

## **Alert** | Restaurant Industry



**March 2024**

### **Effective April 1, California’s ‘Fast Act’ Covers More Than ‘Fast Food,’ Comes with Significant Implications**

AB 1228, commonly referred to as the “Fast Act,” takes effect in California on April 1, 2024, and the consequences for non-compliance are serious.

Many affected companies have closely followed this legislation and planned for its impact. However, many are uncertain about its application or mistakenly assume it does not apply to them.

#### **‘Fast Food Restaurant’ Defined**

Under the legislation a covered “Fast Food Restaurant” is defined as a restaurant brand with 60 or more locations nationally that (i) provides food or beverages, (ii) for immediate consumption on or off the restaurant’s premises, (iii) to customers who order and pay for items prior to eating, (iv) with items sold or prepared in advance, including items that may be prepared in bulk and kept hot, or items that can be prepared or heated quickly, and (v) with limited or no table service.

#### **The Vague ‘Fast Food’ Definition Captures Many ‘Non-Fast Food’ Businesses**

However, AB 1228 applies broadly to many restaurants and businesses not typically considered “fast food.” For example, many fast-casual restaurants and counter-service/casual dining restaurants could fall within its definition. In addition, AB 1228 may cover many non-restaurant concepts.

As the [March 2024 Q&A from the state of California](#) indicates, shops that “feature ice cream, coffee, boba tea, pretzels, or donuts” could meet the definition of a “fast food restaurant covered by the law.” This broad interpretation could extend to other familiar businesses, including convenience stores, candy/chocolate shops, cookie stores, and soda shops, to name a few.

### **Consequences for Non-Compliance May Be Severe: Confirm Whether AB 1228 Applies to Your Business**

The consequences of failing to comply with AB 1228 may be severe. The minimum wage hike can give rise to a claim for failure to pay minimum wage—a potential trap for those who may be surprised to find they qualify as a “fast food restaurant.” The hike also impacts the premium rates for overtime, meal periods and rest periods. And while AB 1228 most obviously impacts hourly non-exempt employees, it also pushes the minimum salary for salaried exempt employees in the fast food industry – which is calculated based on the minimum wage – to \$83,200 effective April 1. Employers who fail to make the necessary adjustments could face claims for wages, statutory penalties, derivative wage statement violations, waiting time penalties (to separated employees), unfair competition, civil penalties under the Labor Code Private Attorney General Act, and more. Together, these damages and penalties represent *multiples* of any underpaid wages.

In sum, don't be the fool on April Fool's Day. Confirm whether AB 1228 applies to your business.

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