

California: Fast Food Accountability and Standards Recovery Act

On September 5, 2022, the governor signed the California Fast Food Accountability and Standards Recovery Act (FAST Recovery Act) which will create a Fast Food Council (council) within the Department of Industrial Relations. The FAST Recovery Act's purpose is to protect the fast food sector (applicable to employees of fast food restaurants with 100 or more establishments nationwide) because it 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. [Additionally,] fast food workers are the largest and fastest growing group of low-wage workers in the state and lack sector-specific protections."

The council will be in place until January 1, 2029, be comprised of 10 governor-appointed members, and will establish a fast food worker minimum wage, working hours standard, and safety and health requirements. However, a council-established minimum wage can't be more than \$22 per hour—from January 1, 2023, to December 31, 2023—and on January 1, 2024, the highest minimum wage can only increase by 3.5 percent or the annually adjusted federal consumer price index (CPI), whichever is less.

The standards will be enforced by many agencies, including the California Labor Commissioner and Civil Rights Department, will be reviewed every three years for adequacy, and fast food operators will be prohibited from retaliating against employees for asserting their rights under the law.

Of note, the council can't create predictable scheduling regulations—predictable scheduling doesn't include reporting time pay—but it can recommend to the legislature that predictable scheduling laws be enacted.

([CA AB 257](#) signed by governor September 5, 2022)

California: Employers Limited in Penalizing Off-Duty Cannabis Use

Effective January 1, 2024, employers cannot discriminate in their hiring, termination, employment terms or conditions, or otherwise penalize an individual if the discrimination is based on:

- The individual's use of cannabis when they are off-the-job and away from the workplace.
- An employer-required drug screening test that found the individual to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids. This is because nonpsychoactive cannabis metabolites are metabolized tetrahydrocannabinol (THC)—which is the chemical compound in cannabis that can indicate impairment and cause psychoactive effects—and these metabolites don't indicate cannabis-impairment, only that the person consumed cannabis in the last few weeks.

Regardless, employees can't have, be impaired by, or use cannabis on the job and the law doesn't:

- Affect an employer's rights or obligations under California law to maintain a drug- and alcohol-free workplace or applicable federal rights or obligations.
- Apply to building and construction employees, applicants or employees hired for jobs that require a federal government background investigation or security clearance.
- Preempt state or federal laws requiring applicants or employees to be tested for controlled substances that are receiving federal funding, federal licensing-related benefits, or are entering a federal contract.

([CA AB 2188](#) signed by governor September 18, 2022)