

STATE OF NEW YORK

3155

2023-2024 Regular Sessions

IN SENATE

January 30, 2023

Introduced by Sen. BRISPORT -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to establishing the New York state fast food franchisor accountability act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "New York
2 state fast food franchisor accountability act".

3 § 2. The labor law is amended by adding a new article 35 to read as
4 follows:

ARTICLE 35

NEW YORK STATE FAST FOOD FRANCHISOR ACCOUNTABILITY ACT

Section 1010. Short title.

1011. Definitions.

1012. Joint liability for fast food franchisors.

10 § 1010. Short title. This article shall be known and may be cited as
11 the "New York state fast food franchisor accountability act".

12 § 1011. Definitions. As used in this article:

13 1. "Fast food chain" means a set of restaurants consisting of fifty or
14 more establishments nationally that either share a common brand or are
15 characterized by standardized options for decor, marketing, packaging,
16 products, and services.

17 2. "Fast food restaurant" means any establishment in the state that is
18 part of a fast food chain and that, in its regular business operations,
19 primarily provides food or beverages according to all of the following:

20 (a) For immediate consumption, either on or off the premises;

21 (b) To customers who order or select items and pay before eating;

22 (c) With items prepared in advance, including items that may be
23 prepared in bulk and kept hot, or with items prepared or heated quickly;
24 and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (d) With limited or no table service. For the purposes of this
2 section, "table service" shall not include orders placed by a customer
3 on an electronic device.

4 3. "Fast food restaurant franchisee" means a person or entity to whom
5 a fast food restaurant franchise is granted.

6 4. "Fast food restaurant franchisor" means a person or entity who
7 grants or has granted a fast food restaurant franchise.

8 5. "Fast food restaurant operator" means a person who operates a fast
9 food restaurant.

10 6. "Franchise," "franchisee," and "franchisor" shall have the same
11 meanings as set forth in section six hundred eighty-one of the general
12 business law.

13 § 1012. Joint liability for fast food franchisors. 1. A fast food
14 restaurant franchisor shall be responsible for ensuring that its fran-
15 chisee complies with the following applicable employment, worker safety,
16 public health and safety laws and orders and any rules or regulations
17 related thereto:

18 (a) Article fifteen of the executive law.

19 (b) All applicable sections of this chapter.

20 (c) All applicable sections of the workers' compensation law.

21 (d) Orders, including emergency and executive orders, issued by the
22 governor regarding employment standards or worker safety.

23 (e) Orders issued by a county or municipality regarding employment
24 standards or worker safety.

25 2. If a fast food restaurant franchisee is liable for a violation of
26 any of the laws or orders set forth in subdivision one of this section,
27 or any rules or regulations related thereto, the fast food restaurant
28 franchisor shall be jointly and severally liable for any penalties or
29 fines for such violation.

30 3. The laws and orders set forth in subdivision one of this section,
31 and any rules and regulations related thereto, may be enforced against a
32 fast food restaurant franchisor to the same extent that they may be
33 enforced against the fast food restaurant franchisee.

34 4. A waiver of this section, or any agreement by a fast food restau-
35 rant franchisee to indemnify the fast food restaurant franchisor for
36 liability under this section, is contrary to public policy and shall be
37 void and unenforceable.

38 5. (a) If the terms of a franchise prevent or create a substantial
39 barrier to a fast food restaurant franchisee's compliance with the laws
40 and orders set forth in subdivision one of this section, and any rules
41 and regulations related thereto, or any changes to such laws, orders,
42 rules or regulations, including that the franchise does not provide for
43 sufficient funds to allow the franchisee to comply with the laws,
44 orders, rules, and regulations, or any changes to such laws, orders,
45 rules or regulations, the fast food restaurant franchisee may file an
46 action against the fast food restaurant franchisor for monetary or
47 injunctive relief necessary to ensure compliance.

48 (b) There shall be a rebuttable presumption that any changes in the
49 terms of a franchise that increase the costs of the franchise to the
50 fast food restaurant franchisee create a substantial barrier to compli-
51 ance with the laws and orders set forth in subdivision one of this
52 section, and any rules and regulations relating thereto, or any changes
53 to them.

54 6. If a fast food restaurant franchisee shows by a preponderance of
55 the evidence that the terms of its franchise were a substantial factor
56 in causing any liability the franchisee has actually incurred under

1 federal, state, or local law, the fast food restaurant franchisor shall
2 be jointly and severally liable for the portion of the liability to
3 which the terms of the franchise contributed.

4 § 3. This act shall take effect immediately.