

AMENDED IN ASSEMBLY MARCH 25, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 257

Introduced by Assembly Member Lorena Gonzalez

January 15, 2021

An act ~~relating to the fast food industry.~~ *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. ~~Fast food industry: working standards.~~ *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, ~~the purpose of which is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented through adoption of science-based standards.~~ *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 ~~make a statement of findings regarding the fast food industry, particularly with respect to the COVID-19 pandemic, and state the intent of the Legislature to~~

~~enact legislation relating to the fast food industry.~~ *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 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.

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: ~~no~~-yes. State-mandated local program: ~~no~~-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. ~~(a)~~—The Legislature finds and declares the following:

5 ~~(1)~~

6 (a) For years, the fast food industry has been rife with abuse,
7 low pay, few benefits, and minimal job security, with California
8 workers subject to high rates of employment violations, including
9 wage theft, sexual harassment and discrimination, as well as
10 heightened health and safety risks.

11 ~~(2)~~

12 (b) Fast food workers are the largest and fastest growing group
13 of low-wage workers in the state and lack sector-specific
14 protections.

15 ~~(3)~~

16 (c) The COVID-19 pandemic has illustrated the implications
17 for workers and the public when a disempowered workforce faces
18 a crisis in an industry with a poor history of compliance with
19 workplace health and safety regulations.

20 ~~(4)~~

1 (d) Workers with inadequate means to amplify their voices and
2 their experience, and to address the pervasive problems plaguing
3 the industry, have exacerbated the impact of this crisis and denied
4 workers a path to win safer workplaces for themselves, their
5 families, and fast food consumers.

6 ~~(5)~~

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

11 ~~(6)~~

12 (f) Numerous complaints filed by fast food workers with local
13 health departments illustrate fast food operators routinely have
14 flouted protections, including, but not limited to, requiring workers
15 to work without access to personal protective equipment, denying
16 workers sick pay, failing to inform workers of exposure to
17 COVID-19, actively hiding COVID-19 cases, and demanding that
18 workers come to work when they are sick.

19 ~~(7)~~

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

22 ~~(8)~~

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

28 ~~(9)~~

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

35 ~~(b) It is the intent of the Legislature to enact legislation relating~~
36 ~~to the fast food industry.~~

37 (j) *Furthermore, because existing enforcement and regulatory*
38 *mechanisms have proved inadequate in ensuring fast food*
39 *restaurant worker health, safety, and welfare, the Legislature*
40 *concludes that industry-wide minimum health, safety, and*

1 *employment standards, including standards concerning wages and*
2 *other working conditions, identified by an expert body with subject*
3 *matter expertise and experience in the fast food industry, are*
4 *necessary to protect, maintain, and ensure the health, safety, and*
5 *welfare of, and to supply the necessary cost of proper living to,*
6 *fast food restaurant employees.*

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

8 96. The Labor Commissioner and ~~his or her~~ *the* deputies and
9 representatives authorized by ~~him or her~~ *the* commissioner in
10 writing shall, upon the filing of a claim therefor by an employee,
11 or an employee representative authorized in writing by an
12 employee, with the Labor Commissioner, take assignments of:

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

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

15 (c) Claims based on "stop orders" for wages and on bonds for
16 labor.

17 (d) Claims for damages for misrepresentations of conditions of
18 employment.

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

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

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

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

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

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

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

36 (l) *Claims for violations of standards issued by the Fast Food*
37 *Sector Council pursuant to Part 4.7 (commencing with Section*
38 *1470) of Division 2.*

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

1
2 *PART 4.7. FAST FOOD WORKERS*
3

4 *1470. For purposes of this part:*

5 *(a) "Chain" means a set of fast food restaurants consisting of*
6 *30 or more establishments nationally that share a common brand,*
7 *or that are characterized by standardized options for decor,*
8 *marketing, packaging, products, and services.*

9 *(b) "Council" means the Fast Food Sector Council.*

10 *(c) "Fast food restaurant" means any establishment in the state*
11 *that is part of a chain and that, in its regular business operations,*
12 *primarily provides food or beverages in the following manner:*

13 *(1) In disposable containers.*

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

15 *(3) With limited or no table service.*

16 *(4) To customers who order or select items and pay before*
17 *eating.*

18 *(d) "Fast food restaurant franchisee" means a person to whom*
19 *a fast food restaurant franchise is granted.*

20 *(e) "Fast food restaurant franchisor" means a person who*
21 *grants or has granted a fast food restaurant franchise.*

22 *1471. (a) (1) The Fast Food Sector Council is hereby*
23 *established to consist of the following 11 members:*

24 *(A) One representative from the State Department of Public*
25 *Health.*

26 *(B) One representative from the Division of Occupational Safety*
27 *and Health.*

28 *(C) One representative from the Division of Labor Standards*
29 *and Enforcement.*

30 *(D) Two representatives from the Department of Industrial*
31 *Relations.*

32 *(E) One representative of fast food restaurant franchisors.*

33 *(F) One representative of fast food restaurant franchisees.*

34 *(G) Two representatives of fast food restaurant employees.*

35 *(H) Two representatives of advocates for fast food restaurant*
36 *employees.*

37 *(2) The Governor shall appoint the representatives of the state*
38 *agencies. The Speaker of the Assembly shall appoint the*
39 *representative of fast food restaurant franchisors, one*
40 *representative of fast food restaurant employees, and one*

1 *representative of an advocate for fast food restaurant employees.*
2 *The Senate Rules Committee shall appoint the representative of*
3 *fast food restaurant franchisees, one representative of fast food*
4 *restaurant employees, and one representative of an advocate for*
5 *fast food restaurant employees.*

6 *(3) The appointments shall be at the will of each appointing*
7 *power and each member of the commission shall serve for a term*
8 *of four years. All terms shall end on January 1. Vacancies*
9 *occurring prior to the expiration of the term shall be filled by*
10 *appointment for the unexpired term. A commission member shall*
11 *not serve more than two consecutive terms. The council shall elect*
12 *by majority vote a member to serve as its chairperson.*

13 *(4) The council may employ necessary assistants, officers,*
14 *experts, and other employees as it deems necessary. All personnel*
15 *of the council shall be under the supervision of the chairperson*
16 *or an executive officer to whom the chairperson delegates such*
17 *responsibility. All such personnel shall be appointed pursuant to*
18 *the State Civil Service Act (Part 1 (commencing with Section*
19 *18000) of Division 5 of Title 2 of the Government Code), except*
20 *for the one exempt deputy or employee allowed by subdivision (e)*
21 *of Section 4 of Article VII of the California Constitution.*

22 *(b) The council's purposes are to establish industry-wide*
23 *minimum standards on wages, working hours, and other working*
24 *conditions adequate to ensure and maintain the health, safety, and*
25 *welfare of, and to supply the necessary cost of proper living to,*
26 *fast food restaurant workers and to ensure and effect interagency*
27 *coordination and prompt agency responses regarding issues*
28 *affecting the health, safety, and employment of fast food restaurant*
29 *workers.*

30 *(c) The council shall provide direction to, and coordinate with,*
31 *the Governor, executive agencies, and local enforcement agencies*
32 *regarding the health, safety, and employment of fast food*
33 *restaurant workers.*

34 *(d) The council shall promulgate minimum fast food restaurant*
35 *employment standards, including, as appropriate, standards on*
36 *wages, working conditions, and training, as are reasonably*
37 *necessary or appropriate to protect and ensure the welfare of fast*
38 *food restaurant workers or to otherwise meet the purposes of this*
39 *section, subject to the limitations of subdivision (e). The council*
40 *may also issue, amend, or repeal any other rules and regulations*

1 *as necessary to carry out its duties under this section or meet the*
2 *purposes of this section, subject to the limitations of subdivision*
3 *(e). To the extent there is a conflict between standards, rules, or*
4 *regulations issued by the council and the rules or regulations*
5 *issued by another state agency, the standards, rules, or regulations*
6 *issued by the council shall apply to fast food restaurant workers*
7 *and fast food restaurant franchisees and franchisors, and the*
8 *conflicting rules or regulations of the other state agency shall not*
9 *have force or effect with respect to fast food restaurant workers,*
10 *franchisees, or franchisors. Decisions by the council regarding*
11 *standards, rules, and regulations shall be made by an affirmative*
12 *vote of at least six of the council members. All standards, rules,*
13 *and regulations by the council shall be issued, amended, or*
14 *repealed, as applicable, in the manner prescribed in Chapter 3.5*
15 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
16 *2 of the Government Code.*

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

34 *(f) (1) The council shall conduct a full review of the adequacy*
35 *of the minimum fast food restaurant health, safety, and employment*
36 *standards at least once every three years. Upon that review, the*
37 *council shall issue, amend, or repeal, or make recommendations*
38 *to issue, amend, or repeal, any fast food employment, health or*
39 *safety standard, or a portion of any such standard, as appropriate*
40 *to meet the purposes of this section. With the exception of*

1 *emergency standards, a new standard, or an amendment or repeal*
2 *of a standard, shall not be less protective of health, safety, or fast*
3 *food restaurant worker employment conditions than the*
4 *immediately preceding standard.*

5 *(2) The council, for the purpose of reviewing the adequacy of*
6 *fast food restaurant health, safety, or employment standards, or*
7 *the purpose of promulgating or recommending new fast food*
8 *restaurant standards, may issue subpoenas to compel the*
9 *attendance of witnesses and production of books, papers, and*
10 *records, by an affirmative vote of at least six of the council*
11 *members. Obedience to subpoenas issued by the council shall be*
12 *enforced by the courts. The council may administer oaths and*
13 *examine witnesses under oath for the purpose of reviewing the*
14 *adequacy of, or promulgating or recommending, fast food*
15 *restaurant health, safety, or employment standards.*

16 *(g) The council shall hold hearings every six months that are*
17 *open to the public, at which the public, including fast food*
18 *restaurant employees, shall have the opportunity to be heard on*
19 *issues of fast food restaurant health, safety, and employment*
20 *conditions. The council shall provide advance public notice of*
21 *these hearings that is reasonably calculated to advise fast food*
22 *restaurant workers, franchisors, franchisees, community members,*
23 *and other stakeholders of the opportunity to participate in the*
24 *hearings. The location of the hearings shall rotate among major*
25 *metropolitan areas throughout the state to provide fast food*
26 *restaurant workers, franchisors, franchisees, community members,*
27 *and other stakeholders throughout the state a reasonable*
28 *opportunity to participate in a hearing at least once per each*
29 *three-year review.*

30 *(h) The council may coordinate with local agencies and*
31 *authorize them to hold hearings that are open to the public, at*
32 *which the public, including fast food restaurant employees, shall*
33 *have the opportunity to be heard on issues of fast food restaurant*
34 *health, safety, and employment conditions. After these hearings,*
35 *the local agency shall prepare a report for the council that*
36 *summarizes the information received at the public hearings and*
37 *includes any recommendations for action by the council.*

38 *(i) A county, and a city with a population of greater than*
39 *200,000, may establish a Local Fast Food Sector Council, which*
40 *shall be composed of at least one representative who is either a*

1 *fast food restaurant franchisor or a fast food restaurant franchisee*
2 *and at least one representative who is a fast food restaurant*
3 *employee, and a majority of representatives from local employment,*
4 *health, and safety agencies. A Local Fast Food Sector Council*
5 *established pursuant to this subdivision shall provide direction to,*
6 *and coordinate with, local agencies regarding the health, safety,*
7 *and employment of fast food restaurant workers within the*
8 *applicable local jurisdiction, and shall periodically hold hearings*
9 *that are open to the public, at which the public, including fast food*
10 *restaurant employees, shall have the opportunity to be heard on*
11 *issues of local fast food restaurant health, safety, and employment*
12 *conditions. A Local Fast Food Sector Council may provide written*
13 *recommendations to the council regarding minimum local health,*
14 *safety, and employment standards, including training, that the*
15 *Local Fast Food Sector Council finds are reasonably necessary*
16 *to protect the health, safety, and welfare of fast food restaurant*
17 *workers within the relevant local jurisdiction, but these*
18 *recommendations shall not be less protective of, or less beneficial*
19 *to, health, safety, or fast food restaurant worker employment*
20 *conditions than other applicable state or local standards. The*
21 *council shall consider any recommendations for local standards*
22 *from Local Fast Food Sector Councils and shall provide a written*
23 *explanation within 60 days if it does not adopt a Local Fast Food*
24 *Sector Council's recommendation for a local standard.*

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

1 (2) *Minimum fast food health and safety standards promulgated*
2 *by the Occupational Safety and Health Standards Board pursuant*
3 *to subdivision (e) shall be administered and enforced by the*
4 *Division of Occupational Safety and Health to the same extent as*
5 *other orders promulgated by the Occupational Safety and Health*
6 *Standards Board.*

7 1472. (a) *A fast food restaurant franchisor shall be responsible*
8 *for ensuring that its franchisee complies with the following*
9 *applicable employment and worker and public health and safety*
10 *laws and orders, and any implementing regulations:*

11 (1) *Chapter 5 (commencing with Section 17200) of Part 2 of*
12 *Division 7 of the Business and Professions Code.*

13 (2) *Section 1714 of the Civil Code.*

14 (3) *Part 2.8 (commencing with 12900) of Division 3 of Title 2*
15 *of the Government Code.*

16 (4) *Chapter 1 (commencing with Section 113700) to Chapter 9*
17 *(commencing with Section 114265), inclusive, of Part 7 of, and*
18 *Article 1 (commencing with Section 114380) to Article 4*
19 *(commencing with Section 114417), inclusive, of Chapter 13 of*
20 *Part 7 of, Division 104 of the Health and Safety Code.*

21 (5) (A) *Article 1 (commencing with Section 200) and Article*
22 *1.5 (commencing with Section 245) of Chapter 1 of, and Chapter*
23 *2 (commencing with Section 300) and Chapter 3 (commencing*
24 *with Section 350) of, Part 1.*

25 (B) *Chapter 1 (commencing with Section 500) of Part 2.*

26 (C) *Chapter 1 (commencing with Section 920), Chapter 2*
27 *(commencing with Section 970), Chapter 3 (commencing with*
28 *Section 1010), Chapter 3.1 (commencing with Section 1019),*
29 *Chapter 3.6 (commencing with Section 1024.5), Chapter 3.8*
30 *(commencing with Section 1030), Chapter 3.9 (commencing with*
31 *Section 1040), Chapter 4 (commencing with 1050), and Chapter*
32 *5 (commencing with Section 1101) to Chapter 10 (commencing*
33 *with Section 2000), inclusive, of Part 3.*

34 (D) *Article 1 (commencing with Section 2260) and Article 3*
35 *(commencing with Section 2350) of Chapter 1 of Part 9.*

36 (E) *Part 13 (commencing with Section 2698).*

37 (F) *Part 1 (commencing with Section 6300) of Division 5.*

38 (6) *Orders, including emergency and executive orders, issued*
39 *by the Governor regarding employment standards, worker safety,*
40 *or public health and safety.*

1 (7) Orders issued by a county or municipality regarding
2 employment standards or worker or public health and safety.

3 (8) Section 1473.

4 (9) Standards issued by the council.

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

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

15 (d) A waiver of this section or Section 1473, or any agreement
16 by a fast food restaurant franchisee to indemnify its fast food
17 restaurant franchisor for liability under this section or Section
18 1473, is contrary to public policy and is void and unenforceable.

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

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

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

1 1473. (a) A fast food restaurant franchisee or fast food
2 restaurant franchisor shall not discharge or in any manner
3 discriminate or retaliate against any fast food restaurant employee
4 for any of the following reasons:

5 (1) The employee made a complaint or disclosed information
6 to the franchisee, franchisor, or a governmental agency regarding
7 employee or public health or safety.

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

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

19 (b) Any employee of a fast food restaurant franchisor or fast
20 food restaurant franchisee discharged or otherwise discriminated
21 or retaliated against in the terms and conditions of employment
22 in violation of subdivision (a) shall be entitled to reinstatement,
23 and treble the lost wages and work benefits caused by the
24 discrimination or retaliation, and the employee's reasonably
25 incurred attorney's fees and costs.

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

28 113949.1. (a) When a local health officer is notified of an
29 illness that can be transmitted by food in a food facility or by an
30 employee of a food facility, the local health officer shall inform
31 the local enforcement agency. The local health officer or the local
32 enforcement agency, or both, shall notify the person in charge of
33 the food facility and shall investigate conditions and may, after
34 the investigation, take appropriate action, and for reasonable cause,
35 require any or all of the following measures to be taken:

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

38 (2) The immediate closing of the food facility until, in the
39 opinion of the local enforcement agency, the identified danger of
40 disease outbreak has been addressed. Any appeal of the closure

1 shall be made in writing within five days to the applicable local
2 enforcement agency.

3 (3) Any medical evaluation of any employee, including any
4 laboratory test or procedure, that may be indicated. If an employee
5 refuses to participate in a medical evaluation, the local enforcement
6 agency may require the immediate exclusion of the refusing
7 employee from that or any other food facility until an acceptable
8 medical evaluation or laboratory test or procedure shows that the
9 employee is not infectious.

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

- 12 (1) *Salmonella typhi*.
- 13 (2) *Salmonella spp.*
- 14 (3) *Shigella spp.*
- 15 (4) *Entamoeba histolytica*.
- 16 (5) Enterohemorrhagic or shiga toxin producing *Escherichia*
17 *coli*.
- 18 (6) Hepatitis A virus.
- 19 (7) Norovirus.
- 20 (8) *COVID-19*.
- 21 ~~(8)~~
- 22 (9) Other communicable diseases that are transmissible through
23 food.

24 *SEC. 6. Section 113949.2 of the Health and Safety Code is*
25 *amended to read:*

26 113949.2. The owner who has a food safety certificate issued
27 pursuant to Section 113947.1 or the food employee who has this
28 food safety certificate shall instruct all food employees regarding
29 the relationship between personal hygiene and food safety,
30 including the association of hand contact, personal habits and
31 behaviors, and food employee health to foodborne illness. The
32 owner or food safety certified employee shall require food
33 employees to report the following to the person in charge:

34 (a) If a food employee is diagnosed with an illness due to one
35 of the following:

- 36 (1) *Salmonella typhi*.
- 37 (2) *Salmonella spp.*
- 38 (3) *Shigella spp.*
- 39 (4) *Entamoeba histolytica*.

1 (5) Enterohemorrhagic or shiga toxin producing Escherichia
2 coli.

3 (6) Hepatitis A virus.

4 (7) Norovirus.

5 (8) COVID-19.

6 (b) If a food employee has a wound that is one of the following:

7 (1) On the hands or wrists, unless an impermeable cover such
8 as a finger cot or stall protects the wound and a single-use glove
9 is worn over the impermeable cover.

10 (2) On exposed portions of the arms, unless the wound is
11 protected by an impermeable cover.

12 (3) On other parts of the body, unless the wound is covered by
13 a dry, durable, tight-fitting bandage.

14 *SEC. 7. No reimbursement is required by this act pursuant to*
15 *Section 6 of Article XIII B of the California Constitution because*
16 *the only costs that may be incurred by a local agency or school*
17 *district will be incurred because this act creates a new crime or*
18 *infraction, eliminates a crime or infraction, or changes the penalty*
19 *for a crime or infraction, within the meaning of Section 17556 of*
20 *the Government Code, or changes the definition of a crime within*
21 *the meaning of Section 6 of Article XIII B of the California*
22 *Constitution.*