



March 27, 2020

The Honorable Gavin Newsom
Governor, State of California
State Capitol, 1st Floor
Sacramento, California 95814

Dear Governor Newsom:

In the midst of the COVID-19 public health threat, you took aggressive, necessary steps to protect the public health and safety of our state's residents. Unfortunately, the trade-off for these protective public health measures has been a near decimation of our state's restaurant industry. And now, as the economic crisis begins to rapidly unfold, we believe the state has a moral obligation to take equally aggressive steps to address the economic harm caused by these measures to our state's residents.

California's restaurants are the cornerstone of every community and an economic engine that employs 1.4 million foodservice workers and generates more sales tax (\$7 billion annually) than any other industry. The vast majority of the state's 90,000+ restaurant locations are owned and operated by independent proprietors who live in the communities where they serve their customers. Additionally, 60 percent of California's restaurants are owned by people of color, reflecting the great diversity of our state.

Now that the federal stimulus bill has passed – and will provide critical support for small business – we are urging swift state action that will be equally critical to address issues unique to the restaurant industry. Notwithstanding the federal action, unless there are bold measures taken by the state, we are likely to lose 20-30 percent of Californian's restaurants. Permanently.

We appreciate the continued dialogue that you and your administration have afforded us to discuss the urgent needs of our industry. Our ongoing discussions with your economic advisors and department directors have resulted in some initial measures that have provided some help as our industry struggles to survive (modifying the state WARN Act, ABC flexibility, and a FTB tax payment extension). But there is much that must be done to save California's restaurants who have low margins, tight cash flow, considerable debt, and a workforce that depends on us for their livelihood.

For the last week, we have worked with our membership on assessing their immediate needs and pushed the Congress to provide an immediate financial lifeline for restaurant operators as part of the federal stimulus bill. The following issues are action items we believe are appropriately within the purview of the state's leaders. Specifically, we ask for your immediate help with the following proposals targeted at our industry during this time of uncertainty:

- Minimum wage offramps– existing law mandates minimum wage increases of \$1 per year for three years for smaller businesses and \$1 per year for two years for larger businesses. The existing trajectory to a \$15 minimum wage has been an historical set of increases that has come with significant economic



challenges and operational changes for restaurants. When the state voted to escalate the minimum wage rapidly, the law anticipated the possibility of a significant economic downturn that would make a wage increase unwise and crafted “offramps” that would delay increases if certain economic tests were met. When the COVID-19 crisis passes, there will be scorched earth on the restaurant and employment landscape—placing the subsequent minimum wage increases on “pause”, as authorized by the minimum wage law will help mitigate the damage.

- Business continuity insurance— COVID-19 must be included in the triggers that allow restaurant owners to make claims (around business interruption) as dining rooms are shut down due to state directives. We either need changes mandating insurance companies assist or that state government support the insurance companies by having them approve restaurant COVID-19 related claims, with the state acting as the payment administrators.
- Postponement of property tax payments— property taxes are due April 10th and while we understand there is a local process with Counties to postpone property tax payments, time is of the essence and a statewide, streamlined process in this emergency is necessary. At a minimum, penalties for late payment should be waived with respect to April 10th payments.
- Sales/payroll tax deferral— with mandatory closures of restaurant dining rooms, restaurants will be fiercely managing cash disbursements over the next many weeks while facing little revenue, tax obligations to pay, and stiff penalties for non-compliance.
- Fee deferrals— all annual State, County and City license fees need to be forgiven for the following year, including Alcohol Beverage Control fees, health permit fees, and business license fees.
- Unemployment insurance— freezing unemployment insurance rate increases due to employers being forced to unexpectedly layoff exceedingly high numbers of people can assist employers with their staff. The layoffs that have occurred are not the result of any factors within the control of the restaurant operators (as may be the case in normal hiring cycles) – layoffs occurred due to state closure orders.
- Eviction protection— while your Executive Order encourages local governments to move forward on this front- and some have done so- a statewide policy is essential for consistency, equity, and timeliness. Additionally, many of our members have personal guarantees on restaurant leases. Relief is needed from these guarantees on leases of businesses affected by the pandemic, otherwise many independent restaurant owners, their families, and their homes will see devastating consequences. The state should clarify that the failure to pay rent as a result of a state mandated closure order should not be deemed a breach of a lease, triggering a personal payment guarantee.
- Utilities— gas, electric and telecommunications must continue without payment through the impact period and with extensions of payable periods. Communications related utilities (internet/phone) are extremely important for restaurant order taking and delivery options- the only revenue possibility for restaurants these days. Your Executive Order requesting that the Public Utilities Commission (PUC) monitor



measures undertaken by public and private utility providers to implement customer service protections sends a great signal and is a good first step towards something more assertive.

- Health insurance premium deferral— restaurants who have furloughed workers and are paying both the employee and employer portion of health insurance should receive a waiver or deferral on premium payments. If these same restaurants terminated the employee, the employee would lose health insurance. Restaurants should be incentivized to continue to fill this gap as some restaurants are struggling to keep employees on, pay the employer portion, and are advancing the employee their portion until they come back and can afford it.
- Swipe fees— it is imperative that payment processors who collected fees paid in connection with large events that were cancelled due to state closure orders be called on to waive merchant fees or refund the fees in the countless cases of banquets, weddings, and other cancelled gatherings.

As a restaurant operator, we know you can appreciate the near-impossible challenges restaurants currently face. Thank you for your leadership. We look forward to continuing to work with you in the weeks ahead as we attempt to salvage a uniquely California restaurant industry. Getting restaurants open, workers employed, and tax receipts flowing will be a critical first step in the state's recovery.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jot Condie".

Jot Condie
President + Chief Executive Officer

cc: Members, California State Legislature