



## WHAT'S HAPPENING RIGHT NOW

### New Backers Join Fight to Reduce Credit Card Fees 🏛️

The number of cosponsors for the "Credit Card Competition Act of 2023" ([S. 1838/H.R. 3881](#)) doubled upon its introduction in 2023 compared to 2022, led by Sens. Durbin, Marshall, Welch and Vance, and Reps. Lofgren, Gooden, Van Drew and Tiffany. Under the bill, the biggest banks must carry two unaffiliated processing networks on issued credit cards. **What we're watching:** This could be offered as an amendment to the National Defense Authorization Act prior to the August recess.

### Dedicated Plan to Ease the Restaurant Workforce Shortage

A new visa program proposed by lawmakers would help restaurants address workforce challenges. The bipartisan "Essential Workers for Economic Advancement Act" ([H.R. 3734](#)), introduced by Reps. Smucker and Cuellar, creates a non-immigrant visa program for non-agricultural workers to fill positions that have remained open for extended periods.

### Making Business Expensing More Affordable

A major tax fix for any mid-size operator needing to expense debt payments was approved by the House Ways & Means Committee in June. While the four-year fix would not permanently restore full depreciation and amortization, like the bipartisan AIM Act ([H.R. 2788/S. 1232](#)) does, the Association strongly supports full House passage in coming months.



## WHAT JUST HAPPENED

### Congress Calls on Labor Chief to Fix Visa Delays

In response to major visa delays, commonly used by the restaurant industry, lawmakers [called on](#) DOL Acting Sec. Julie Su to speed up processing of H-2B labor certifications. This "unacceptable delay" hurts seasonal businesses and further illustrates the national workforce shortage.

### Potential Price Relief for Cooking Oils 🔍

Following [comments](#) from the Association on behalf of operators alarmed by rising costs of vegetable oils, the EPA released its final Renewable Fuel Standard rule, which included modest increases in the non-cellulosic advanced volumes and limited conventional biofuel at 15 billion gallons.

### Legal Liability May Increase under Patent Proposal 🏠

New legislation may increase patent liability risk for restaurants. In recent years, patent "trolls" have alleged violations for common items like a digital menu board and then engaged in frivolous legal proceedings. The Association is closely monitoring the "Patent Eligibility Restoration Act."

### Labor Agency Bolsters Ban on Non-Compete Agreements 📌

In a non-binding memo, the NLRB General Counsel endorsed a ban on non-compete agreements, calling them a violation of federal law. In April, the Association and Restaurant Law Center submitted [joint comments](#) to the FTC asking it to withdraw its proposed rule to ban non-compete clauses. **What's next:** The FTC's vote to formally ban non-competes is scheduled for April 2024.

### Competition in Alcohol Industry under Review 🍷

As the Treasury considers new rules on alcohol industry competitiveness, the Association shared [comments](#) to emphasize the need for flexibility in off-premises alcohol sales and alcohol placement on menus and in bars.

### New Tip Compliance Program Proposed by IRS

Three existing, voluntary tip reporting programs will be overhauled by the IRS to create one voluntary program, the Service Industry Tip Compliance Agreement (SITCA). The Association is [urging](#) the IRS to improve eligibility standards for participation and to protect employees from any new audit risk.

### Chilean Sea Bass Reeled in by Federal Import Rule 🐟

Chilean sea bass could become more expensive for customers and restaurants operators if a new rule from NOAA comes into effect. The Association [submitted comments](#) outlining how the Chilean sea bass import restrictions can disrupt the seafood supply chain.





## ON THE HORIZON

### Is a New Franchise Rule on the Horizon?

The FTC is considering new regulations on the franchisor-franchisee relationship. The Association and Restaurant Law Center [filed comments](#), explaining how current controls protect the franchisor and franchisee to ensure brand standards are met, including food safety and the customer experience.

### Marketing Practices Scrutinized to Protect Kid's Data Privacy

The U.S. Senate is advancing the [Kids Online Safety Act \(S. 1409\)](#) and the [Childrens and Teens Online Privacy Protection Act \(S. 1418\)](#). **What we're watching:** Both bills bolster online protections for minors under 18 years old, but may hamper a business' advertising and marketing practices.

### Key Food Waste Plan Can Boost Donations




Sen. Durbin will soon introduce the Reduce Food Loss and Waste Act, which would create a voluntary food waste reduction certification program for restaurants. The Association supports this legislation, as it helps companies who want to track and donate food.

### Restaurants Weigh in on New Dietary Guidelines

The Association will soon submit comments to the "Dietary Guidelines for Americans" committee on the 2025-2030 dietary guidelines. Our goal is to prevent negative language around dining out and highlighting "better for you" options. For the first time ever, the committee will also review the impact of ultra processed foods.

## PRIMER SPOTLIGHT

### 3 Key Labor Rules Expected as Early as August

	Overtime (OT) Pay Overhaul 	Joint Employer Expansion 	Independent Contractor Change 
What's Happening	<b>PROPOSED</b> rule coming as soon as August. The Association will review the new proposal, compare precedent, collect industry feedback, and draft comments.	<b>FINAL</b> rule coming as soon as August. The Association will work with stakeholders to evaluate the rule's impact on the industry and discuss possible next steps	<b>FINAL</b> rule coming as soon as August. The Association will work with stakeholders to evaluate the rule's impact on the industry and discuss possible next steps
What We're Watching	Employees earning \$71K/year could be eligible for OT pay, if DOL doubles the threshold from \$36K to \$72K  Managers may also become eligible for OT if DOL rewrites "duties test" for performed tasks.	A restaurant operator who contracts with another company to work on-premise may be held jointly liable if the "visiting" company violates labor law.	How third party delivery companies will absorb new rule changing the definition of an independent contractor versus an employee.
Who's Impacted	Any restaurant company with salaried employees	Any restaurant company contracting with another company for on-site services (janitorial, linens cleaning, etc.)	Restaurants who have invested in off-premise sales.
The Challenge	Salaries have spiked in recent years due to the historic workforce shortage, but a 1.5X pay increase for any employee would present challenges for operators.	A new NLRB "reserved and indirect control" test increases liability for every operator, especially franchise operators.	Restaurants relying on third party delivery must be aware of how this could affect operations, contracts, etc.

