

AMENDED IN ASSEMBLY APRIL 28, 2021

AMENDED IN ASSEMBLY MARCH 25, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 257**

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**Introduced by Assembly Member Lorena Gonzalez**

January 15, 2021

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An act to amend Section 96 of, and to add Part 4.7 (commencing with Section 1470) to Division 2 of, the Labor Code, and to amend Sections 113949.1 and 113949.2 of the Health and Safety Code, relating to food facilities and employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 257, as amended, Lorena Gonzalez. 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. Existing law creates the California Retail Food Code, which establishes uniform health and sanitation standards for, and provides for regulation by the State Department of Public Health of, retail food facilities, as defined, and requires local health agencies to enforce these provisions.

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), to be composed of 11 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 industry-wide 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. 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 conduct a full review of the adequacy of minimum fast food restaurant health, safety, and employment standards at least once every 3 years, and would empower the council to issue subpoenas for this purpose. 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 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 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 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, 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, ~~general liability~~, employment discrimination, the California Retail Food Code, a range of labor regulations, emergency orders, and standards issued 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. 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 ~~franchisee or fast food restaurant franchisor~~ *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~~ *connection, as well as a presumption of unlawful discrimination and retaliation in certain circumstances.*

Existing law requires a local health officer or a local enforcement agency to notify the person in charge of the food facility, investigate conditions, and take appropriate action when a local health officer is notified of an illness that can be transmitted by food or an employee in a food facility. Existing law requires the owner or the food safety certified employee to require food employees to report to the person in charge if a food employee is diagnosed with an illness. Existing law specifies that illness, for purposes of those requirements, includes

salmonella typhi and norovirus, among others. A person who violates any provision of the California Retail Food Code is guilty of a misdemeanor.

This bill would additionally include COVID-19 as an illness for purposes of the above-described requirements. By increasing the duties of local officials and expanding the definition of an existing crime, this bill would impose a state-mandated local program.

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 industry has been rife with abuse,  
6 low 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 an industry 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 industry, have exacerbated the impact of this crisis and denied  
20 workers a path to win safer workplaces for themselves, their  
21 families, and fast food consumers.

22 (e) Since the onset of the COVID-19 pandemic, numerous local,  
23 state state, and federal laws and regulations have been instituted

1 to require operational changes on the part of businesses to protect  
2 employees from infection.

3 (f) Numerous complaints filed by fast food workers with local  
4 health departments illustrate fast food operators routinely have  
5 flouted protections, including, but not limited to, requiring workers  
6 to work without access to personal protective equipment, denying  
7 workers sick pay, failing to inform workers of exposure to  
8 COVID-19, actively hiding COVID-19 cases, and demanding that  
9 workers come to work when they are sick.

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

12 (h) In addition, fast food companies have profited during the  
13 pandemic, while California's one-half million fast food workers  
14 have been hard hit, both medically and financially. Despite  
15 corporate profits, fast food workers are poorly positioned to  
16 participate in a fast recovery and a more equitable economy.

17 (i) Therefore, cooperation between state agencies with  
18 responsibility for improving and enforcing health and safety and  
19 other worker protection laws, with regular input from industry and  
20 worker representatives, along with improved incentives to achieve  
21 compliance, is critical to protecting fast food workers, customers,  
22 and the public.

23 (j) Furthermore, because existing enforcement and regulatory  
24 mechanisms have proved inadequate in ensuring fast food  
25 restaurant worker health, safety, and welfare, the Legislature  
26 concludes that ~~industry-wide~~ *industrywide* minimum health, safety,  
27 and employment standards, including standards concerning wages  
28 and other working conditions, identified by an expert body with  
29 subject matter expertise and experience in the fast food industry,  
30 are necessary to protect, maintain, and ensure the health, safety,  
31 and welfare of, and to supply the necessary cost of proper living  
32 to, fast food restaurant employees.

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

34 96. The Labor Commissioner and the deputies and  
35 representatives authorized by the commissioner in writing shall,  
36 upon the filing of a claim therefor by an employee, or an employee  
37 representative authorized in writing by an employee, with the  
38 Labor Commissioner, take assignments of:

- 39 (a) Wage claims and incidental expense accounts and advances.  
40 (b) Mechanics' and other liens of employees.

1 (c) Claims based on “stop orders” for wages and on bonds for  
2 labor.

3 (d) Claims for damages for misrepresentations of conditions of  
4 employment.

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

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

7 (g) Claims for the return of workers’ tools in the illegal  
8 possession of another person.

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

11 (i) Awards for workers’ compensation benefits in which the  
12 Workers’ Compensation Appeals Board has found that the  
13 employer has failed to secure payment of compensation and where  
14 the award remains unpaid more than 10 days after having become  
15 final.

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

18 (k) Claims for loss of wages as the result of demotion,  
19 suspension, or discharge from employment for lawful conduct  
20 occurring during nonworking hours away from the employer’s  
21 premises.

22 (l) Claims for violations of standards issued by the Fast Food  
23 Sector Council pursuant to Part 4.7 (commencing with Section  
24 1470) of Division 2.

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

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28

PART 4.7. FAST FOOD WORKERS

29

30 1470. For purposes of this part:

31 (a) “Chain” means a set of ~~fast food~~ restaurants consisting of  
32 30 or more establishments nationally that share a common brand,  
33 or that are characterized by standardized options for decor,  
34 marketing, packaging, products, and services.

35 (b) “Council” means the Fast Food Sector Council.

36 (c) “Fast food restaurant” means any establishment in the state  
37 that is part of a chain and that, in its regular business operations,  
38 primarily provides food or beverages in the following manner:

39 (1) In disposable containers.

40 (2) For immediate consumption either on or off the premises.

1 (3) With limited or no table service.

2 (4) To customers who order or select items and pay before  
3 eating.

4 (d) “Fast food restaurant franchisee” means a person to whom  
5 a fast food restaurant franchise is granted.

6 (e) “Fast food restaurant franchisor” means a person who grants  
7 or has granted a fast food restaurant franchise.

8 (f) “*Fast food restaurant operator*” means a person who  
9 operates a fast food restaurant.

10 (g) “*Franchise,*” “*franchisee,*” and “*franchisor*” have the  
11 definitions set forth in Article 1 (commencing with Section 20000)  
12 of Chapter 5.5 of Division 8 of the Business and Professions Code.

13 1471. (a) (1) The Fast Food Sector Council is hereby  
14 established to consist of the following 11 members:

15 (A) One representative from the State Department of Public  
16 Health.

17 (B) One representative from the Division of Occupational Safety  
18 and Health.

19 (C) One representative from the Division of Labor Standards  
20 and Enforcement.

21 (D) Two representatives from the Department of Industrial  
22 Relations.

23 (E) One representative of fast food restaurant franchisors.

24 (F) One representative of fast food restaurant franchisees.

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

26 (H) Two representatives of advocates for fast food restaurant  
27 employees.

28 (2) The Governor shall appoint the representatives of the state  
29 agencies. The Speaker of the Assembly shall appoint the  
30 representative of fast food restaurant franchisors, one representative  
31 of fast food restaurant employees, and one representative of an  
32 advocate for fast food restaurant employees. The Senate Rules  
33 Committee shall appoint the representative of fast food restaurant  
34 franchisees, one representative of fast food restaurant employees,  
35 and one representative of an advocate for fast food restaurant  
36 employees.

37 (3) The appointments shall be at the will of each appointing  
38 power and each member of the commission shall serve for a term  
39 of four years. All terms shall end on January 1. Vacancies occurring  
40 prior to the expiration of the term shall be filled by appointment

1 for the unexpired term. A commission member shall not serve  
2 more than two consecutive terms. The council shall elect by  
3 majority vote a member to serve as its chairperson.

4 (4) The council may employ necessary assistants, officers,  
5 experts, and other employees as it deems necessary. All personnel  
6 of the council shall be under the supervision of the chairperson or  
7 an executive officer to whom the chairperson delegates such  
8 responsibility. All such personnel shall be appointed pursuant to  
9 the State Civil Service Act (Part 1 (commencing with Section  
10 18000) of Division 5 of Title 2 of the Government Code), except  
11 for the one exempt deputy or employee allowed by subdivision  
12 (e) of Section 4 of Article VII of the California Constitution.

13 (b) The council's purposes are to establish ~~industry-wide~~  
14 *industrywide* minimum standards on wages, working hours, and  
15 other working conditions adequate to ensure and maintain the  
16 health, safety, and welfare of, and to supply the necessary cost of  
17 proper living to, fast food restaurant workers and to ensure and  
18 effect interagency coordination and prompt agency responses  
19 regarding issues affecting the health, safety, and employment of  
20 fast food restaurant workers.

21 (c) The council shall provide direction to, and coordinate with,  
22 the Governor, executive agencies, and local ~~enforcement~~ agencies  
23 regarding the health, safety, and employment of fast food restaurant  
24 workers.

25 (d) The council shall promulgate minimum fast food restaurant  
26 employment standards, including, as appropriate, standards on  
27 wages, working conditions, and training, as are reasonably  
28 necessary or appropriate to protect and ensure the welfare of fast  
29 food restaurant workers or to otherwise meet the purposes of this  
30 section, subject to the limitations of subdivision (e). The council  
31 may also issue, amend, or repeal any other rules and regulations  
32 as necessary to carry out its duties under this section or meet the  
33 purposes of this section, subject to the limitations of subdivision  
34 (e). To the extent there is a conflict between standards, rules, or  
35 regulations issued by the council and the rules or regulations issued  
36 by another state agency, the standards, rules, or regulations issued  
37 by the council shall apply to fast food restaurant workers and fast  
38 food restaurant franchisees and franchisors, and the conflicting  
39 rules or regulations of the other state agency shall not have force  
40 or effect with respect to fast food restaurant workers, franchisees,

1 or franchisors. Decisions by the council regarding standards, rules,  
2 and regulations shall be made by an affirmative vote of at least six  
3 of the council members. All standards, rules, and regulations by  
4 the council shall be issued, amended, or repealed, as applicable,  
5 in the manner prescribed in Chapter 3.5 (commencing with Section  
6 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

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

24 (f) (1) The council shall conduct a full review of the adequacy  
25 of the minimum fast food restaurant health, safety, and employment  
26 standards at least once every three years. Upon that review, the  
27 council shall issue, amend, or repeal, or make recommendations  
28 to issue, amend, or repeal, any fast food employment, health or  
29 safety standard, or a portion of any such standard, as appropriate  
30 to meet the purposes of this section. With the exception of  
31 emergency standards, a new standard, or an amendment or repeal  
32 of a standard, shall not be less protective of health, safety, or fast  
33 food restaurant worker employment conditions than the  
34 immediately preceding standard.

35 (2) The council, for the purpose of reviewing the adequacy of  
36 fast food restaurant health, safety, or employment standards, or  
37 the purpose of promulgating or recommending new fast food  
38 restaurant standards, may issue subpoenas to compel the attendance  
39 of witnesses and production of books, papers, and records, by an  
40 affirmative vote of at least six of the council members. Obedience

1 to subpoenas issued by the council shall be enforced by the courts.  
2 The council may administer oaths and examine witnesses under  
3 oath for the purpose of reviewing the adequacy of, or promulgating  
4 or recommending, fast food restaurant health, safety, or  
5 employment standards.

6 (g) The council shall hold hearings every six months that are  
7 open to the public, at which the public, including fast food  
8 restaurant employees, shall have the opportunity to be heard on  
9 issues of fast food restaurant health, safety, and employment  
10 conditions. The council shall provide advance public notice of  
11 these hearings that is reasonably calculated to advise fast food  
12 restaurant workers, franchisors, franchisees, community members,  
13 and other stakeholders of the opportunity to participate in the  
14 hearings. The location of the hearings shall rotate among major  
15 metropolitan areas throughout the state to provide fast food  
16 restaurant workers, franchisors, franchisees, community members,  
17 and other stakeholders throughout the state a reasonable  
18 opportunity to participate in a hearing at least once per each  
19 three-year review.

20 (h) The council may coordinate with local agencies and  
21 authorize them to hold hearings that are open to the public, at  
22 which the public, including fast food restaurant employees, shall  
23 have the opportunity to be heard on issues of fast food restaurant  
24 health, safety, and employment conditions. After these hearings,  
25 the local agency shall prepare a report for the council that  
26 summarizes the information received at the public hearings and  
27 includes any recommendations for action by the council.

28 (i) A county, and a city with a population of greater than  
29 200,000, may establish a Local Fast Food Sector Council, which  
30 shall be composed of at least one representative who is either a  
31 fast food restaurant franchisor or a fast food restaurant franchisee  
32 and at least one representative who is a fast food restaurant  
33 employee, and a majority of representatives from local  
34 employment, health, and safety agencies. A Local Fast Food Sector  
35 Council established pursuant to this subdivision shall provide  
36 direction to, and coordinate with, local agencies regarding the  
37 health, safety, and employment of fast food restaurant workers  
38 within the applicable local jurisdiction, and shall periodically hold  
39 hearings that are open to the public, at which the public, including  
40 fast food restaurant employees, shall have the opportunity to be

1 heard on issues of local fast food restaurant health, safety, and  
2 employment conditions. A Local Fast Food Sector Council may  
3 provide written recommendations to the council regarding  
4 minimum local health, safety, and employment standards, including  
5 training, that the Local Fast Food Sector Council finds are  
6 reasonably necessary to protect the health, safety, and welfare of  
7 fast food restaurant workers within the relevant local jurisdiction,  
8 but these recommendations shall not be less protective of, or less  
9 beneficial to, health, safety, or fast food restaurant worker  
10 employment conditions than other applicable state or local  
11 standards. The council shall consider any recommendations for  
12 local standards from Local Fast Food Sector Councils and shall  
13 provide a written explanation within 60 days if it does not adopt  
14 a Local Fast Food Sector Council's recommendation for a local  
15 standard.

16 (j) (1) The minimum wages, maximum hours of work, and  
17 other working conditions fixed by the council in standards  
18 promulgated pursuant to subdivision (d) shall be the minimum  
19 wage, maximum hours of work, and the standard conditions of  
20 labor for fast food restaurant employees or a relevant subgroup of  
21 fast food restaurant employees. The employment of a fast food  
22 restaurant employee for lower wages or for longer hours than those  
23 fixed by the minimum standards promulgated by the council, or  
24 under any other working conditions prohibited by the minimum  
25 standards promulgated by the council, is unlawful. Compliance  
26 with the minimum fast food restaurant employment standards  
27 promulgated by the council shall be enforced by the commissioner  
28 and the Division of Labor Standards Enforcement pursuant to the  
29 procedures and provisions set forth in Chapter 4 (commencing  
30 with Section 79) of Division 1.

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

37 1472. (a) A fast food restaurant franchisor shall be responsible  
38 for ensuring that its franchisee complies with the following  
39 applicable employment and worker and public health and safety  
40 laws and orders, and any implementing regulations:

- 1 (1) Chapter 5 (commencing with Section 17200) of Part 2 of
- 2 Division 7 of the Business and Professions Code.
- 3 ~~(2) Section 1714 of the Civil Code.~~
- 4 ~~(3)~~
- 5 (2) Part 2.8 (commencing with 12900) of Division 3 of Title 2
- 6 of the Government Code.
- 7 ~~(4)~~
- 8 (3) Chapter 1 (commencing with Section 113700) to Chapter 9
- 9 (commencing with Section 114265), inclusive, of Part 7 of, and
- 10 Article 1 (commencing with Section 114380) to Article 4
- 11 (commencing with Section 114417), inclusive, of Chapter 13 of
- 12 Part 7 of, Division 104 of the Health and Safety Code.
- 13 ~~(5)~~
- 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 ~~(6)~~
- 32 (5) Orders, including emergency and executive orders, issued
- 33 by the Governor regarding employment standards, worker safety,
- 34 or public health and safety.
- 35 ~~(7)~~
- 36 (6) Orders issued by a county or municipality regarding
- 37 employment standards or worker or public health and safety.
- 38 ~~(8)~~
- 39 (7) Section 1473.
- 40 ~~(9)~~

1 (8) Standards issued by the council.

2 (b) If a fast food restaurant franchisee is liable for a violation  
3 of any of the laws and orders set forth in subdivision (a), or any  
4 rules or regulations implementing these laws or orders, its  
5 franchisor shall be jointly and severally liable for any penalties or  
6 fines for the violation.

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

12 (d) A waiver of this section or Section 1473, or any agreement  
13 by a fast food restaurant franchisee to indemnify its fast food  
14 restaurant franchisor for liability under this section or Section  
15 1473, is contrary to public policy and is void and unenforceable.

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

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

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

38 1473. (a) A fast food restaurant ~~franchisee or fast food~~  
39 ~~restaurant franchisor~~ *operator* shall not discharge or in any manner

1 discriminate or retaliate against any ~~fast food restaurant~~ employee  
 2 for any of the following reasons:

3 (1) The employee made a complaint or disclosed information  
 4 to the ~~franchisee, franchisor, fast food restaurant operator~~ or a  
 5 governmental agency regarding employee or public health or safety.

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

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

17 (b) Any employee of a fast food restaurant ~~franchisor or fast~~  
 18 ~~food restaurant franchisee~~ operator discharged or otherwise  
 19 discriminated or retaliated against in the terms and conditions of  
 20 employment in violation of subdivision (a) *shall have a right of*  
 21 *action for, and shall be entitled to, reinstatement, and treble the*  
 22 *lost wages and work benefits caused by the discrimination or*  
 23 *retaliation, and the employee’s reasonably incurred attorney’s fees*  
 24 *and costs. The Labor Commissioner may enforce violations of this*  
 25 *section, with or without receiving a complaint, pursuant to Sections*  
 26 *98.7 and 98.74.*

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

34 SEC. 5. Section 113949.1 of the Health and Safety Code is  
 35 amended to read:

36 113949.1. (a) When a local health officer is notified of an  
 37 illness that can be transmitted by food in a food facility or by an  
 38 employee of a food facility, the local health officer shall inform  
 39 the local enforcement agency. The local health officer or the local  
 40 enforcement agency, or both, shall notify the person in charge of

1 the food facility and shall investigate conditions and may, after  
2 the investigation, take appropriate action, and for reasonable cause,  
3 require any or all of the following measures to be taken:

4 (1) The immediate restriction or exclusion of any food employee  
5 from the affected food facility.

6 (2) The immediate closing of the food facility until, in the  
7 opinion of the local enforcement agency, the identified danger of  
8 disease outbreak has been addressed. Any appeal of the closure  
9 shall be made in writing within five days to the applicable local  
10 enforcement agency.

11 (3) Any medical evaluation of any employee, including any  
12 laboratory test or procedure, that may be indicated. If an employee  
13 refuses to participate in a medical evaluation, the local enforcement  
14 agency may require the immediate exclusion of the refusing  
15 employee from that or any other food facility until an acceptable  
16 medical evaluation or laboratory test or procedure shows that the  
17 employee is not infectious.

18 (b) For purposes of this section, “illness” means a condition  
19 caused by any of the following infectious agents:

20 (1) *Salmonella typhi*.

21 (2) *Salmonella spp.*

22 (3) *Shigella spp.*

23 (4) *Entamoeba histolytica*.

24 (5) Enterohemorrhagic or shiga toxin producing *Escherichia*  
25 *coli*.

26 (6) Hepatitis A virus.

27 (7) Norovirus.

28 (8) COVID-19.

29 (9) Other communicable diseases that are transmissible through  
30 food.

31 SEC. 6. Section 113949.2 of the Health and Safety Code is  
32 amended to read:

33 113949.2. The owner who has a food safety certificate issued  
34 pursuant to Section 113947.1 or the food employee who has this  
35 food safety certificate shall instruct all food employees regarding  
36 the relationship between personal hygiene and food safety,  
37 including the association of hand contact, personal habits and  
38 behaviors, and food employee health to foodborne illness. The  
39 owner or food safety certified employee shall require food  
40 employees to report the following to the person in charge:

- 1 (a) If a food employee is diagnosed with an illness due to one
- 2 of the following:
- 3 (1) Salmonella typhi.
- 4 (2) Salmonella spp.
- 5 (3) Shigella spp.
- 6 (4) Entamoeba histolytica.
- 7 (5) Enterohemorrhagic or shiga toxin producing Escherichia
- 8 coli.
- 9 (6) Hepatitis A virus.
- 10 (7) Norovirus.
- 11 (8) COVID-19.
- 12 (b) If a food employee has a wound that is one of the following:
- 13 (1) On the hands or wrists, unless an impermeable cover such
- 14 as a finger cot or stall protects the wound and a single-use glove
- 15 is worn over the impermeable cover.
- 16 (2) On exposed portions of the arms, unless the wound is
- 17 protected by an impermeable cover.
- 18 (3) On other parts of the body, unless the wound is covered by
- 19 a dry, durable, tight-fitting bandage.
- 20 SEC. 7. No reimbursement is required by this act pursuant to
- 21 Section 6 of Article XIII B of the California Constitution because
- 22 the only costs that may be incurred by a local agency or school
- 23 district will be incurred because this act creates a new crime or
- 24 infraction, eliminates a crime or infraction, or changes the penalty
- 25 for a crime or infraction, within the meaning of Section 17556 of
- 26 the Government Code, or changes the definition of a crime within
- 27 the meaning of Section 6 of Article XIII B of the California
- 28 Constitution.