

September 14, 2022

The Honorable Bobby Scott
Chairman
U.S. House Labor & Education Committee
2176 Rayburn House Office Building
Washington D.C. 20515

The Honorable Virginia Foxx
Ranking Member
U.S. House Labor & Education Committee
2176 Rayburn House Office Building
Washington D.C. 20515

Dear Chairman Scott and Ranking Member Foxx:

We appreciate the opportunity to submit comments regarding the Committee's hearing, "In Solidarity: Removing Barriers to Organizing." As you know, 9 in 10 restaurants are small businesses, uniquely vulnerable to economic conditions. More than two years after being unceremoniously shutdown, restaurants still have 635,000 fewer jobs helping customers, preparing food, and welcoming guests, who themselves are increasingly concerned by an economic recession.

Inflation continues to eat into the average restaurant's margins. Wholesale food prices have soared over 16% year-over-year, as more than 80% of restaurants say the cost of food, labor, and operating costs are each higher than 2019. Even if a restaurant's current sales recovered to 2019 pre-pandemic levels, its additional costs would turn a 5% profit margin into a -12.3% loss. The restaurant recovery has stalled even as other industry sectors have surged.

Despite these economic headwinds, restaurant and foodservice employee wages are rising. On a year-to-date basis through July 2022, BLS reports the average hourly earnings of eating and drinking place employees rose 10.6%, nearly double the 5.5% increase for all private sector workers. Restaurants represent one of the nation's largest training grounds, having employed 1 out of 2 people in the U.S. workforce. It provides first jobs, good-paying careers, and second chance employment for justice-involved individuals. For example, the Hospitality Opportunities for People (Re)Entering Society (HOPES) program helps over 500 justice-involved young adults gain industry skills, explore career options, and reduce recidivism. For service members, restaurant management apprenticeships are offered through the Veteran Apprenticeship and Labor Opportunity Reform (VALOR) Act. Veteran apprentices can access tax-free monthly housing stipend while enrolled and swiftly advance in their careers.

Restaurants encourage the Committee to continue its focus on boosting workforce participation and expanding skill building programs like registered apprenticeships. **However, the National Restaurant Association strongly opposes:**

- 1) The partisan "Protecting the Right to Organize (PRO) Act," which bolsters the power of unions over the interests of employees and employers by repealing decades of labor law reforms.
- 2) The proposed Joint Employer rule from the National Labor Relations Board (NLRB), which throws franchisor and franchisee restaurants into uncertainty and reduces entrepreneurship.
- 3) Any attempt by this Congress or the Biden Administration to undermine the sanctity of secret ballot elections in union representation elections.

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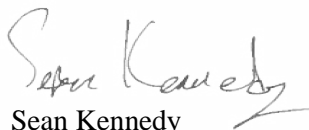
The PRO Act would make radical changes to settled workplace policies, creating chaos for the restaurant industry. It denies attorney-client privilege for employers seeking labor law advice, abolishes states' right-to-work laws, and forces employers to divulge private employee information like home addresses and personal phone numbers. It is both anti-worker and anti-employer. **After 90,000 restaurants permanently closed during the pandemic, the PRO Act renews the threat of closures by upending decades of labor reform.**

The NLRB's proposed rule on joint employer status reignites confusion and uncertainty for restaurant franchisors and franchisees. The Committee must examine the newly proposed joint employment determination standard, which the NLRB bases on ambiguous concepts of indirect and reserved control rather than precedent and experience. **If this rule is adopted, franchisor restaurants will be discouraged from investing in entrepreneurship and smaller businesses, sapping investment in an industry that badly needs it.**

In July 2022, the House of Representatives included a provision in federal appropriations legislation that would require the NLRB to implement electronic union representation elections. This tactic would effectively eliminate secret ballots in union representation elections, denying workers the ability to vote their conscience without influence from others. The Supreme Court and the NLRB itself have all recognized that secret ballots are the best method for determining the will of workers, and the elimination of secret ballots would be a gross violation of workers' privacy. **Restaurants urge the Committee to protect the sanctity of secret ballot elections in all matters.**

As restaurants navigate an inflationary economy on the brink of recession, they are still finding ways to invest in their workforce and increase wages. This is a testament to an industry that lives on a 3–5% pre-tax profit margin but still puts people first. Restaurants appreciate your Committee's work to support the U.S. workforce, including skill building initiatives and efforts to increase worker participation in the economy. We urge you to take our comments under consideration.

Sincerely,



Sean Kennedy
Executive Vice President, Public Affairs