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:

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

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

ARTICLE 35

NEW YORK STATE FAST FOOD FRANCHISOR ACCOUNTABILITY ACT

Section 1010. Short title.
1011. Definitions.
1012. Joint liability for fast food franchisors.

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

§ 1011. Definitions. As used in this article:

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

2. "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 according to all of the following:

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

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

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

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

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

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

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

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

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

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

(a) Article fifteen of the executive law.

(b) All applicable sections of this chapter.

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

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

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

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

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

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

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

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

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

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

§ 3. This act shall take effect immediately.