



WHAT'S HAPPENING RIGHT NOW

NATIONAL
RESTAURANT
ASSOCIATION

THE RESTAURANT ADVOCATE

BELTWAY
INSIGHTS FOR
RESTAURANT
LEADERS

Q3 2024

New Heat Proposal May Create More Rules for Kitchens

When a restaurant kitchen reaches certain temperatures, new federal rules may require mandatory paid breaks, employee training, and a new observation system. In July, the Occupational Safety and Health Administration (OSHA) released a new [proposal](#) that includes restaurants in safety protocols typically reserved for industrial or heavy machinery work. The Association urges operators to evaluate the plan and share insight before comments are submitted to OSHA before the end of the year.

Coalition Wins in Court Cases Over 2023 Joint Employer Rule

The final case over the 2023 Joint Employer Rule, the most harmful federal labor rule in over a decade, has been dismissed. This spring, a Texas Judge vacated the rule in a case brought by the Restaurant Law Center (RLC) and a coalition of business groups. The “direct and immediate” standard is once again in place.

RLC Prevails in “80/20/30” Lawsuit

In a unanimous decision, a federal appeals court vacated the DOL’s 2021 “Dual Jobs” rule. The court agreed with the RLC that the DOL’s rule is arbitrary and capricious because it draws a line for the application of the tip credit based on reasons outside of what Congress intended. This decision highlights why the industry must have a legal champion to take cases where others will not.

Navigating FDA’s Sodium Reduction Push

The Food and Drug Administration (FDA) has released further guidance on sodium reduction. Phase II guidance now proposes three-year targets, ranging from a 1% to 58% reduction from 2022 levels of 10% to 21%. The Association is concerned with the steep reduction targets and the challenges within the supply chain to meet them. The Association plans to submit comments on industry impact in November.

Clear Surcharges on Restaurant Bills Allowed in California Junk Fee Ban

Efforts to ban so-called “junk fees” are spreading to statehouses. However, California’s legislature reversed itself to protect restaurant service and delivery fees when they are clearly disclosed ahead of time. Over 40 lawmakers from the [House](#) and [Senate](#) echoed Association priorities to the Federal Trade Commission (FTC) this summer.

Temporary Tax Relief Fails in Senate as Efforts Redouble for 2025

A bipartisan plan to bring back 100% bonus depreciation and full business interest expense standard failed to pass the Senate last month. While small businesses are deeply disappointed, operators are already sharing key tax priorities with lawmakers ahead of next year’s “tax cliff.” At the end of 2025, the Small Business Tax Deduction ([Sec. 199A](#)) will expire alongside other vital tax incentives for restaurants.

Tariffs Eat into Restaurant Costs and Expenses

The United States Trade Representative (USTR) has released the [final Section 301](#) China tariff modifications, which maintain tariffs on restaurant products like food products, furnishings, and kitchen equipment. The agency also increased tariffs on steel and aluminum products to 25%. The new tariffs proposed to take effect in 2024 will take effect on Sept. 27, while the tariffs set to take effect in 2025 and 2026 will take effect on Jan. 1 of those years.





Data Privacy Liability Scheme Blocked in the House

The *American Privacy Rights Act of 2024* ([H.R. 8818](#)), which included onerous compliance standards and increased legal uncertainty for small businesses, was blocked from advancing to the House. The Association continues to work with policymakers interested in a national data privacy standard to ensure any proposals sufficiently preempt state law, forego a private right of action, and are compatible with modern restaurant business practices.

No Taxes on Tips Proposed by Both Presidential Candidates

As both nominees tout their support for service employees, the *No Tax on Tips Act* ([S. 4621](#)/ [H.R. 8941](#)) has been introduced. The bipartisan bill protects the FICA payroll tax (which builds an employee's benefits) and establishes a 100% income tax deduction on tips. The Association believes the FICA system must be preserved regardless of any change to federal income tax treatment of tips.



IN CASE YOU MISSED IT

Non-Compete Rule Struck Down

A U.S. District Court overturned the FTC's ban on non-compete agreements. In an [amicus brief](#), the RLC argued the FTC's flawed cost-benefit analysis ignored the proper use of non-competes. The ruling allows restaurants to use non-compete agreements where necessary to protect their competitive interests and confidential information.

Breakthrough: New State Law Prevents Swipe Fees on Sales Tax and Tips

Earlier this year, Illinois enacted the *Interchange Fee Prohibition Act* ([SB 2083](#)), a first-of-its-kind legislation exempting sales tax and gratuities from credit and debit card swipe fees. The Association participated in a [panel](#) hosted by the National Conference of State Legislatures to support the legislation while exploring how other states could follow Illinois' example.

Overtime Pay Increase Implemented for Salaried Managers

The RLC, Texas Restaurant Association, and other business groups filed for expedited summary judgment seeking a nationwide block of the federal 2024 Overtime Rule. In January 2025, restaurant managers earning \$58,000/year will receive mandatory overtime. Watch this [webinar](#) for tips on how to ensure your restaurant is compliant.



ON THE HORIZON

Swipe Fee Competition Support Continues to Grow

The Association and its advocates continue to increase support for the bipartisan, bicameral *Credit Card Competition Act of 2023* ([S. 1838](#)/ [H.R. 3881](#)), which would lower swipe fees for restaurant operators.

Farm Bill Work Underway

The House and Senate Agriculture Committees released proposals for the Farm Bill, and the Association is advocating for a streamlined Restaurant Meals Program and support for the food supply chain.

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