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CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 257

**Introduced by Assembly Members Holden, Carrillo, Low, and
Luz Rivas**

**(Coauthors: Assembly Members Mia Bonta, Gipson, Kalra,
McCarty, Muratsuchi, and Santiago)**

(Coauthors: Senators Stern and Wiener)

January 15, 2021

An act to amend Section 96 of, and to add Part 4.7 (commencing with Section 1470) to Division 2 of, the Labor Code, relating to food facilities and employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 257, as amended, Holden. Food facilities and employment.

Existing law prescribes various protections for employees and generally charges the Labor Commissioner with the enforcement of labor laws. Existing law establishes the powers and responsibilities of the Division of Occupational Safety and Health and the Division of Labor Standards and Enforcement, which are within the Department of Industrial Relations.

This bill would enact the Fast Food Accountability and Standards Recovery Act or FAST Recovery Act. The bill would establish the Fast Food Sector Council (council) within the Department of Industrial Relations, to be composed of ~~11~~ 13 members to be appointed by the Governor, the Speaker of the Assembly, and the Senate Rules Committee, and would prescribe its powers. The purpose of the council would be to establish sectorwide minimum standards on wages, working hours, and other working conditions related to the health, safety, and welfare of, and supplying the necessary cost of proper living to, fast food restaurant workers, as well as effecting interagency coordination and prompt agency responses in this regard. The bill would define the characteristics of a fast food restaurant, including that the establishment be part of a set of fast food restaurants consisting of 30 or more establishments nationally that share a common brand, or that are characterized by standardized options for decor, marketing, packaging, products, and services.

This bill would require the council to promulgate minimum fast food restaurant employment standards, including standards on wages, working conditions, and training, and to issue, amend, and repeal any other rules and regulations, as necessary to carry out its ~~duties~~: *duties, subject to affirmative vote by the Secretary of Labor and Workforce Development.* Under the bill, if a conflict exists between council's standards, rules, or regulations and those issued by another state agency, the standards, rules, or regulations issued by the council would apply to fast food restaurant workers and fast food restaurant franchisees and franchisors, and the conflicting rules or regulations of the other state agency would not have force or effect with respect to these parties. The bill would except from this application proposed standards within the jurisdiction of the Occupational Safety and Health Standards Board and would prescribe an alternate process in this regard.

This bill would require the council to submit a report to the Legislature, as specified, for a standard, or repeal or amendment of a standard, to become ~~effective at least 60 days after the report is received by the Legislature, as specified and subject to exceptions~~: *effective, and would specify that a standard, repeal, or amendment shall not take effect before October 15 of the same year.* The bill would also require the council to provide information as requested by the appropriate committees of the Legislature on labor to facilitate a review of the council's performance and standards, as specified.

This bill would require the council to conduct a full review of the adequacy of minimum fast food restaurant health, safety, and employment standards at least once every 3 years. The bill would require the council, following that review, to issue, amend, or repeal, or make recommendations to issue, amend, or repeal, any fast food employment, health or safety standard as appropriate. The bill would require the council to hold hearings *no less than* every 6 months that would be open to the public, as specified, and would authorize the council to coordinate with and authorize local agencies to hold such meetings. The bill would authorize a county, ~~and~~ *or* a city with a population greater than 200,000, to establish a Local Fast Food Sector Council, and would prescribe its powers and requirements for its composition. The bill would authorize a Local Fast Food Sector Council to provide recommendations to the council and would prescribe requirements for the state council in connections with these recommendations.

This bill would require standards for minimum wages, maximum hours of work, and other working conditions fixed by the council to be the minimum standards for fast food restaurant ~~employees~~ *employees*, *absent a valid collective bargaining agreement*, and would require that they be enforced by the Division of Labor Standards Enforcement. The bill would require the Labor Commissioner and the commissioner's deputies to take assignments of violations of standards issued by the council upon the filing of a claim in writing by an employee or an employee's authorized representative.

In addition to the above, the FAST Recovery Act would require that fast food restaurant franchisor be responsible for ensuring that its franchisee comply with a variety of employment, worker, and public health and safety laws and orders, including those related to unfair business practices, employment discrimination, the California Retail Food Code, a range of labor regulations, emergency orders, and standards ~~issued~~ *established* by the council. The bill would require that a fast food restaurant franchisor be jointly and severally liable for violations of its franchisee, as specified, and would provide that specified laws may be enforced against a fast food restaurant franchisor to the same extent that they may be enforced against a franchisee. By expanding the application of crimes associated with employment, worker, and public health and safety laws, this bill would impose a state-mandated local program. Among other things, the bill would authorize a fast food restaurant franchisee to file an action against its franchisor for monetary or injunctive relief in connection with the terms

of a franchise and the franchisee’s compliance with specified laws and orders. The bill would create presumptions in this regard and would provide for joint and several liability of the franchisor if the terms of a franchise are found to be a substantial factor in causing the franchisee to be liable. The bill would prohibit a fast food restaurant operator from discharging or in any manner discriminating or retaliating against any fast food restaurant employee for specified reasons and would create a cause of action and right to reinstatement for employees in this connection, as well as a presumption of unlawful discrimination and retaliation in certain circumstances.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Fast Food Accountability and Standards Recovery Act or FAST
- 3 Recovery Act.
- 4 SEC. 2. The Legislature finds and declares the following:
- 5 (a) For years, the fast food sector has been rife with abuse, low
- 6 pay, few benefits, and minimal job security, with California
- 7 workers subject to high rates of employment violations, including
- 8 wage theft, sexual harassment and discrimination, as well as
- 9 heightened health and safety risks.
- 10 (b) Fast food workers are the largest and fastest growing group
- 11 of low-wage workers in the state and lack sector-specific
- 12 protections.
- 13 (c) The COVID-19 pandemic has illustrated the implications
- 14 for workers and the public when a disempowered workforce faces
- 15 a crisis in a sector with a poor history of compliance with
- 16 workplace health and safety regulations.
- 17 (d) Workers with inadequate means to amplify their voices and
- 18 their experience, and to address the pervasive problems plaguing
- 19 the sector, have exacerbated the impact of this crisis and denied

1 workers a path to win safer workplaces for themselves, their
2 families, and fast food consumers.

3 (e) Since the onset of the COVID-19 pandemic, numerous local,
4 state, and federal laws and regulations have been instituted to
5 require operational changes on the part of businesses to protect
6 employees from infection.

7 (f) Numerous complaints filed by fast food workers with *state*
8 *and* local health departments ~~and the Division of Occupational~~
9 ~~Safety and Health~~ illustrate that *many* fast food operators routinely
10 have flouted protections, including, but not limited to, failing to
11 provide adequate protection against workplace violence, requiring
12 workers to work without access to personal protective equipment,
13 denying workers sick pay, failing to inform workers of exposure
14 to COVID-19, actively hiding COVID-19 cases, and demanding
15 that workers come to work when they are sick.

16 (g) As a result, fast food workers, and the public they serve,
17 face serious and unacceptable risks to their health and safety.

18 (h) In addition, fast food companies have profited during the
19 pandemic, while California's one-half million fast food workers
20 have been hard hit, both medically and financially. Despite
21 corporate profits, fast food workers are poorly positioned to
22 participate in a fast recovery and a more equitable economy, one
23 that reflects improved job quality, wages, and working conditions,
24 responsible use of technology, and modernized worker protections.

25 (i) Therefore, cooperation between state agencies with
26 responsibility for improving and enforcing health and safety and
27 other worker protection laws, with regular input from business and
28 worker representatives, along with improved incentives to achieve
29 compliance, is critical to protecting fast food workers, customers,
30 and the public.

31 (j) Furthermore, because existing enforcement and regulatory
32 mechanisms have proved inadequate in ensuring fast food
33 restaurant worker health, safety, and welfare, the Legislature
34 concludes that sectorwide minimum health, safety, and employment
35 standards, including standards concerning wages and other working
36 conditions, identified by an expert body with subject matter
37 expertise and experience in the fast food sector, are necessary to
38 protect, maintain, and ensure the health, safety, and welfare of,
39 and to supply the necessary cost of proper living to, fast food
40 restaurant employees.

1 (k) Nothing in this act is intended to usurp or encroach on the
2 Legislature's ability to establish standards governing the health,
3 safety, welfare, and employment of workers, including fast food
4 restaurant workers. It is the intent of the Legislature to ensure that
5 legislators have sufficient time to review and, as appropriate, take
6 legislative action with respect to fast food standards established
7 by the expert body, which will be promulgated pursuant to
8 notice-and-comment rulemaking procedures, before those standards
9 take effect.

10 SEC. 3. Section 96 of the Labor Code is amended to read:

11 96. The Labor Commissioner and the deputies and
12 representatives authorized by the commissioner in writing shall,
13 upon the filing of a claim therefor by an employee, or an employee
14 representative authorized in writing by an employee, with the
15 Labor Commissioner, take assignments of:

16 (a) Wage claims and incidental expense accounts and advances.

17 (b) Mechanics' and other liens of employees.

18 (c) Claims based on "stop orders" for wages and on bonds for
19 labor.

20 (d) Claims for damages for misrepresentations of conditions of
21 employment.

22 (e) Claims for unreturned bond money of employees.

23 (f) Claims for penalties for nonpayment of wages.

24 (g) Claims for the return of workers' tools in the illegal
25 possession of another person.

26 (h) Claims for vacation pay, severance pay, or other
27 compensation supplemental to a wage agreement.

28 (i) Awards for workers' compensation benefits in which the
29 Workers' Compensation Appeals Board has found that the
30 employer has failed to secure payment of compensation and where
31 the award remains unpaid more than 10 days after having become
32 final.

33 (j) Claims for loss of wages as the result of discharge from
34 employment for the garnishment of wages.

35 (k) Claims for loss of wages as the result of demotion,
36 suspension, or discharge from employment for lawful conduct
37 occurring during nonworking hours away from the employer's
38 premises.

1 (l) Claims for violations of standards issued by the Fast Food
2 Sector Council pursuant to Part 4.7 (commencing with Section
3 1470) of Division 2.

4 SEC. 4. Part 4.7 (commencing with Section 1470) is added to
5 Division 2 of the Labor Code, to read:

6
7
8

PART 4.7. FAST FOOD WORKERS

9 1470. For purposes of this part:

10 (a) "Fast food chain" means a set of restaurants consisting of
11 30 or more establishments nationally that share a common brand,
12 or that are characterized by standardized options for decor,
13 marketing, packaging, products, and services.

14 (b) "Council" means the Fast Food Sector Council.

15 (c) "Fast food restaurant" means any establishment in the state
16 that is part of a fast food chain and that, in its regular business
17 operations, primarily provides food or beverages in the following
18 manner:

- 19 (1) In disposable containers.
- 20 (2) For immediate consumption either on or off the premises.
- 21 (3) With limited or no table service.
- 22 (4) To customers who order or select items and pay before
23 eating.

24 (d) "Fast food restaurant franchisee" means a person to whom
25 a fast food restaurant franchise is granted.

26 (e) "Fast food restaurant franchisor" means a person who grants
27 or has granted a fast food restaurant franchise.

28 (f) "Fast food restaurant operator" means a person who operates
29 a fast food restaurant.

30 (g) "Franchise," "franchisee," and "franchisor" have the
31 definitions set forth in Article 1 (commencing with Section 20000)
32 of Chapter 5.5 of Division 8 of the Business and Professions Code.

33 1471. (a) (1) The Fast Food Sector Council is hereby
34 established within the Department of Industrial Relations to consist
35 of the following ~~11~~ 13 members:

36 ~~(A) One representative from the State Department of Public
37 Health.~~

38 (A) *The Secretary of Labor and Workforce Development.*

39 (B) One representative from the Division of Occupational Safety
40 and Health.

1 (C) One representative from the Division of Labor Standards
2 and Enforcement.

3 (D) Two representatives from the Department of Industrial
4 Relations.

5 (E) ~~One representative~~ *Two representatives* of fast food
6 restaurant franchisors.

7 (F) ~~One representative~~ *Two representatives* of fast food
8 restaurant franchisees.

9 (G) Two representatives of fast food restaurant employees.

10 (H) Two representatives of advocates for fast food restaurant
11 employees.

12 (2) The Governor shall appoint the representatives of the state
13 agencies. The Speaker of the Assembly shall appoint ~~the one~~
14 *representative of fast food restaurant franchisors, one representative*
15 *of fast food restaurant franchisees*, one representative of fast food
16 restaurant employees, and one representative of an advocate for
17 fast food restaurant employees. The Senate Rules Committee shall
18 appoint ~~the one representative of fast food restaurant franchisors,~~
19 *one representative of fast food restaurant franchisees*, one
20 representative of fast food restaurant employees, and one
21 representative of an advocate for fast food restaurant employees.

22 (3) The appointments shall be at the will of each appointing
23 power and each member of the commission shall serve for a term
24 of four years. All terms shall end on January 1. Vacancies occurring
25 prior to the expiration of the term shall be filled by appointment
26 for the unexpired term. A commission member shall not serve
27 more than two consecutive terms. ~~The council shall elect by~~
28 ~~majority vote a member to serve as its chairperson.~~

29 (4) *The Secretary of Labor and Workforce Development shall*
30 *be the chairperson of the council and shall be responsible for*
31 *convening the council and facilitating its operations.*

32 (4)

33 (5) The council may employ necessary assistants, officers,
34 experts, and other employees as it deems ~~necessary~~. *necessary,*
35 *subject to appropriation.* All personnel of the council shall be
36 under the supervision of the chairperson or an executive officer to
37 whom the chairperson delegates such responsibility. All such
38 personnel shall be appointed pursuant to the State Civil Service
39 Act (Part 1 (commencing with Section 18000) of Division 5 of
40 Title 2 of the Government Code), except for the one exempt deputy

1 or employee allowed by subdivision (e) of Section 4 of Article VII
2 of the California Constitution.

3 *(6) All meetings of the council shall be subject to the*
4 *Bagley-Keene Open Meeting Act (Article 9 (commencing with*
5 *Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of*
6 *the Government Code).*

7 (b) The council's purposes are to establish sectorwide minimum
8 standards on wages, working hours, and other working conditions
9 adequate to ensure and maintain the health, safety, and welfare of,
10 and to supply the necessary cost of proper living to, fast food
11 restaurant workers and to ensure and effect interagency
12 coordination and prompt agency responses regarding issues
13 affecting the health, safety, and employment of fast food restaurant
14 workers.

15 (c) The council shall provide direction to, and coordinate with,
16 the Governor, executive agencies, and local agencies regarding
17 the health, safety, and employment of fast food restaurant workers.

18 (d) (1) The council shall promulgate minimum fast food
19 restaurant employment standards, including, as appropriate,
20 standards on wages, working conditions, and training, as are
21 reasonably necessary or appropriate to protect and ensure the
22 welfare, including the physical well-being and security, of fast
23 food restaurant workers or to otherwise meet the purposes of this
24 section, subject to the limitations of subdivision (e). The council
25 may also issue, amend, or repeal any other rules and regulations
26 as necessary to carry out its duties under this section or meet the
27 purposes of this section, subject to the limitations of subdivision
28 (e). To the extent there is a conflict between standards, rules, or
29 regulations issued by the council and the rules or regulations issued
30 by another state agency, the standards, rules, or regulations issued
31 by the council shall apply to fast food restaurant workers and fast
32 food restaurant franchisees and franchisors, and the conflicting
33 rules or regulations of the other state agency shall not have force
34 or effect with respect to fast food restaurant workers, franchisees,
35 or franchisors. Decisions by the council regarding standards, rules,
36 and regulations shall be made by an affirmative vote of at least six
37 of the council members. All standards, rules, and regulations by
38 the council shall be issued, amended, or repealed, as applicable,
39 in the manner prescribed in Chapter 3.5 (commencing with Section
40 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

1 ~~(2) (A)~~
2 (2) A standard, or repeal or amendment of a standard, shall not
3 take effect until ~~the~~ *all of the following conditions are satisfied:*
4 (A) *The council submits, to the appropriate committees on labor*
5 *of each house of the Legislature and pursuant to Section 9795 of*
6 *the Government Code, a report that contains a copy of that*
7 *standard, repeal, or amendment and a statement of the council’s*
8 *reasons for adopting that standard, repeal, or ~~amendment.~~*
9 *amendment by January 15. The standard, repeal, or amendment*
10 *shall not take effect before October 15 of that same year, and shall*
11 *not take effect if the Legislature enacts legislation modifying or*
12 *preventing it from taking effect.*
13 (B) *Decisions by the council to issue, amend, or repeal a*
14 *standard, to be effective, must include an affirmative vote of the*
15 *Secretary of Labor and Workforce Development chairperson.*
16 ~~(B) (i)~~ A standard, or repeal or amendment of a standard, shall
17 not take effect until at least 60 days during which the Legislature
18 is in session have passed since the report required by this paragraph
19 was received by the Legislature.
20 ~~(ii)~~
21 (C) This ~~subparagraph~~ *paragraph* shall not apply to emergency
22 standards.
23 (3) *Standards promulgated by the council shall be subject to*
24 *any suspension of increases in the statewide minimum wage made*
25 *pursuant to subdivision (d) of Section 1182.12.*
26 (4) *Standards promulgated by the council shall not alter or*
27 *amend the requirements in the California Retail Food Code (Part*
28 *7 (commencing with Section 113700) of Division 104 of the Health*
29 *and Safety Code).*
30 ~~(E)~~
31 (5) The council shall provide information as requested by the
32 appropriate committees of the Legislature on labor to facilitate a
33 review of the council’s performance and standards under this
34 section, which review may be conducted in a joint hearing held
35 every three years or as otherwise designated by the appropriate
36 committees of the Legislature on labor.
37 ~~(3)~~
38 (6) Nothing in this section shall be construed to give the council
39 the authority to create or amend statutes.

1 (e) To the extent that any minimum standards that the council
2 finds are reasonably necessary to protect fast food restaurant worker
3 health and safety fall within the jurisdiction of the Occupational
4 Safety and Health Standards Board, the council shall not
5 promulgate the standards, but rather shall recommend the standards
6 to the Occupational Safety and Health Standards Board. The
7 Occupational Safety and Health Standards Board shall issue a
8 written decision and explanation on the recommended standards
9 within three months, unless the recommendation is for an
10 emergency standard, in which case it shall issue a written decision
11 and explanation within one month. The Occupational Safety and
12 Health Standards Board shall adopt a fast food health and safety
13 standard recommended by the council, in accordance with the
14 procedures and provisions set forth in Chapter 6 (commencing
15 with Section 140) of Division 1, unless it finds that the
16 recommended standard is outside its statutory authority or
17 otherwise unlawful.

18 (f) The council shall conduct a full review of the adequacy of
19 the minimum fast food restaurant health, safety, and employment
20 standards at least once every three years. Upon that review, the
21 council shall issue, amend, or repeal, or make recommendations
22 to issue, amend, or repeal, any fast food employment, health or
23 safety standard, or a portion of any such standard, as appropriate
24 to meet the purposes of this section. With the exception of
25 emergency standards, any individual new standard, or an
26 amendment or repeal of an existing standard, shall not be less
27 protective of or less beneficial to health, safety, or fast food
28 restaurant worker employment conditions, including wages, than
29 the immediately preceding standard.

30 (g) The council shall hold hearings *no less than* every six months
31 that are open to the public, at which the public, including fast food
32 restaurant employees, shall have the opportunity to be heard on
33 issues of fast food restaurant health, safety, and employment
34 conditions. The council shall provide advance public notice of
35 these hearings that is reasonably calculated to advise fast food
36 restaurant workers, franchisors, franchisees, community members,
37 and other stakeholders of the opportunity to participate in the
38 hearings. The location of the hearings shall rotate among major
39 metropolitan areas throughout the state to provide fast food
40 restaurant workers, franchisors, franchisees, community members,

1 and other stakeholders throughout the state a reasonable
2 opportunity to participate in a hearing at least once per each
3 three-year review.

4 (h) The council may coordinate with local agencies and
5 authorize them to hold hearings that are open to the public, at
6 which the public, including fast food restaurant employees, shall
7 have the opportunity to be heard on issues of fast food restaurant
8 health, safety, and employment conditions. After these hearings,
9 the local agency shall prepare a report for the council that
10 summarizes the information received at the public hearings and
11 includes any recommendations for action by the council.

12 (i) A county, ~~and~~ or a city with a population of greater than
13 200,000, may establish a Local Fast Food Sector Council, which
14 shall be composed of at least one representative who is either a
15 fast food restaurant franchisor or a fast food restaurant franchisee
16 and at least one representative who is a fast food restaurant
17 employee, and a majority of representatives from local
18 employment, health, and safety agencies. A Local Fast Food Sector
19 Council established pursuant to this subdivision shall provide
20 direction to, and coordinate with, local agencies regarding the
21 health, safety, and employment of fast food restaurant workers
22 within the applicable local jurisdiction, and shall periodically hold
23 hearings that are open to the public, at which the public, including
24 fast food restaurant employees, shall have the opportunity to be
25 heard on issues of local fast food restaurant health, safety, and
26 employment conditions. A Local Fast Food Sector Council may
27 provide written recommendations to the council regarding
28 minimum local health, safety, and employment standards, including
29 training, that the Local Fast Food Sector Council finds are
30 reasonably necessary to protect the health, safety, and welfare of
31 fast food restaurant workers within the relevant local jurisdiction,
32 but these recommendations shall not be less protective of, or less
33 beneficial to, health, safety, or fast food restaurant worker
34 employment conditions than other applicable state or local
35 standards. The council shall consider any recommendations for
36 local standards from Local Fast Food Sector Councils and shall
37 provide a written explanation within 60 days if it does not adopt
38 a Local Fast Food Sector Council's recommendation for a local
39 standard.

1 (j) *All meetings of a Local Fast Food Sector Council shall be*
2 *subject to the Ralph M. Brown Act (Chapter 9 (commencing with*
3 *Section 54950) of Part 1 of Division 2 of Title 5 of the Government*
4 *Code).*

5 ~~(j)~~

6 (k) (1) *The minimum wages, maximum hours of work, and*
7 *other working conditions fixed by the council in standards*
8 *promulgated pursuant to subdivision (d) shall be the minimum*
9 *wage, maximum hours of work, and the standard conditions of*
10 *labor for fast food restaurant employees or a relevant subgroup of*
11 *fast food restaurant employees. The employment of a fast food*
12 *restaurant employee for lower wages or for longer hours than those*
13 *fixed by the minimum standards promulgated by the council, or*
14 *under any other working conditions prohibited by the minimum*
15 *standards promulgated by the council, is unlawful. Compliance*
16 *with the minimum fast food restaurant employment standards*
17 *promulgated by the council shall be enforced by the commissioner*
18 *and the Division of Labor Standards Enforcement pursuant to the*
19 *procedures and provisions set forth in Chapter 4 (commencing*
20 *with Section 79) of Division 1.*

21 (2) *The standards set by the council shall not supersede those*
22 *covered by a valid collective bargaining agreement if the*
23 *agreement expressly provides for the wages, hours of work, and*
24 *working conditions of the employees, and if the agreement provides*
25 *better wages and conditions than the minimum requirements*
26 *established by the council. Nothing in this section shall be*
27 *construed to limit the state's responsibility in enforcing workplace*
28 *laws and regulations, including those adopted by the council,*
29 *which protect workers covered by a valid collective bargaining*
30 *agreement.*

31 ~~(2)~~

32 (3) *Minimum fast food health and safety standards promulgated*
33 *by the Occupational Safety and Health Standards Board pursuant*
34 *to subdivision (e) shall be administered and enforced by the*
35 *Division of Occupational Safety and Health to the same extent as*
36 *other orders promulgated by the Occupational Safety and Health*
37 *Standards Board.*

38 (4) *Nothing in this section shall be construed to require local*
39 *health departments to enforce standards issued by the council.*

1 1472. (a) A fast food restaurant franchisor shall be responsible
2 for ensuring that its franchisee complies with the following
3 applicable employment and worker and public health and safety
4 laws and orders, and any implementing regulations:
5 (1) Chapter 5 (commencing with Section 17200) of Part 2 of
6 Division 7 of the Business and Professions Code.
7 (2) Part 2.8 (commencing with 12900) of Division 3 of Title 2
8 of the Government Code.
9 (3) Chapter 1 (commencing with Section 113700) to Chapter 9
10 (commencing with Section 114265), inclusive, of Part 7 of, and
11 Article 1 (commencing with Section 114380) to Article 4
12 (commencing with Section 114417), inclusive, of Chapter 13 of
13 Part 7 of, Division 104 of the Health and Safety Code.
14 (4) (A) Article 1 (commencing with Section 200) and Article
15 1.5 (commencing with Section 245) of Chapter 1 of, and Chapter
16 2 (commencing with Section 300) and Chapter 3 (commencing
17 with Section 350) of, Part 1.
18 (B) Chapter 1 (commencing with Section 500) of Part 2.
19 (C) Chapter 1 (commencing with Section 920), Chapter 2
20 (commencing with Section 970), Chapter 3 (commencing with
21 Section 1010), Chapter 3.1 (commencing with Section 1019),
22 Chapter 3.6 (commencing with Section 1024.5), Chapter 3.8
23 (commencing with Section 1030), Chapter 3.9 (commencing with
24 Section 1040), Chapter 4 (commencing with 1050), and Chapter
25 5 (commencing with Section 1101) to Chapter 10 (commencing
26 with Section 2000), inclusive, of Part 3.
27 (D) Article 1 (commencing with Section 2260) and Article 3
28 (commencing with Section 2350) of Chapter 1 of Part 9.
29 (E) Part 13 (commencing with Section 2698).
30 (F) Part 1 (commencing with Section 6300) of Division 5.
31 (5) Orders, including emergency and executive orders, issued
32 by the Governor regarding employment standards, worker safety,
33 or public health and safety.
34 (6) Orders issued by a county or municipality regarding
35 employment standards or worker or public health and safety.
36 (7) Section 1473.
37 (8) Standards ~~issued~~ *established* by the council.
38 (b) If a fast food restaurant franchisee is liable for a violation
39 of any of the laws and orders set forth in subdivision (a), or any
40 rules or regulations implementing these laws or orders, its

1 franchisor shall be jointly and severally liable for any penalties or
2 fines for the violation.

3 (c) The laws and orders set forth in subdivision (a), and any
4 implementing rules and regulations implementing these laws and
5 orders, may be enforced against a fast food restaurant franchisor
6 to the same extent that they may be enforced against the fast food
7 restaurant franchisor's franchisee.

8 (d) A waiver of this section or Section 1473, or any agreement
9 by a fast food restaurant franchisee to indemnify its fast food
10 restaurant franchisor for liability under this section or Section
11 1473, is contrary to public policy and is void and unenforceable.

12 (e) (1) If the terms of a franchise prevent or create a substantial
13 barrier to a fast food restaurant franchisee's compliance with the
14 laws, orders, rules, and regulations set forth in subdivision (a) and
15 their implementing rules and regulations, or any changes to them,
16 including because the franchise does not provide for funds
17 sufficient to allow the franchisee to comply with the laws, orders,
18 rules, and regulations, or any changes to them, the fast food
19 restaurant franchisee may file an action against its fast food
20 restaurant franchisor for monetary or injunctive relief necessary
21 to ensure compliance.

22 (2) There shall be a rebuttable presumption that any changes in
23 the terms of a franchise that increase the costs of the franchise to
24 the fast food restaurant franchisee create a substantial barrier to
25 compliance with the laws and orders set forth in subdivision (a)
26 and their implementing rules and regulations, or any changes to
27 them.

28 (f) If a fast food restaurant franchisee shows by a preponderance
29 of the evidence that the terms of its franchise were a substantial
30 factor in causing any liability the franchisee has actually incurred
31 under federal, state, or local law, the franchisor shall be jointly
32 and severally liable for the portion of the liability to which the
33 terms of the franchise contributed.

34 1473. (a) A fast food restaurant operator shall not discharge
35 or in any manner discriminate or retaliate against any employee
36 for any of the following reasons:

37 (1) The employee made a complaint or disclosed information
38 to the franchisor, fast food restaurant operator, or a governmental
39 agency regarding employee or public health or safety.

1 (2) The employee instituted, caused to be instituted, testified
2 in, or otherwise participated in a proceeding relating to employee
3 or public health or safety, or any council or Local Fast Food Sector
4 Council proceeding.

5 (3) The employee refused to perform work in a fast food
6 restaurant because the employee had reasonable cause to believe
7 that the practices or premises of that fast food restaurant would
8 violate any of the worker and public health and safety laws,
9 regulations, or orders in Section 1471, or would pose a substantial
10 risk to the health or safety of the employee, other employees, or
11 the public.

12 (b) Any employee of a fast food restaurant operator discharged
13 or otherwise discriminated or retaliated against in the terms and
14 conditions of employment in violation of subdivision (a) shall have
15 a right of action for, and shall be entitled to, reinstatement, and
16 treble the lost wages and work benefits caused by the
17 discrimination or retaliation, and the employee’s reasonably
18 incurred attorney’s fees and costs. The Labor Commissioner may
19 enforce violations of this section, with or without receiving a
20 complaint, pursuant to Sections 98.7 and 98.74.

21 (c) There shall be a rebuttable presumption of unlawful
22 discrimination or retaliation for purposes of this section if a fast
23 food restaurant operator discharges or takes any other adverse
24 action against one of its employees within 90 days following the
25 date when the operator had knowledge of that employee’s action
26 or actions described in paragraphs (1) to (3), inclusive, of
27 subdivision (a).

28 SEC. 5. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.

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