

California Bill Would Exempt Certain Fast Food Restaurants From \$20-per-Hour Minimum Wage

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California's FAST Food Accountability and Standards Recovery Act (FAST Recovery Act) was repealed on September 28, 2023, when Governor Gavin Newsom signed into law Assembly Bill (AB) No. 1228.

AB 1228, which replaced the FAST Recovery Act, requires a \$20-per-hour minimum wage for fast food workers, among other provisions, to be administered by the newly established Fast Food Council, which is expected to be appointed and start its tenure on March 15, 2024.



- AB 610 would carve out eight new exemptions from the definition of “fast food restaurant,” including “restaurants in airports, hotels, event centers, theme parks, museums, and certain other locations.”
- The bill would allow the exemptions to take effect immediately upon enactment.
- Current law contains carve-outs only for certain bakeries and grocery store restaurants.

Given the breadth and scope of [AB 1228](#), and in light of the diversity that exists among restaurant operations in the fast food industry, the California Legislature is working on creating carve-outs from the current definition of “fast food restaurant” under AB 1228. Current law exempts only bakeries operating in a prescribed manner and in operation since September 15, 2023, and certain restaurants in grocery establishments. But the industry has expressed a need for further exemptions to address the diverse array of businesses that make up the California fast food industry.

After last year’s legislative season, there had been talk around the capitol about exemptions from AB 1228. On January 29, 2024, Assembly Member Chris Holden introduced [AB 610](#), which would add eight new exemptions from the definition of “fast food restaurant” for the following:

- An “airport,” as defined by Section 21013 of the Public Utilities Code, which “exclud[es] any military base or federally operated facility”
- A “hotel,” defined as “any contracted, leased, or sublet premises connected to or operated in conjunction with the building’s purpose, or providing services at the building”
- An “event center,” defined as “a publicly or privately owned structure of more than 20,000 square feet or 1,000 seats that is used for the purposes of public performances, sporting events, business meetings, or similar events, and includes concert halls, stadiums, sports arenas, racetracks, coliseums, and convention centers,” and “any contracted, leased, or sublet premises connected to or operated in conjunction with the event center’s purpose”
- A “theme park,” which by its scope includes “commercially operated, admission-based grounds or enclosure featuring amusement park rides of a permanent or semipermanent nature, shows, and attractions that are presented, shown, staged, or offered to the public, along with games, merchandise, and food offered for sale in the park, and any contracted, leased, or sublet premises that are connected to, located within, or operated in conjunction with that park, whether or not an admissions ticket is required for entry”
- A “public or private museum,” as defined in Section 1899.1 of the Civil Code of California
- A “gambling establishment,” as defined in subdivision (o) of Section 19805 of the Business and Professions Code
- A restaurant that fulfills all of the following elements:

- “Located in *and* operated” for office purposes at a building, group of buildings, or campus “primarily or exclusively by a *single, for-profit* corporation and its affiliates” (emphasis added);
- “Primarily or exclusively serves employees of that corporation or its affiliates rather than the general public”; *and*
- “Is part of, or subject to, a concession or food service contract covering the building, group of buildings, or campus.”
- A food establishment “[l]ocated 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.”

If enacted as proposed, AB 610’s exemptions would take effect immediately “[d]ue 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.”

California’s food industry is an ever-changing landscape and further exemptions are expected, as well as the always present litigation that will result.

Ogletree Deakins will continue to monitor developments and will publish updates on the [California, Hospitality, Sports and Entertainment](#), and [Wage and Hour](#) blogs as additional information becomes available.

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