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The Slow Down of the FAST Act: Surprise Deal Reached Which Ends Statutory Joint Employee Threat Until 2028 in California

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On September 11, 2023, an unprecedented deal was announced by labor groups and the fast food industry which would give California workers a \$20 minimum wage and repeal The Fast Food Accountability and Standards Recovery Act ("FAST Act").

The FAST Act, signed by Governor Newsom on September 5, 2022, sought to establish a fast food regulatory council to promulgate minimum standards for wages and working conditions beginning on January 1, 2023. However, a voter referendum blocked the new law, with the challenge set to be on the 2024 ballot. The FAST Act seeks to clarify joint liability between a franchisor and franchisee, and return the joint employer liability standard to the Obama-era NLRB rule, expanding joint employer to nominal entities or franchisors who do not exercise direct control over the primary employer or franchisee.

The major terms of the agreement reached, which must still be passed by the legislature before they recess on Thursday, September 14, are the following:

- The FAST Act (Assembly Bill 257) is repealed.
- All joint employer provisions in Assembly Bill 1228 (which would have imposed joint employer liability among franchisors and franchisees) are withdrawn.
- The Assembly Bill 257 Referendum (set for the 2024 ballot) is withdrawn.
- A Fast Food Council, with equal representation of employers and employees as well as a neutral chairperson, will be created within the Department of Industrial Relations.
- Beginning on April 1, 2024, a minimum wage of \$20 per hour for employees working in limited-service restaurants that are part of a restaurant chain with 60 or more locations nationwide will take effect.
- From January 1, 2025, through December 31, 2029, the Fast Food Council has the authority to increase the hourly minimum wage on an annual basis by no more than the lesser of 3.5% or the annual change in Consumer Price Index-W.
- The Fast Food Council may recommend proposed standards to an applicable state agency

for consideration.

- Local municipalities shall not establish a higher minimum wage specific to fast food employees.

Since this is an evolving story given the pending consideration by the legislature later this week, we will provide a longer outlook on what this means for California franchising in the near future. In the meantime, our team stands ready to answer any questions you may have pertaining to this development or anything else regarding employment and franchise law. Please feel free to contact the attorneys listed below.

You can reach out to any of the attorneys listed below:



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