The Honorable Mac McCutcheon  
Speaker of the House  
Alabama House of Representatives  

The Honorable Mike Jones  
Chairman  
Alabama House of Representatives Rules Committee  

CC: Members of the Alabama House of Representatives  

Opposition: HB 352, SB 129, and Floor Substitute for SB 129  

Dear Speaker McCutcheon, Chairman Jones, and Representatives:

We are writing in opposition to HB 352, SB 129, and the floor substitute to SB 129, sponsored by Representative Rowe and Senator Elliott, the ironically-titled “Protect Alabama Small Business Act.” This legislation has far-reaching and harmful ramifications for franchisors, franchisees, and the Alabama economy. The proposed legislation would create ambiguity and undermine the enforcement of franchise contracts, promote litigation between franchisees and franchisors, and result in sub-standard services and products for consumers in Alabama. This legislation is government overreach in its most obvious form, inserting the state of Alabama as a third party in private contracts between franchisors and franchisees.
While the floor substitute for SB 129, offered on May 8, 2019, attempts to clarify definitions and language, it does not address the core problems of the bill, which harm franchise small business owners in Alabama.

This legislation would further complicate and undermine the existing, strong regulatory system that governs franchising with vague language and unreasonable new regulations – all in an attempt to solve a problem that does not exist. This measure would harm Alabama’s 12,000 franchise establishments, which generate nearly $10 billion in economic output and employ nearly 125,000 Alabama residents.

As franchisors, we want our franchise units to succeed, and they are succeeding in Alabama. In fact, Alabama’s 2017 franchise unit closure rate was below the average closure rate of neighboring states, and was equal to the national franchise unit closure rate of 6.5%. For comparison, a small non-franchised business nationally has a 20% chance of closing its first year, rising to 50% in its fifth year. The myth that franchise brand companies are predatory, out-of-state corporations ruining the economic wellbeing of hardworking, entrepreneurial Alabamians could not be further from the truth.

Additionally, this misguided attempt to layer additional, vague regulations on top of existing regulations would predictably hurt Alabama’s economy. This legislation would have devastating consequences for Alabama. In the first four years after enactment, this legislation would prevent the opening of more than 425 franchise businesses in the state, resulting in more than 4,500 jobs not created. Over the ten years following, Alabama would lose out on roughly a billion dollars in economic output as franchise growth lags behind that of neighboring states.

This legislation undermines the very key to franchising – a brand’s standards of safety, quality, and operation. These brand standards signal to consumers they can expect the same safety, consistency, and quality of a product or service regardless of the business location. By placing these brand standards at risk, HB 352 & SB 129 (and as substituted) will actually hurt the majority of Alabama’s existing franchise small business owners and their customers. If this legislation takes effect, Alabama franchise small business owners will have to contend with uneven quality standards, fewer loyal customers, and shrinking opportunities for new business ventures. In effect, the legislation protects substandard operators at the expense of those who meet their contractually-agreed-upon standards and obligations.

Moreover, this bill will also be harmful to Alabama residents interested in pursuing franchise ownership, as franchisors will be less likely to develop new franchise locations in Alabama due to the significant risk associated with a regulatory environment under HB 352 & SB 129 (and as substituted). Companies not currently franchising but considering franchising as a method of expansion have already indicated this proposal would preclude that as a viable option in Alabama, further depriving potential business owners from an opportunity to start a business and employ Alabama residents.

Between its weakening of brand standards and the chilling effect of new regulations, this legislation both harms existing small business owners and hinders prospective small business
owners from starting businesses of their own. The franchise small business owners who play by the rules, honor customer deals and adhere to these quality controls will feel less secure about doing business in Alabama. This legislation puts these owners, who have built equity in their business, at a disadvantage to those franchise owners that decide not to comply with their contractual agreements.

The franchise industry gives local entrepreneurs the means to build and grow a business within an established, successful franchise system. Legislators should be focused on policies encouraging job creation and economic growth, not ones that inhibit growth or give franchise small business owners additional concern about expanding in Alabama. Franchise agreements are private contracts that should be honored. This legislation will only hurt Alabama’s economy and franchising in the state. For the reasons set forth above, we respectfully request that the Committees oppose HB 352, SB 129, and the floor substitute to SB 129.

Sincerely,

International Franchise Association
American & Hotel Lodging Association
AireServ Heating & Air Conditioning
Alloy Wheel Repair Specialists
American Family Care
Another Broken Egg Café
Any Lab Test Now
Arby’s
Archadeck
Axe Monkeys Franchising, LLC
Auntie Anne’s
Aussie Pet Mobile
Batteries Plus, LLC
Ben’s Soft Pretzels
BrightStar Care
Buffalo Wild Wings
Bumper Man Inc.
Burn Bootcamp
CarePatrol
Carvel
CertaPro Painters
Conserva Irrigation
Challenge Island
Chicken Salad Chick
Choice Hotels International, Inc.
Church’s Chicken
Cinnabon
Class 101, Inc.
ComForCare Home Care
Coverall

Creative Colors International
Denny’s
Discovery Point
Domino’s Pizza, Inc.
Eliances
EventPrep Franchise, Inc.
Expedia CruiseShipCenters
Express Employment Professionals
Fast-Fix Jewelry and Watch Repairs
FASTSIGNS International
FirstService Brands
FOCUS Brands
FranLaunch USA
FranNet, LLC
Hilton
Hobby Quest
Home Helpers
Home Instead
Hungry Howie’s Pizza & Subs, Inc.
Huntington Learning Center
Image Studios 360
Inspire Brands
InterContinental Hotels Group (IHG)
Jamba Juice
KFC
Kitchen Tune-Up
McAlister’s Deli
McDonald’s Corporation
Metal Supermarkets Family of Companies
Moe’s Southwest Grill
| Molly Maid                          | Schlotzsky’s                        |
| Money Mailer                      | ServPro                             |
| Mr. Handyman Home Improvement     | Sonic                               |
| Professionals                     | SportClips                          |
| Newk’s Eatery                     | Streamline Brands                   |
| NTY Franchise Company             | Taco Bell                           |
| Office Evolution                  | Talem Home Care                     |
| Outdoor Living Brands             | Taziki’s Mediterranean Cafe         |
| Outdoor Lighting Perspectives     | Teriyaki Madness                    |
| Padgett Business Services         | The Patch Boys                      |
| Pigtails & Crewcuts Haircuts for Kids | The UPS Store, Inc.              |
| Pizza Hut                         | WingStreet                          |
| PostNet                           | Yum! Brands                         |
| Renew Crew                        | 7-Eleven Inc.                       |