



April 4, 2020

The Honorable Larry Hogan  
Chair  
National Governors Association  
444 N. Capitol Street, NW  
Washington, DC 20001

Dear Governor Hogan:

On behalf of America's restaurant industry, thank you for the leadership of you and your colleagues during this unprecedented COVID-19 pandemic to keep communities and families safe. Governors across the country have deemed restaurants an essential service, and many of our members continue to act as cornerstones of their communities by feeding Americans during this crisis through takeout, delivery, and drive-thru services.

The restaurant industry faces an unparalleled and existential crisis. As America's second largest private sector employer with 15.6 million employees at over 1 million locations in every corner of the country, the negative impacts on our industry hit everyone. The necessary actions taken by state and local governments have forced our members to close or significantly limit their operations. During the first three weeks of March, restaurants lost an estimated \$25 billion in sales and laid off 3 million Americans. We estimate that 3% have already permanently closed their doors and 11% anticipate doing so in the coming weeks. The industry is currently forecasting a staggering loss of 5 to 7 million jobs in the coming weeks, and of course no one has guidance on how long this will continue. Without significant recovery packages at the federal, state, and local levels of government, millions of jobs will be lost and properties in every community will be left vacant.

Last month Congress took an important first step on the road to recovery by passing the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Now, our nation's governors need to take decisive action. Cash flow is key for restaurants currently as customer traffic and sales have plummeted, and many restaurants have closed their doors. As you review relief efforts in your state and across the nation, we encourage you and your colleagues to consider the following actions under your executive authority or in conjunction with your legislature:

### **Direct Aid to Restaurants and Employees**

**Provide state grants to small businesses.** Ensure that such support is not limited to restaurants that have closed but to any that can easily demonstrate significant hardship.

**Create tax credits with expedited processing for retaining employees during the COVID-19 crisis.** States should create tax credits for employers who keep employees on payroll to complement the forgivable loans offered in the recently passed CARES Act.

**Assist with business interruption insurance.** Actions by state and local governments to protect public health have forced restaurants to close their doors or significantly curtail their operations, resulting in major business interruption losses. Operators have paid their insurance companies for business interruption insurance for use in these circumstances. However, restaurants across the country are seeing their claims denied by insurers due to clauses in the contract exempting viruses or pandemics from claims. Governors need to take action either to force insurance companies to pay out business interruption claims or to create a state fund to handle such claims.

**Defer health insurance premiums payment.** Delaying payment of employee insurance premiums for employers who are continuing to keep employees on company health insurance during the crisis will enable restaurant operators to maintain more employees on company insurance programs.

### **Taxes and Fees**

**Assist businesses with regulatory relief regarding unemployment claims by freezing unemployment insurance rates.** The coronavirus epidemic has forced restaurants to layoff employees through no fault of their own and without governmental action this will result in sharply higher unemployment insurance payments for restaurants.

**Delay sales tax remittance for restaurants.** Allowing restaurants to keep sales tax payments for a period, such as 90 days, will provide much needed cash flow to operators. Sales tax should be allowed to be remitted at a future date without interest.

**Defer property, estimated income, corporate income, and franchise taxes.** Deferring payments on these taxes for a period interest free will provide cash flow to operators.

**Suspend meals taxes indefinitely or allow restaurants to keep meals tax revenue.** If a government maintains a meals tax, money should be used to promote restaurant industry to residents within its taxing jurisdiction once crisis is over. While many of these taxes are levied at the local level, state governments frequently have authority over localities enabling such taxes.

**Suspend indefinitely government alcohol control fees, business improvement fees, health department licensing fees, and other hospitality fees/taxes.** While many of these taxes and fees are levied at the local level, state governments should take any possible action to alleviate them during the crisis.

**Quickly refund overpayment of estimated taxes.**

### **Commercial Payment Relief**

**Prohibit landlords from evicting or foreclosing restaurants for non-payment of rent or mortgages during the COVID-19 crisis.** Restaurants should be allowed to pay back rent or mortgage payments over a series of months after the crisis abates.

**Prohibit utilities from shutting off services to restaurants during the COVID-19 crisis due to lack of payment.** Such services include water, electricity, gas, cable, and telephone lines. Restaurants should be allowed to submit back payment over a series of months after the crisis abates.

### **Regulatory Relief**

**Suspend any government mandates set to come into effect in the next two months.** Restaurants are struggling to keep their doors open or are planning to reopen in the future. Putting new mandates into effect will only inflict more harm on the industry and prevent restaurants from resuming operations when the pandemic abates.

**Quickly enact regulatory changes to enable restaurants to function as temporary grocery stores.** In many jurisdictions, restaurants have pivoted their operations to serve as small grocery stores or community markets. These changes enable restaurants to continue feeding their communities by utilizing relationships with suppliers. Where necessary, state governments should take action to change any regulations that are impeding restaurants from serving as retail food outlets.

**Allow restaurants with valid liquor licenses to sell alcohol for off-premise consumption and for delivery to customers.**

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### **Delivery Regulations**

**Cap delivery fees for restaurants on third party delivery.** Despite public claims of helping local restaurants during this crisis, several third party delivery companies continue to charge restaurants exorbitant fees. Even during regular operating times, these fees harm restaurants. During these extraordinary times, the fees are making it impractical for small operators to offer delivery. When necessary, governments should take action to cap fees that third party delivery companies are charging restaurants.

**Prevent third party delivery companies from charging restaurants surprise or hidden fees.** Certain third party delivery companies have charged restaurants fees that are not clear upfront. Third party delivery companies should be prohibited from charging restaurants fees that are not explicitly agreed to by restaurants in advance.

These actions will not eliminate the impact of the crisis, but they will be important first steps on the road to recovery. Restaurants need to be positioned to spring back into action quickly once the crisis abates to serve our employees, customers, and communities. Thank you for your consideration, and we stand ready to assist as you need.

Sincerely,



Sean Kennedy

Executive Vice President, Public Affairs