



September 15, 2025

By Electronic Submission

Docket Clerk  
Office of Legal Policy  
U.S. Department of Justice  
950 Pennsylvania Ave. NW  
Washington, DC 20530

**Re: Request for Information on State Laws Having Significant Adverse Effects on the National Economy or Significant Adverse Effects on Interstate Commerce, Docket No. OLP182**

The National Restaurant Association appreciates the opportunity to comment on state laws which have a significant adverse effect on the national economy or interstate commerce.

Founded in 1919, the National Restaurant Association is the leading business association representing the U.S. restaurant and foodservice industry, which encompasses over 1 million establishments and a workforce of 15.7 million employees. In 2025, the restaurant industry generated \$1.5 trillion in sales, solidifying its role as a cornerstone of the American economy. Beyond its economic impact, it remains a vital source of employment—supporting one in every ten U.S. workers.

Additionally, nearly 90% of restaurants employ fewer than 50 people, underscoring our role in local economies. Today, restaurants serve nearly every county in the U.S. and rank as the nation's second-largest private employer.

Yet behind this scale is a fragmented and fiercely competitive landscape, with seven in ten restaurants operating as single-unit businesses. These establishments run on exceptionally thin margins, averaging just 2.8% for full-service and 4.0% for limited-service restaurants, making them highly susceptible to rising costs and economic uncertainty. Operators must continuously adapt to shifting consumer preferences, evolving regulations, and financial pressures, all while managing the realities of razor-thin profitability.

Because of the industry's vast reach and deep ties to local economies, any disruption, whether policy-driven or market-based, has far-reaching consequences. When restaurants are affected, the impact cascades across the broader economy, touching jobs, small businesses, and the communities they support. This interconnectedness makes the regulatory environment especially consequential for the industry's stability and growth.

Recognizing this, President Trump has prioritized deregulation, aiming to ease burdens on small businesses and restore economic momentum nationwide. While federal reforms are underway, a growing number of state-level laws continue to challenge the restaurant industry. The state measures below introduce operational complexities, drive-up costs, and threaten the resilience of an industry that underpins much of the American economy.

**Food Ingredient & Additive Regulations - MAHA bills**

The surge in state and local legislation banning specific food ingredients and mandating new warning labels has introduced significant complications across the national food supply chain. These laws differ widely by jurisdiction, creating a fragmented regulatory environment that increases production costs, limits product availability, and disrupts supply chain efficiency. For restaurants operating across multiple states, this patchwork of rules poses a serious threat to affordability, innovation, and market stability.

Since January 2025, 37 state legislatures have introduced more than 120 bills which vary widely—differing in effective dates, targeted ingredients, exemptions, and enforcement mechanisms. Examples of these bills include.

State	Law	Compliance Date	Industry Impact
Texas	TX SB 25	January 1, 2027	Warning label required for 44 ingredients
Louisiana	LA SB 14	January 1, 2028 2028-2029 School Year	Seed oil disclosures in restaurants and QR code requirements for packaged foods Bans on 15 ingredients in school meals (2028–29 school year)
California	CA AB 418	January 1, 2027	Retail ban on BVO, Potassium Bromate, Propylparaben and Red Dye 3
Arkansas	AR SB 9 (Act 622)	January 1, 2028	Retail ban on Potassium Bromate & Propylparaben
West Virginia	WV HB 2354	School ban in place Retail ban effective January 1, 2028	Bans on 7 ingredients for school meals Bans on 9 ingredients for all retail

Although these initiatives aim to protect public health, they often result in unmanageable compliance burdens. Businesses must navigate a maze of state-specific requirements - each with their own timelines, enforcement protocols, and ingredient standards. This lack of uniformity drives up operational costs, increases liability exposure, and makes it especially difficult for small businesses to maintain multi-state operations.

The complexity of compliance is staggering. Companies are forced to implement state-specific product reformulations, signage, and labeling—costs that rival the FDA’s national menu labeling rollout, which averaged \$45,720 per restaurant chain. Even in the absence of menu mandates, requirements like Louisiana’s seed-oil disclaimers demand costly signage updates, digital system overhauls, and staff retraining. When multiplied across jurisdictions, these expenses can reach millions annually, pushing smaller operators out of compliance.

Every segment of the supply chain is affected. State-specific rules require tailored formulations, packaging, and labeling, disrupting interstate commerce and driving up costs for producers, distributors, and consumers alike.

Adding to the confusion, definitions vary dramatically between states. For example, a synthetic dye banned in West Virginia may be allowed in neighboring regions. Beyond financial strain, these laws also erode national consistency and consumer trust. They often conflict with FDA science-based standards and compel disclosures that contradict federal dietary guidance, further undermining public confidence in food safety and nutrition messaging.

### **Federal Preemption & Federal Legislative or Regulatory Actions**

To address these challenges, the federal government should establish a uniform, science-based framework for regulating food ingredients, with preemption of conflicting state laws. The U.S. Food & Drug Administration (FDA), under the Food, Drug, and Cosmetic Act, is charged with ensuring the safety of the national food supply.

To fulfill this mission and support clarity across the country, it would be valuable for the FDA to uphold a transparent, evidence-based regulatory system that reinforces product integrity and strengthens consumer trust across all markets. Finally, coordination with the U.S. Department of Agriculture (USDA) is also essential to ensure that school meal regulations remain consistent and do not diverge across states.

Congressional action should also be encouraged to create a consistent landscape that protects the integrity of the supply chain, and provides consistent information to consumers. Moreover, any federal regulation or legislation regarding food ingredients, synthetic dyes, additives, etc. should include express preemption to override state laws.

### **Federal Agencies with Authority to Address Concerns**

- The Food & Drug Administration & The U.S. Department of Agriculture

### **Extended Producer Responsibility Laws**

Extended Producer Responsibility (EPR) laws shift the burden of managing packaging waste from governments to producers, requiring businesses to track, report, and pay fees based on packaging materials. These laws—now enacted in California, Colorado, Maine, Maryland, Minnesota, Oregon, and Washington—have introduced significant complexity and cost for restaurants, particularly those operating across multiple jurisdictions.

Businesses now face a patchwork of requirements with varying definitions, benchmarks, enforcement mechanisms, and producer responsibility organization (PRO) structures. This fragmentation increases costs, administrative burdens, and undermines efforts to maintain consistent packaging and distribution practices.

Moreover, the financial impact of EPR laws is substantial. Restaurants often bear significant costs despite having limited control over packaging design or end-of-life waste management. Compliance requires detailed tracking of packaging data—such as weight, recyclability, and plastic content—under differing deadlines and look-back periods. Legal and compliance teams must interpret evolving regulations across multiple states, while businesses invest in operational systems and consulting services to meet these demands. These expenses quickly accumulate, especially for small and mid-sized operators.

Beyond cost, EPR laws introduce a host of logistical and regulatory challenges. Definitions of key terms such as “producer” and “covered materials” differ from state to state, creating uncertainty and confusion. Suppliers and distributors often lack alignment on compliance strategies, further complicating the supply chain.

California’s SB 54 exemplifies this strain, requiring producers to make upfront payments based on estimated costs before final program details are defined. This uncertainty forces businesses to allocate capital toward undefined liabilities, complicating financial planning and destabilizing long-term budgeting.

Inconsistent definitions of “producer” across jurisdictions further exacerbate the problem. Responsibility for packaging waste may fall on brand owners, manufacturers, importers, or retailers—often without clear role distinctions or mechanisms for shared accountability. This ambiguity leads to redundant reporting, compliance gaps, legal disputes, and operational breakdowns.

### **Federal Preemption and Federal Legislative or Regulatory Actions**

These inconsistencies make it difficult for businesses to implement a unified compliance strategy. It is critical for the Department of Justice to understand the direct relevance of EPR laws to the foodservice industry. These regulations are not just environmental initiatives; they are operational mandates that affect pricing, product availability, and business viability.

While formal federal preemption is not being proposed, greater harmonization across state laws could be considered as it would streamline compliance by aligning definitions, reporting requirements, and cost structures.

However, harmonization alone is insufficient. A meaningful restructuring of these laws is needed to shift producer responsibility further upstream to the material manufacturers who physically produce packaging and goods. These entities are best positioned to track inputs, design for sustainability, and implement scalable solutions. Placing the burden on end-users—such as restaurants—creates inefficiencies and misaligned incentives.

Moreover, the source reduction targets embedded in many EPR laws actively inhibit business growth by penalizing additional packaging. This disincentivizes increased sales, seasonal promotions, and even new restaurant openings, as operators fear triggering compliance thresholds that come with steep costs and reporting obligations. A restructured framework should be considered to balance environmental goals with economic viability.

### **Packaging Bans & Restrictions**

In recent years, numerous states—including Oregon, California, New York, Maryland, Colorado, and Washington—have enacted packaging laws that are significantly burdening interstate commerce and raising costs nationwide. These bills can range from narrowly banning polystyrene foam (commonly known as Styrofoam) in foodservice containers to broadly restricting a wide array of single-use plastics. At the same time, a growing number of states have passed legislation prohibiting the sale or distribution of food packaging containing PFAS (per- and polyfluoroalkyl substances). These laws vary widely in scope, enforcement timelines, and definitions, creating a complex regulatory landscape for restaurants and distributors operating across state lines.

For restaurant brands, these regulations require significant operational adjustments. Businesses must source compliant packaging for each jurisdiction, often maintaining separate inventories to meet state-specific standards. The lack of uniformity increases costs, complicates logistics, and raises the risk of non-compliance—especially when certain definitions differ from state to state.

Adding to this complexity, New Jersey’s Recycled Content Law (P.L. 2021, c. 391) imposes mandatory minimum levels of postconsumer recycled (PCR) content on a broad range of packaging materials—including rigid plastic containers, beverage bottles, and paper and plastic bags—with thresholds that increase over time. While the law aims to promote sustainability, it places substantial compliance burdens on businesses, many of which lack practical control over material sourcing due to the structure of modern supply chains.

### **Federal Preemption & Federal Legislative or Regulatory Actions**

While the Food and Drug Administration (FDA) can and does regulate food contact substances, including plastics and packaging, FDA approval is permissive, not mandatory, allowing states broad authority to regulate packaging under state powers. A comprehensive federal framework, which would likely require Congressional action through legislation, could provide that FDA determination on the safety of food-contact materials (like polystyrene or PFAS) preempts state restrictions.

### **Federal Agencies with Authority to Address Concerns - The Food and Drug Administration**

### **Animal Welfare Regulations**

Fifteen states, including California, Massachusetts, Oregon, and others, have enacted laws regulating farm animal confinement, particularly around cage-free eggs and gestation crates for breeding sows. While many of these laws were initially limited to in-state livestock production, often in states with minimal livestock industries, California’s Proposition 12 and Massachusetts’ Question 3 marked a shift by imposing production standards on out-of-state suppliers—raising serious concerns about interstate commerce.

These laws have created significant operational challenges for restaurants and distributors operating across multiple jurisdictions. This fragmented regulatory landscape forces businesses to manage complex, state-specific supply chains, often requiring separate inventories to comply with varying confinement standards. For example, pork sold in California must meet Proposition 12 requirements, while neighboring states may have no such mandates.

Supplier coordination becomes a logistical burden, involving contract renegotiations, farm audits, and procurement system updates. Foodservice distributors serving California face costly annual audits, and restaurant operators risk penalties for serving non-compliant products. These requirements have driven up the cost of compliant pork by 20–40%, pressuring operators to raise prices and, in some cases, forcing smaller restaurants to source from retail shelves due to limited availability.

Additional costs arise from mandated labeling and menu disclosures, which require signage changes, digital system updates, and staff retraining. The risk of non-compliance is high, with potential civil penalties, criminal charges, and reputational harm. Beyond pork and eggs, emerging regulations in states like California and Massachusetts prohibit the sale of any animal products that fail to meet their welfare standards, regardless of origin.

In Massachusetts, implementation of Question 3 included transshipment restrictions on non-compliant pork, veal, and eggs, prompting legal action. Although a 2023 consent agreement required the state to rescind those rules and develop new ones, Massachusetts has yet to act, leaving the marketplace in continued confusion.

### **Federal Preemption and Federal Legislative or Regulatory Actions**

Currently, there is no federal law that preempts state-level regulations on the confinement of farm animals. The Animal Welfare Act, administered by the U.S. Department of Agriculture (USDA), specifically excludes animals raised for food, leaving confinement standards to be set by states.

The Supreme Court's 2023 decision upholding California's Proposition 12 affirmed that states may regulate the sale of agricultural products within their borders. Therefore, Federal preemption would require Congress to establish uniform national standards for farm animal confinement, with the USDA likely serving as the lead agency for oversight and enforcement. Until such action is taken, companies must continue navigating a complex and costly web of state-specific requirements.

The House draft Farm Bill (Farm, Food, and National Security Act of 2024) included a provision that would preempt states and local governments from imposing, as a condition of sale or consumption, any production or processing standards on covered livestock raised outside their jurisdiction.

### **Localized Labor Mandates and Sector-Specific Labor Mandates**

Over the past 10 years, there has been a proliferation of local labor mandates that create a difficult regulatory patchwork environment for restaurant operators. While federal and state governments have historically taken the lead on labor policy, many local governments have recently created mandates related to wage rates, paid leave mandates, and employee scheduling practices. These different mandates create compliance challenges for operators with more than one restaurant, especially if they have employees who work in multiple locations.

For example, jurisdictions in California have adopted over 20 different minimum wage rates with many continuous cities in the San Francisco Bay area having different rates. While many states have taken action to preempt local governments on labor regulations to ensure one statewide standard, many other states allow localities to create labor policies that are significantly different from the state standard and that require onerous amounts of reporting and record keeping for businesses.



Recently, labor unions have pushed sector-specific labor mandates targeting restaurants or even specific segments within the restaurant industry. These policy proposals have been introduced at the state and local levels and unfairly target specific businesses and inaccurately portray restaurant labor practices in a negative light. Labor law should apply to all sectors of the business community, and states and municipalities should not create different labor laws targeting specific sectors of the restaurant industry.

### **California's Climate Reporting Regulations**

At a time when food and beverage costs remain up 35% since 2019, a nationwide climate reporting mandate threatens to significantly disrupt the food supply chain, restaurant operations, and the customers they serve.

California's Climate Disclosure Laws (SB 253 & SB 261) require any company "doing business" in California to publicly report climate-related financial risks and greenhouse gas (GHG) emissions—including Scope 3 emissions, which encompass indirect emissions from upstream and downstream activities. The definition of "doing business" is vague and expansive, pulling in out-of-state restaurant locations, family-owned farms, and local ranches, regardless of their physical presence in California.

For example, the laws require that a Texas cattleman with less than 50 cows on his ranch to report emissions data to a beef processor in Kansas, who then reports on their GHG data for production and distribution of ground beef. If a single-unit, independently-owned California franchisee restaurant operator purchases this ground beef, the operator must report on **all** of the GHG emissions – from Texas to Kansas to California – in the supply chain. Additionally, the restaurant company is required to post these "reports" on its website, potentially risking reputational threats due the imprecise data that is collected from companies far out of the jurisdiction of California or the restaurant itself.

This example just scratches the surface of the broader reporting burden. Companies must compile data across 15 distinct categories—from purchased goods and services to employee commuting and end-of-life product disposal. This requires coordination with a vast network of suppliers, distributors, and customers, many of whom have never tracked emissions before and may lack the tools or expertise to do so.

Although spend-based estimation methods are generally accepted for Scope 3 reporting under the Greenhouse Gas Protocol, the reality is that companies are being asked to produce verifiable data from entities far outside their operational control. This creates a logistical nightmare, especially for small businesses and decentralized supply chains. The burden is not just technical—it's relational, requiring trust and cooperation from partners who may view these requests as intrusive or irrelevant.

Furthermore, the anti-competitive nature of these climate laws creates a perverse incentive for restaurant operators to consolidate their sourcing. Many have spent decades cultivating local farm-to-table relationships that showcase fresh produce, grassfed beef, and free-range eggs from nearby farms and ranches. These partnerships promote seasonal ingredients, biodiversity, and soil health. But the intensive GHG data collection, documentation, and reputational risks associated with reporting imprecise or incomplete data can push operators to abandon these relationships in favor of a single national supplier who can offer standardized GHG estimates and real-time forecasting. This shift threatens to accelerate consolidation across agriculture, leaving only the largest operations standing and undermining decades of progress in sustainable, community-based food systems.

Compounding the challenge is the California Air Resources Board's (CARB) failure to meet rulemaking deadlines. Despite Governor Newsom's own admission that the implementation timeline is "likely infeasible," CARB continues to push companies toward the January 2026 disclosure deadline without releasing final guidance. This leaves businesses in limbo, forced to prepare for sweeping compliance obligations with no clear roadmap.

The intent of climate risk reporting is to increase transparency. Ironically, the lack of transparent guidelines has the opposite effect: companies are incentivized to do the bare minimum. Over-reporting compared to peers could expose them to litigation, reputational damage, and competitive disadvantage. Without defined guardrails, the fear of standing out leads to underreporting, undermining the very goals of the legislation. A level playing field requires clarity, consistency, and safe harbors—not ambiguity and risk.

We urge the Department of Justice, policymakers, and stakeholders to scrutinize CARB's forthcoming regulations. These laws risk becoming a compliance exercise that burdens businesses and distorts markets.

## **Conclusion**

The growing patchwork of state and local regulations—from food ingredient bans and packaging restrictions to climate disclosure mandates and labor laws—is placing an unsustainable burden on the restaurant industry. These overlapping rules drive up costs, complicate supply chains, and stifle innovation, especially for operators managing multi-state businesses. The lack of uniformity forces restaurants to juggle separate inventories, retrain staff, and navigate shifting legal requirements—all while trying to remain affordable and competitive.

To restore clarity and promote responsible growth, federal leadership is needed. Federal agencies, along with Congress, should establish consistent, science-based standards and consider preempting conflicting state laws. Without thoughtful reform, this fragmented regulatory landscape will continue to harm restaurants, small businesses, and consumers nationwide.

Sincerely,

A handwritten signature in black ink that reads "Laura Abshire". The signature is fluid and cursive, with the first name "Laura" and last name "Abshire" clearly distinguishable.

Laura Abshire  
Director of Food and Sustainability Policy  
National Restaurant Association