ontario, Manitoba, New Brunswick and Prince Edward Island.

According to Bill 38-2015, Franchises Act (Franchises Act) for the Province of British Columbia ("BC"), the legislation "is designed to strike a balance between protecting vulnerable franchisees and upholding franchisors' rights to freely contract to allow for the success of the franchise chain. It will provide franchisees with the same legal protections as those in the five other Canadian provinces with franchise legislation."

The Franchises Act is modeled on the uniform legislation that is enforced in the five other Canadian provinces that have franchise legislation "in order to provide business certainty for franchising in British Columbia." Provisions of the Franchises Act provide for the following:

- Wrap-around disclosure documents allowing franchisors to use their existing disclosure documents if they are supplemented with additional information required to comply with British Columbia legislation and regulations.
- A substantial compliance standard to be applied to disclosure documents.
- Major investor exemption allowing franchisors to forego the expensive process of disclosure should a potential franchisee invest a prescribed amount.
- Franchisors can accept a fully refundable deposit from a prospective franchisee prior to providing disclosure so long as the deposit does not exceed a prescribed amount.
- Prohibition against a waiver or release of rights does not apply to a post-dispute settlement agreement.
- Mediation will not be mandatory.
- Electronic delivery methods allowing franchisors to make electronic disclosure, reflecting current technologies.

Bill 38-2015 was ordered for second reading at the next sitting of the

House of Commons. After the second reading, the BC government will continue to work with interested parties to make any amendments to the Franchises Act before it receives a third reading where the legislative assembly votes on whether to pass Bill 38-2015. If approved this fall, the Franchises Act is expected to be in force by late 2016 or early 2017.

FOR MORE INFORMATION CONTACT:



Andrae J. Marrocco is of Counsel in Dickinson Wright's Toronto office. He can be reached at 416.777.4046 or amarrocco@dickinsonwright.com.



Ned Levitt is a Partner in Dickinson Wright's Toronto office. He can be reached at 416.646.3842 or nlevitt@dickinsonwright.com.



Paul R. Fransway is a Member in Dickinson Wright's Ann Arbor office. He can be reached at 734.623.1713 or pfransway@dickinsonwright.com.

This client alert is published by Dickinson Wright PLLC to inform our clients and friends of important developments in the field of franchise and distribution law. The content is informational only and does not constitute legal or professional advice. We encourage you to consult a Dickinson Wright attorney if you have specific questions or concerns relating to any of the topics covered here.