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**AB-257 Food facilities and employment.** (2021-2022)

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**Assembly Bill No. 257**

**CHAPTER 246**

An act to amend Section 96 of, and to add Part 4.5.5 (commencing with Section 1470) to Division 2 of, the Labor Code, relating to food facilities and employment.

[ Approved by Governor September 05, 2022. Filed with Secretary of State September 05, 2022. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 257, 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, until January 1, 2029, the Fast Food Council (council) within the Department of Industrial Relations, to be composed of 10 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 100 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, subject to a petition signed by 10,000 fast food restaurant employees approving the creation of the council, as specified. 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 a process for the council to petition the board to adopt, amend, or repeal a standard.

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, 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 applicable to fast food restaurants, as appropriate. The bill would require the council to hold meetings or 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, or a city with a population greater than 200,000, to establish a Local Fast Food Council, and would prescribe its powers and requirements for its composition. The bill would authorize a Local Fast Food Council to provide recommendations to the council.

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, absent a valid collective bargaining agreement, as specified, and would require that they be enforced by the commissioner, as specified, and the Division of Labor Standards Enforcement. By expanding the application of crimes associated with those enforcement procedures, this bill would impose a state-mandated local program. 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.

This 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 Local Program: yes

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** This act shall be known, and may be cited, as the Fast Food Accountability and Standards Recovery Act or FAST Recovery Act.

**SEC. 2.** The Legislature finds and declares the following:

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

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

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

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

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

(f) Numerous complaints filed by fast food workers with state and local health departments illustrate that many fast food operators routinely have flouted protections, including, but not limited to, failing to provide adequate protection against workplace violence, requiring workers to work without access to personal protective equipment, denying workers sick pay, failing to inform workers of exposure to COVID-19, actively hiding COVID-19 cases, and demanding that workers come to work when they are sick.

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

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

(i) Therefore, cooperation between state agencies with responsibility for improving and enforcing health and safety and other worker protection laws, with regular input from business and worker representatives, along with improved incentives to achieve

compliance, is critical to protecting fast food workers, customers, and the public.

(j) Furthermore, because existing enforcement and regulatory mechanisms have proved inadequate in ensuring fast food restaurant worker health, safety, and welfare, the Legislature concludes that sectorwide minimum health, safety, and employment standards, including standards concerning wages and other working conditions, identified by an expert body with subject matter expertise and experience in the fast food sector and which can represent the demographic diversity of the state's fast food restaurant operators and employees, are necessary to protect, maintain, and ensure the health, safety, and welfare of, and to supply the necessary cost of proper living to, fast food restaurant employees.

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

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

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

- (a) Wage claims and incidental expense accounts and advances.
- (b) Mechanics' and other liens of employees.
- (c) Claims based on "stop orders" for wages and on bonds for labor.
- (d) Claims for damages for misrepresentations of conditions of employment.
- (e) Claims for unreturned bond money of employees.
- (f) Claims for penalties for nonpayment of wages.
- (g) Claims for the return of workers' tools in the illegal possession of another person.
- (h) Claims for vacation pay, severance pay, or other compensation supplemental to a wage agreement.
- (i) Awards for workers' compensation benefits in which the Workers' Compensation Appeals Board has found that the employer has failed to secure payment of compensation and where the award remains unpaid more than 10 days after having become final.
- (j) Claims for loss of wages as the result of discharge from employment for the garnishment of wages.
- (k) Claims for loss of wages as the result of demotion, suspension, or discharge from employment for lawful conduct occurring during nonworking hours away from the employer's premises.
- (l) Claims for violations of standards issued by the Fast Food Council pursuant to Part 4.5.5 (commencing with Section 1470) of Division 2.

**SEC. 4.** Part 4.5.5 (commencing with Section 1470) is added to Division 2 of the Labor Code, to read:

**PART 4.5.5. Fast Food Workers**

**1470.** For purposes of this part:

- (a) "Fast food chain" means a set of restaurants consisting of 100 or more establishments nationally that share a common brand, or that are characterized by standardized options for decor, marketing, packaging, products, and services.
- (b) "Council" means the Fast Food Council.
- (c) "Fast food restaurant" means any establishment in the state that is part of a fast food chain and that, in its regular business operations, primarily provides food or beverages in the following manner:
  - (1) For immediate consumption either on or off the premises.
  - (2) To customers who order or select items and pay before eating.

(3) With items prepared in advance, including items that may be prepared in bulk and kept hot, or with items prepared or heated quickly.

(4) With limited or no table service. Table service does not include orders placed by a customer on an electronic device.

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

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

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

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

(h) "Working conditions" include, but are not limited to, wages, conditions affecting fast food restaurant employees' health and safety, security in the workplace, the right to take time off work for protected purposes, and the right to be free from discrimination and harassment in the workplace.

(i) An establishment that on September 1, 2022, operates a bakery that produces for sale on the establishment's premises bread as defined under Part 136 of Subchapter B of Chapter I of Title 21 of the Code of Federal Regulations shall not be considered a fast food restaurant, so long as it continues to operate such a bakery. This exemption applies only where the establishment produces for sale bread as a stand-alone menu item, and does not apply if the bread is available for sale solely as part of another menu item.

(j) When a restaurant is located and operates within a "grocery establishment," as defined in subdivision (d) of Section 2502, and the grocery establishment employer employs the individuals working in the restaurant, the restaurant shall not be considered a fast food restaurant.

**1471.** (a) (1) The Fast Food Council is hereby established within the Department of Industrial Relations to consist of the following 10 members:

(A) One representative from the Department of Industrial Relations.

(B) Two representatives of fast food restaurant franchisors.

(C) Two representatives of fast food restaurant franchisees.

(D) Two representatives of fast food restaurant employees.

(E) Two representatives of advocates for fast food restaurant employees.

(F) One representative from the Governor's Office of Business and Economic Development.

(2) The Governor shall appoint the representatives of the state agencies, fast food restaurant employees, fast food restaurant franchisees, and fast food restaurant franchisors. The Speaker of the Assembly and the Senate Rules Committee shall each appoint one representative of an advocate for fast food restaurant employees.

(3) The appointments shall be at the will of each appointing power and each member of the council shall serve for a term of four years except that all terms shall end on the date this section becomes inoperative. All terms that end prior to the date that this section becomes inoperative shall end on January 1. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term. A council member shall not serve more than two consecutive terms.

(4) The Governor shall designate the chairperson of the council from the membership for the council. The chairperson shall be responsible for convening the council. The person so designated shall hold the office of chairperson at the pleasure of the Governor. The chairperson shall designate a member of the council to act as chairperson in their absence.

(5) Each member of the council shall receive one hundred dollars (\$100) for each day of their actual attendance at meetings of the council and other official business of the council, in addition to their actual necessary traveling expenses incurred in the performance of their duty as a member.

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

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

(b) The council's purposes are to establish sectorwide minimum standards on wages, working hours, and other working conditions adequate to 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 and effect interagency coordination and prompt agency responses regarding issues affecting the health, safety, and employment of fast food restaurant workers.

(c) (1) The council shall provide direction to, and coordinate with, the Governor, executive agencies, and local agencies regarding the health, safety, and employment of fast food restaurant workers.

(2) The council shall not promulgate, petition for, issue, amend, or repeal, any standards, rules, or regulations pursuant to subdivision (d) or (e) until after the Director of Industrial Relations receives a petition approving the creation of the council signed by at least 10,000 California fast food restaurant employees.

(A) Only a person who is employed by a fast food restaurant in California at the time of signing the petition is entitled to sign it. Each signer shall provide the following on the petition:

(i) First and last name.

(ii) Name of the fast food restaurant where the signer is employed at the time of signature.

(iii) The California city where the fast food restaurant is located.

(iv) Signature, which may be an electronic signature.

(v) Date of signature.

(B) If a signer provides the information specified in subparagraph (A), it shall be presumed that the signature is genuine and the person signing is a fast food restaurant employee.

(C) Within 45 days of receipt of the petition, the Director of Industrial Relations shall verify whether the petition meets the requirements of this subdivision. Verification shall be limited to determining whether the petition contains at least 10,000 signatures and whether the signatures contain the required information. The director may use a random sampling technique to verify whether the signatures contain the required information.

(D) If the director verifies that a petition meets the requirements of this subdivision, the council shall convene its first meeting within 90 days of the date of verification.

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

(B) The council shall submit, to the appropriate committees on labor of each house of the Legislature and pursuant to Section 9795 of the Government Code, a report that contains a copy of that standard, repeal, or amendment and a statement of the council's reasons for adopting that standard, repeal, or amendment by January 15. The standard, repeal, or amendment shall not take effect before October 15 of that same year. Nothing herein restrains the Legislature from enacting legislation that prevents a standard, repeal, or amendment from taking effect.

(C) This paragraph shall not apply to emergency standards adopted pursuant to Sections 11346.1 and 11349.6 of the Government Code.

(2) (A) Any minimum wage established by the council shall, from January 1, 2023, to December 31, 2023, inclusive, shall not be greater than twenty-two dollars (\$22) per hour.

(B) On January 1, 2024, and annually thereafter, the highest hourly minimum wage that may be established by the council shall increase by no more than the lesser of one of the following, rounded to the nearest ten cents (\$0.10):

(i) 3.5 percent.

(ii) The rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted United States Consumer Price Index for Urban Wage Earners and Clerical Workers (U.S. CPI-W).

(3) Standards promulgated by the council shall be subject to any suspension of increases in the statewide minimum wage made pursuant to subdivision (d) of Section 1182.12.

(4) Standards promulgated by the council shall not alter or amend the requirements in the California Retail Food Code (Part 7 commencing with Section 113700) of Division 104 of the Health and Safety Code).

(5) The council shall provide information as requested by the appropriate committees of the Legislature on labor to facilitate a review of the council's performance and standards under this section, which review may be conducted in a joint hearing held every three years or as otherwise designated by the appropriate committees of the Legislature on labor.

(6) Nothing in this section shall be construed to give the council the authority to create or amend statutes.

(7) Nothing in this section shall be construed to permit the council to promulgate regulations creating new paid time off benefits, such as paid sick leave or paid vacation. For purposes of this paragraph, paid time off benefits do not include paid rest periods.

(8) Nothing in this section shall be construed to permit the council to promulgate regulations regarding predictable scheduling. Predictable scheduling does not include reporting time pay. The council may create a report containing a recommendation to the Legislature to enact laws regarding predictable scheduling.

(e) To the extent that any minimum standards that the council finds are reasonably necessary to protect fast food restaurant employee health and safety fall within the jurisdiction of the Occupational Safety and Health Standards Board, the council is not authorized to promulgate the standards pursuant to Section 142.3, but rather shall petition the Occupational Safety and Health Standards Board for the adoption, amendment, or repeal of any occupational safety and health standard. The Occupational Safety and Health Standards Board shall consider and respond to the petition no later than six months following receipt of the petition in accordance with Section 142.2, or no later than three months, if the petition relates to an emergency as defined in Section 11342.545 of the Government Code. The Occupational Safety and Health Standards Board shall not adopt a standard recommended by the council if it reduces occupational safety and health protections for employees.

(f) The council shall conduct a full review of the adequacy of the minimum fast food restaurant health, safety, and employment standards at least once every three years. Upon that review, the council shall issue, amend, or repeal, or make recommendations to issue, amend, or repeal, any fast food employment, health or safety standard applicable to fast food restaurants, or a portion of any such standard, as appropriate to meet the purposes of this section. Any change to existing regulations proposed by the council shall not be less protective of or less beneficial to health, safety, or fast food restaurant worker employment terms, conditions, or privileges, including wages, than the immediately preceding standard.

(g) The council shall hold meetings or hearings no less than every six months that are open to the public, at which the public, including fast food restaurant employees, shall have the opportunity to be heard on issues of fast food restaurant health, safety, and employment conditions. The council shall provide advance public notice of these meetings or hearings that is reasonably calculated to advise fast food restaurant workers, franchisors, franchisees, community members, and other stakeholders of the opportunity to participate in the meetings or hearings. The location of the meetings or hearings shall rotate among major metropolitan areas throughout the state to provide fast food restaurant workers, franchisors, franchisees, community members, and other stakeholders throughout the state a reasonable opportunity to participate in a meeting or hearing at least once per each three-year review.

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

(i) A county, or a city with a population of greater than 200,000, may establish a Local Fast Food Council, which shall be composed of at least one representative who is either a fast food restaurant franchisor or a fast food restaurant franchisee and at least one representative who is a fast food restaurant employee, and a majority of representatives from local employment, health, and safety agencies. A Local Fast Food Council established pursuant to this subdivision shall periodically hold meetings that are

open to the public, at which the public, including fast food restaurant employees, shall have the opportunity to be heard on issues of local fast food restaurant health, safety, and employment conditions. A Local Fast Food Council may provide written recommendations to the council regarding minimum state health, safety, and employment standards, including training, that the Local Fast Food Council finds are reasonably necessary to protect the health, safety, and welfare of fast food restaurant workers. A Local Fast Food Council shall operate independently from the council.

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

(k) (1) The minimum wages, maximum hours of work, and other working conditions fixed by the council in standards promulgated pursuant to subdivision (d) shall be the minimum wage, maximum hours of work, and the standard conditions of labor for fast food restaurant employees or a relevant subgroup of fast food restaurant employees for purposes of state law. Nothing in this section shall restrict local jurisdictions' exercise of police powers to establish more protective local standards. The employment of a fast food restaurant employee for lower wages or for longer hours than those fixed by the minimum standards promulgated by the council, or under any other working conditions prohibited by the minimum standards promulgated by the council, is unlawful. Compliance with the minimum fast food restaurant employment standards promulgated by the council shall be enforced by the commissioner and the Division of Labor Standards Enforcement pursuant to the procedures and provisions set forth in Chapter 4 (commencing with Section 79) of Division 1, Division 2 (commencing with Section 200), Division 3 (commencing with Section 2700), and Division 5 (commencing with Section 6400), and according to any additional enforcement procedures and provisions that are set forth in standards, orders, or regulations promulgated by the council.

(2) Other than occupational safety and health violations, which shall be enforced by the Division of Occupational Safety and Health under Division 5 (commencing with Section 6400), and other than discrimination, harassment, and related retaliation, which shall be enforced by the Civil Rights Department under Part 2.8 (commencing with 12900) of Division 3 of Title 2 of the Government Code, the Labor Commissioner shall enforce this part, including investigating an alleged violation, and ordering appropriate temporary relief to mitigate the violation or to maintain the status quo pending the completion of a full investigation or hearing, through the procedures set forth in Chapter 4 (commencing with Section 79) of Division 1 and Section 1197.1, including by issuance of a citation against an employer, fast food restaurant operator, fast food franchisee, fast food franchisor, or any other liable person under this part, and by filing a civil action. If a citation is issued, the procedures for issuing, contesting, and enforcing judgments for citations and civil penalties issued by the Labor Commissioner shall be the same as those set out in Section 98.74 or 1197.1, as appropriate. In any successful civil action to enforce this section by the Labor Commissioner or an employee, the court may grant injunctive relief in order to obtain compliance with this part, and shall award costs and reasonable attorney's fees.

(3) A standard promulgated by the council pursuant to subdivision (d) shall not supersede a standard covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of the employees, and a regular hourly rate of pay not less than 30 percent more than the state minimum wage for those employees, if the agreement provides equivalent or greater protection than the standards established by the council and if state law on the same issue authorizes an exception for employees covered by a collective bargaining agreement. Nothing in this section shall be construed to allow a collective bargaining agreement to waive any occupational health and safety protections.

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

(l) In addition to the standards, rules, and regulations promulgated by the council pursuant to subdivision (d), the council is also authorized to issue any other rules, regulations, and guidance necessary for the enforcement of this part.

(m) On January 1, 2029, subdivisions (a) to (j), inclusive, shall become inoperative, and the council shall cease operations.

**1472.** (a) A fast food restaurant operator shall not discharge or in any manner discriminate or retaliate against any employee for any of the following reasons:

(1) The employee made a complaint or disclosed information or the fast food restaurant operator believes the employee disclosed, or may disclose, information to the franchisor, to a person with authority over the employee or another employee who has the authority at the fast food restaurant to investigate, discover, or correct the violation or noncompliance, to the media, to the Legislature, or to a watchdog or community based organization, or a governmental agency regarding employee or public health or safety.

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

(3) The employee refused to perform work in a fast food restaurant because the employee had reasonable cause to believe that the practices or premises of that fast food restaurant would violate worker or public health and safety laws, regulations, or

any other section in this code, including Section 6400, any occupational safety and health standard, or any safety order of the division or standards board, or would pose a substantial risk to the health or safety of the employee, other employees, or the public.

(b) Any employee of a fast food restaurant operator discharged or otherwise discriminated or retaliated against in the terms and conditions of employment in violation of subdivision (a) shall have a right of action for, and shall be entitled to, reinstatement, and treble the lost wages and work benefits caused by the discrimination or retaliation, and the employee's reasonably incurred attorney's fees and costs.

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

**1473.** On January 1, 2029, and annually thereafter, if the council is no longer operative, the minimum wage for fast food restaurant employees in effect on the immediately preceding December 31 shall be increased by the lesser of one of the following rounded to the nearest ten cents (\$0.10):

(a) 3.5 percent.

(b) The rate of change in the averages of the most recent July 1 to June 30, inclusive, period over the preceding July 1 to June 30, inclusive, period for the United States Bureau of Labor Statistics nonseasonally adjusted United States Consumer Price Index for Urban Wage Earners and Clerical Workers (U.S. CPI-W).

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