
SENATE COMMITTEE ON LABOR, PUBLIC EMPLOYMENT AND RETIREMENT
Senator Lola Smallwood-Cuevas, Chair
2023 - 2024 Regular

Bill No: AB 610 **Hearing Date:** February 21, 2024
Author: Holden
Version: January 29, 2024
Urgency: Yes **Fiscal:** Yes
Consultant: Alma Perez-Schwab

SUBJECT: Fast food restaurant industry: Fast Food Council: health, safety, employment, and minimum wage

KEY ISSUE

Should the Legislature amend the Fast Food Accountability and Standards Recovery Act to exempt specified restaurants from the definition of “fast food restaurant,” including restaurants in airports, hotels, event centers, theme parks, and museums?

ANALYSIS

Existing law:

- 1) Provides that the California Occupational Safety and Health Act assures safe and healthful working conditions for all workers by authorizing the enforcement of effective standards, assisting and encouraging employers to maintain safe and healthful working conditions, and by providing for research, information, education, training, and enforcement in the field of occupational safety and health. (Labor Code §6300)
- 2) Establishes the Division of Occupational Safety and Health (known as Cal/OSHA) within the Department of Industrial Relations (DIR) to, among other things, protect and improve the health and safety of workers by proposing, administering, and enforcing occupational safety and health standards. (Labor Code §140 et seq.; §6300 et seq.)
- 3) Establishes, also within DIR, the Division of Labor Standards and Enforcement (DLSE) under the direction of the Labor Commissioner (LC), with the duty to investigate employee complaints and enforce labor laws. (Labor Code §79 et seq.)
- 4) Creates the Fast Food Council within the Department of Industrial Relations (DIR) for the purpose of establishing fast food restaurant minimum standards on wages, working hours, and other working conditions to adequately ensure and maintain the health, safety, and welfare of, and to supply the necessary cost of proper living to, fast food restaurant workers and to ensure interagency coordination and prompt agency responses regarding issues affecting the health, safety, and employment of fast food restaurant workers. (Labor Code §1474-1477)
- 5) Establishes a statewide minimum wage for fast food restaurant employees of twenty dollars (\$20) per hour, effective April 1, 2024. Thereafter, the council may establish minimum wages for fast food restaurant employees that take effect on an annual basis, as specified, beginning on January 1, 2025. (Labor Code §1475(d)(2))

- 6) Authorizes the Fast Food Council, in establishing the statewide fast food restaurant employees' minimum wage, to set minimum wage standards that vary by region or to set a statewide minimum wage increase. (Labor Code §1475(d)(2))
- 7) Defines, for purposes of these provisions, various terms including:
 - a. "National fast food chain" to mean a set of limited-service restaurants consisting of more than 60 establishments nationally that share a common brand, or that are characterized by standardized options for decor, marketing, packaging, products, and services, and which are primarily engaged in providing food and beverages for immediate consumption on or off premises where patrons generally order or select items and pay before consuming, with limited or no table service, as specified.
- 8) Exempts from the definition of "fast food restaurant" 1) an establishment that on September 15, 2023, operates a bakery in a prescribed manner as long as it continues to operate such a bakery, as specified; and 2) a restaurant located and operated within a "grocery establishment," as defined, when the grocery establishment employer employs the individuals working in the restaurant, as specified. (Labor Code §1474)
- 9) Provides that specified provisions relevant to fast food under Labor Code sections 1474-1477 shall become inoperative as of January 1, 2029 and the Fast Food Council shall cease operations. However, any standards adopted by the appropriate agencies pursuant to these provisions shall not be impacted by the cessation of the council. (Labor Code §1475(m))

This bill:

- 1) Exempts from the definition of "fast food restaurant," for purposes of the FAST Recovery Act and its requirements, a restaurant that is in any of the following:
 - a. Located in an airport, as defined, but excluding any military base or federally operated facility.
 - b. Connected to or operated in conjunction with a hotel, as defined.
 - c. Connected to or operated in conjunction with an event center, as defined.
 - d. Connected to or operated in conjunction with a theme park, as defined.
 - e. Connected to or operated in conjunction with public or private museum, as specified.
 - f. Connected to or operated in conjunction with a gambling establishment, as defined.
 - g. A restaurant that is all of the following:
 - i. Located in and operated in conjunction with a building, group of buildings, or campus used for office purposes primarily or exclusively by a single, for-profit corporation and its affiliates.
 - ii. Primarily or exclusively serves employees of that corporation or its affiliates rather than the general public.
 - iii. Is part of, or subject to, a concession of food service contract covering the building, group of buildings, or campus.
 - h. Located on land owned by the state, a city or county, or other political subdivision of the state, that is part of a port district or land managed by a port authority or port commission, a public beach, public pier, state park, municipal or regional park, or historic district, and is operated pursuant to a concession agreement or food service contract.

- 2) Includes an urgency clause specifying its necessity due to how the immediate operation of new regulation of the fast food industry in California affects portions of the industry and existing local ordinances and pending regulatory and ballot measures.

COMMENTS

1. Background: AB 257 and AB 1228

AB 257 (Holden, Chapter 246, Statutes of 2022) enacted the Fast Food Accountability and Standards Recovery Act or FAST Recovery Act. The FAST Act created the Fast Food Council to establish sector-wide minimum standards on wages, working hours, and other working conditions to ensure the health, safety, and welfare of, and to supply the necessary cost of proper living to, fast food restaurant workers. AB 257 was opposed by various organizations, including the California Chamber of Commerce, California Restaurant Association and the International Franchise Association.

Not long after AB 257 was signed by the Governor, a coalition of California small business owners, restauranteurs, franchisees and related entities, organized as Save Local Restaurants, submitted a referendum petition challenging AB 257. On January 24, 2023, the California Secretary of State completed its verification process and qualified the referendum (Referendum No. 1939 (Attorney General No. 22-0005)) for the November 5, 2024 ballot.

AB 1228 (Holden, Chapter 262, Statutes of 2023), as amended on September 11, 2023, codified an agreement reached between the proponents of AB 257 and opposition (Save Local Restaurants) that would repeal the FAST Act provisions, revise and recast them but only if the AB 257 referendum was withdrawn by its proponents by January 1, 2024. On December 29, 2023, the AB 257 referendum was withdrawn by its proponents so that it will not appear on the November 5, 2024 election ballot or any other election ballot.

2. Need for this bill?

According to the author, “AB 610 makes technical amendments to clarify that certain workers at restaurants that are operated in conjunction with larger enterprises, many of whom have historically established compensation and working conditions in excess of the new standards set by AB 1228, do not fall within the fast food industry covered by the law.”

3. Proponent Arguments:

According to SEIU and UNITE HERE!, “Under AB 610, fast food restaurants in the following locations will be exempted from AB 1228:

- Airports
- Hotels
- Large event centers
- Theme parks
- Museums
- Gambling establishments
- Corporate campus cafeterias
- Publicly owned lands including ports, piers, beaches and parks

These facilities include worksites where, across many parts of California, workers are often not directly employed by a fast food franchisor, franchisee, or restaurant operator, and compensation already exceeds that which might be provided for under AB 1228 (in some cases, by more than \$10 and even \$20 per hour). By recognizing the separate status of such restaurants, AB 610 upholds the original intent of AB 1228 – that is, to improve conditions in the fast food restaurant industry, which employs some of California’s lowest income workers.”

4. Opponent Arguments:

None received.

5. Prior Legislation:

AB 1228 (Holden, Chapter 262, Statutes of 2023) repealed, revised and recast provisions of the Fast Food Accountability and Standards Recovery Act (FAST Act) to codify changes that were negotiated and agreed to by both proponents and opponents (seeking a referendum) of AB 257 (Holden, 2022) but only if the referendum was withdrawn by January 1, 2024.

AB 257 (Holden, Chapter 246, Statutes of 2022) enacted the Fast Food Accountability and Standards Recovery Act to, among other things, establish the Fast Food Council within the Department of Industrial Relations, with a sunset date of January 1, 2029, for the purpose of establishing sector-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.

SUPPORT

SEIU California
UNITE HERE!

OPPOSITION

None received

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