

Employment Protection for Fast-Food Workers in NYC

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On January 5, 2021, New York City Mayor, Bill de Blasio, signed into law two bills that protect NY fast-food workers from being fired except in certain situations, but which critics say is an unwarranted intrusion into businesses that will cause additional hardship for struggling restaurants.

The state of New York, like 13 other states, is an “employment at will” state. This means that both employers and employees have the right to terminate the employment relationship at any time, with or without cause, and with or without notice. (Of course, an employer may not terminate an employee for discriminatory reasons.)

The other states require a claim of “just cause”. This means that an employer must have a good reason to fire a worker. Some examples of just cause include poor work performance, criminal activity, violating company rules, and harassment of co-workers. The language of the bills state: “Just cause” is defined as failing to “satisfactorily perform job duties or engaging in misconduct that is harmful to the fast-food employer’s legitimate business interests.”

Breaking rank from the rest of the state, the new NYC bills require employers to have either just cause, or an economic reason, to terminate an employee. The bills apply only to restaurants whose companies have at least 30 franchises. New York City is the first place in the country to provide fast-food employees with those protections.

The first Bill, 1415-A, established that an employee must first be placed on a 30-day probationary period, and the employee cannot be fired or have his/her hours reduced by more than 15% if there is no just cause.

The second Bill, 1396-A, allows employers who have economic difficulties to let go of employees in the order of least to most experienced. Employees laid off for economic reasons within the last year, must be reinstated before any new employees are hired. This Bill also establishes a new arbitration process, overseen by the City Department of Consumer and Worker Protection, for employees to enforce their rights.

6 of the 51 NYC Council members voted against both bills. One told the Press: “There’s a limit to the control that legislative bodies should exert over small businesses, and this bill is the perfect example of taking it too far. Business owners have a right to make their own personnel decisions without aggressive oversight and threats of penalties. At a time when small businesses are suffering tremendously, imposing unnecessary regulations is utterly misplaced.”

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