



February 18, 2021

Honorable Andrew Cuomo  
Chair  
National Governors Association  
444 North Capitol Street, NW  
Suite 267  
Washington, DC 20001

Dear Governor Cuomo:

As winter continues, restaurants across the country suffer at unprecedented levels from the impacts of the COVID-19 pandemic. The National Restaurant Association mentioned in our recent letter that 42 states [continued to lose restaurant jobs](#) in December and 2.5 million restaurant workers remain unemployed, 110,000 restaurants have closed, and the industry has lost over \$240 billion in sales. While other businesses are talking about recovery, the local diners and beloved family restaurants that make our communities unique just dropped into a [double-dip recession](#).

State and local lawmakers have the chance to make a real difference in their local restaurant industry's survival. Restaurants are the largest employer in many states and cities, and decisive action on recovery by local leaders will be a critical part of our future. As states and localities begin new legislative sessions, we encourage lawmakers to take action that will help restaurants survive the winter and the pandemic.

The Association has put together a Blueprint for State and Local Restaurant Recovery to assist lawmakers looking to help the industry. We encourage the following package of innovative aid and regulatory relief:

- **Safeguard tax treatment to prevent any unforeseen liability of federal relief funds.**
  - States and localities must ensure that any emergency relief funds in 2020 and 2021 are not taxed as income for the business. This includes loans – forgiven or not – through the Paycheck Protection Program (PPP), economic injury disaster loan (EIDL) advance grants, and contributions from individuals or third-party fundraisers that are generally considered to be gifts.
  - Restaurants must have full state tax deductibility for business expenses, whether paid by forgiven PPP loans, EIDLs, advance grants, or any other federal economic relief provided to aid ongoing expenditures.
  - Restaurants strongly recommend that all states and localities conform with the Economic Aid Act passed by Congress in December 2020, which calls for the tax treatment of any federal economic relief to be excluded from any potential gross income taxes or fees and for any otherwise eligible expenses to be fully deductible.
  
- **Establish grants to save restaurants.**

- Grants will support local economies by preventing restaurants from closing, keeping employees on payroll rather than unemployment, and helping restaurants pay rent and suppliers like local farms.
- A grant program was not included in federal year-end legislation, despite 271 lawmakers supporting the bipartisan effort, but it remains essential to support the sector hardest hit by the pandemic.
- Separately, offer grants for specific expenses such as upgrading outdoor dining capabilities or technological investments to aid off-premises food sales.
- **Create hiring/rehiring tax incentives for the COVID-related unemployed and prevent increased fees for unemployment insurance and workers compensation.**
  - States should establish a program like the Work Opportunity Tax Credit (WOTC), which provides a business tax credit for the hiring of certain Americans, such as veterans, long-term unemployed, and the formerly incarcerated.
  - States and localities should consider creating a COVID-unemployed category for 2021-2022, to drive hiring and rehiring for individuals seeking to return to restaurants and hospitality. This can have a positive economic effect for any states managing high unemployment insurance claims.
  - States must not raise unemployment insurance and workers compensation fees on employers due to COVID-19 economic effects.
- **Provide property tax relief.**
  - Property should be reevaluated to ensure restaurant building assessments reflect the new economic realities of a COVID economy.
  - If a restaurant or retail location was closed or partially closed by government order and lost revenue, state and local governments should consider a corresponding reduction of property tax due.
  - State and local governments should consider waiving penalties and interest for late property tax payments and work with impacted businesses to create flexible payment plans.
- **Create workplace protection tax credits to help provide personal protective equipment for employees, reconfigure space to aid social distancing such as drive-thru or carry-out windows, install new air filtration systems, create outdoor and on-street dining, and offset increased cleaning and sanitizing costs.**
- **Suspend the sales tax on meals, prepared food, and catering.**
  - Suspending state and local taxes offers more incentives for businesses to invest in local restaurants.
  - Eliminate sales tax for off-premises food sales as pandemic regulations have forced restaurants to pivot to selling more food for off-premises consumption.
- **Make alcohol to-go a permanent option for restaurants.**

- In response to the pandemic, 32 states plus the District of Columbia currently allow restaurants to sell cocktails to-go. While many of these regulations are temporary and will expire, several states have recently made these new regulations permanent and others are extending them.
- Alcohol to-go has been an important economic lifeline for restaurants with alcohol licenses during the pandemic. According to National Restaurant Association research, these new regulations have allowed restaurants to bring back additional staff and have generated significant revenue for operators, which has helped stem losses.
- Alcohol to-go is very popular with consumers. State-by-state consumer polling by the Association found between 75-85% of consumers support the extension of these new regulations.
- As the pandemic has accelerated trends towards increased off-premises consumption of restaurant meals, cocktails to-go should be made permanent so that restaurants can continue to generate much needed revenue from alcohol sales.
- **Enact pandemic liability protections.**
  - Since the beginning of the pandemic, restaurants—already highly regulated by the FDA’s Food Code and local regulations—have been following regulatory guidance from CDC, state, and local health regulators to ensure the health and safety of employees and customers.
  - Restaurants that followed the guidance of regulators should not be vulnerable to frivolous lawsuits regarding COVID-19 infections.
  - The federal government has not passed liability protections for the industry, but many states have taken the lead on passing commonsense liability protections for operators who followed regulatory guidance in good faith.
- **Fully fund and expand tourism incentives and initiatives for 2021 and beyond.**
  - The [percentage of restaurant sales from travelers and visitors](#) is down sharply during COVID-19 (less than half of pre-pandemic levels for many restaurant segments).
  - Rebuilding tourism and travel will be essential to the restaurant industry’s recovery in 2021 and beyond.
- **Streamline outdoor dining permit renewal and continue to expand outdoor dining access.**
  - Starting in spring 2020, expanded outdoor dining served as a lifeline to many operators around the country. According to Association research, upwards of 75% of full-service restaurant operators expanded their outdoor dining offerings last summer in response to the pandemic.
  - As spring returns, operators need the opportunity to utilize and expand upon outdoor dining spaces as quickly and easily as possible.

Honorable Andrew Cuomo

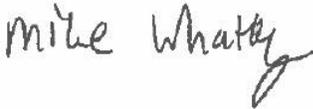
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- **Ease restaurants' financial burden by providing rebates or tax credits for taxes and licensing fees paid by restaurants that covered periods during which they were ordered closed or operating under reduced capacity restrictions due to the pandemic.**

State and local legislative leaders around the country have successfully utilized many of these policy proposals to help restaurants in their communities. We encourage all legislative leaders to work with the Association and our 52 state restaurant association partners on solutions that enable restaurants to survive this crisis and thrive afterwards. We look forward to working with you in the days ahead.

Sincerely,

A handwritten signature in black ink that reads "Mike Whatley". The signature is written in a cursive, slightly slanted style.

Mike Whatley

Vice President, State Affairs and Grassroots Advocacy