May 2, 2020

The Honorable Jared Polis  
Governor, State of Colorado  
200 East Colfax Avenue  
Denver, CO 80203

Re: Restaurant recovery

Dear Governor Polis:

Thank you for your continued leadership during this difficult time. The Colorado Restaurant Association (CRA) is writing to offer some industry-specific solutions to offer relief to restaurants through the recovery period. As one of the largest employers in the state, the Colorado restaurant industry employs 294,000 people making up 10 percent of Colorado’s workforce. There are more than 12,500 foodservice locations in Colorado, and the majority of those are locally owned small businesses.

**Employee Support**

We ask that you offer public and verbal support for programs like the Colorado Restaurant Foundation’s Angel Relief Fund and their Independent Restaurant Workers Relief Fund. These support programs give grants to restaurant employees negatively impacted by COVID-19. Our industry is strong because of our workers, and we need your help with stimulating public awareness of support programs available to impacted workers.

**Legislation**

We anticipate restaurants will not be able to achieve their usual sales and revenues for the duration of 2020, and possibly longer. We need to look for sustainable ways for the industry to continue to keep its staff employed, which is why we urge you to support the forthcoming Tip Offset bill (supported by the Colorado Restaurant Association, the Tavern League of Colorado, and the Hotel and Lodging Association). The Tip Offset bill will work to stabilize local minimum wage increases and allow restaurants to allocate valuable resources toward their recovery efforts. This bill will strengthen the industry for years to come.

**Business Interruption Insurance**

We request that you add language to your “Safer at Home” Executive Order to make it clear that COVID-19 is causing property loss or damage to businesses. We are seeing some success with this in other states. Here is the specific language that we believe will help:

> “This order is given because of the propensity of the virus to spread person to person and also because the virus physically is causing property loss or damage due to its proclivity to attach to surfaces for prolonged periods of time.”

Upon the addition of this language, restaurants could make an argument for business interruption insurance to cover their losses during this pandemic. This is vital to the restaurant community’s ability to make it through this crisis and come out on the other side in a manner that resembles the industry prior to COVID-19.

**Cash for Restaurants and Bars**
Delivery Services

We urge you to issue measured perimeters for third party delivery services in your forthcoming Executive Order re-opening restaurant dining rooms. We ask you to include language requiring all third party delivery services to cap their delivery/service fees at 15 percent. We have heard reports from our members that third party delivery services are charging astronomical delivery/service fees, which significantly hinders operators’ abilities to access and utilize these methods for delivery. Restaurants will continue to rely on takeout and delivery services through the re-opening/recovery period, and we need your help in facilitating a friendly business environment.

Restaurant Recovery Fund

We encourage your public, verbal support for the National Restaurant Association’s efforts to implement a Restaurant Recovery Fund. This $240 billion recovery fund will help restaurants struggling financially through the pandemic. The fund will support expenses and debt obligations, help restaurants rehire and retain employees, and assist locations readjusting to heightened health and safety standards. The fund will be for those that have seen a drop in revenue of 25 percent or more.

PPE

As essential businesses, restaurant workers are required to comply with new health requirements and use non-medical Personal Protective Equipment (PPE). We strongly encourage you to help businesses by covering the cost of this state-mandated equipment. This support can come in the form of tax credits, state grants, or a state-run “one-stop-shop” website where operators can shop for non-medical PPE at reduced prices.

Taxes

We ask that you encourage local governments to suspend sales and use taxes at least through September, but preferably through the end of the crisis recovery period. If this is not a viable alternative please consider the allowance for certain tax holidays to boost spending. For example, consider suspending sales taxes on restaurants during Father’s Day weekend and Mother’s Day weekend to encourage dining out. Consider also suspending sales taxes during Colorado Restaurant Week – which the CTO and the Colorado Restaurant Association are looking at partnering on -- and/or during local restaurant weeks.

We also ask that you issue an Executive Order to suspend taxes on “non-essential food items” like takeout/disposable containers, single-use condiments, and more.

Rent and Mortgage Assistance

We are grateful that you authorized a moratorium on residential evictions, but we would like you to expand that moratorium to include commercial properties. In our most recent survey, 72% of our members say they have missed payments or anticipate missing payments. Rent and mortgage assistance will dramatically improve restaurants’ chance of survival. Please authorize a six-month rent abatement that can thereafter be converted into a percentage rent model. If this is not a viable solution, please issue an executive order encouraging landlords to work towards a percentage rent model (a rent agreement in which a certain percentage of gross revenue is paid to landlords each month) or ordering a rent percentage model through the duration of the crisis.

Put pressure on banks to relieve pressure from landlords – specifically to help those that are impacted negatively. We need a broad solution long-term, not knowing what the future looks like. If at any time your percentage rent exceeds base rent, the delta is forgiven.
Additional Revenue Opportunities (for restaurants/bars & the state)

We ask that you extend your Executive Orders allowing restaurants to offer alcohol takeout and delivery through 2020, or permanently if possible. This will provide another resource for consumers, provide another revenue opportunity for restaurants, and increase sales tax revenue for state and local jurisdictions. We also ask that you allow restaurants to continue to sell whole and raw foods, provisions, and more.

Reopening Considerations

Please consider the following recommendations for industry reopening:

● Provide as much advance notice as possible to prepare for dining room openings in support of employees and managers. 14 days is commonly referenced as a helpful timeframe for notice.

● Ensure final statewide sector guidance is equitable across foodservice and beverage business models. Do NOT discriminate against license type for reopening (ex: Tavern licenses often act and look like restaurants). Allow for businesses that have the ability to comply with reopening restrictions to open. If an operation can adhere to approved safety guidelines, we hope they will have the same opportunity to open. Procedures to keep our employees and guests safe remains our central goal.

● A ‘safe harbor’ provision outlined by Governor Polis for Colorado businesses is necessary to set expectations amongst consumers, employees, and operators regarding COVID-19 liability issues.

● 6 feet of social distancing between associated parties and staff should suffice as the approach to maximum customers allowed in any establishment. In addition, we are supportive of efforts to expand outdoor seating where possible along right of ways as approved by local jurisdictions. Focusing on social distancing between parties and staff provides the framework needed for varying models to operate safely. Creating maximum occupancy restrictions and/or requiring affixed seating to be removed is not necessary. We can cordon off tables and seating to ensure associated parties and employees maintain 6 feet of distance. We also need flexibility in approaching seating which happens quickly when customers are directed to their seats. 6 feet of social distance between associated party seating arrangements should suffice given experiences happening in real time in grocery and convenience stores.

● Bar stools and bar areas can operate safely with social distancing between employees and guests. Providing a framework for social distancing between employees and associated parties sitting at a bar is achievable as opposed to prohibiting the seats for use. Many operators have attested to this being logistically feasible as part of re-opening protocols. This would also represent equitable treatment for the restaurant industry when compared to grocery store interactions taking place now.

● Pre-setting tables with napkins, utensils, and glassware makes more sense than ever if we are working to limit employee and customer interactions and maintain social distance. Having guests wait for their table to be set while at a social distance allows employees the opportunity to follow their traditional safety procedures for all utensils, glassware, and napkins and limit interactions. Please note that not all restaurants offer silverware roll-ups. This guideline should only be offered as a suggested best practice for applicable businesses.

● Restroom protocols and sanitation procedures are achievable in a safe and responsible way. Like grocery and convenience stores, these facilities can be safely accessed with appropriate signage and sanitation procedures and should be available for customer use.

● Managing social distancing amongst associated parties in counter service lines, bars, tasting rooms, and waiting areas is also achievable. We expect floor markings and highly visible signage to be commonplace in these areas for all models within the sector, and we encourage flexibility within these guidelines to allow operators to find a social distancing solution that works best for their employees, customers, and business.
• Contact tracing documentation of patrons will prove to be problematic and we are adamantly opposed. We understand the value of contact tracing documentation but do not believe it is in the best interests of the state or operators to require a form be signed by customers. Policies that set up scenarios where employees and customers engage in confrontational behavior is highly concerning.

• Although well-intentioned, we have significant concerns about any state or locally mandated curfews as they can result in the unintended consequence of increased crowding. If our goal is to maintain appropriate social distancing, we will want to think carefully about unintentional crowding as guests who may have otherwise visited a business later in the evening are limited to a smaller window of time. The result could be problematic as opposed to the alternative of providing the necessary time and space needed to operate safely for both employees and guests.

• Once restaurants can reopen dining rooms, Governor Polis should promote eating out in restaurants (if you are well) to boost the economy. This can be done via public comments, social media posts, marketing, and Executive Order.

• Work with the Colorado Department of Public Health and Environment and the Denver Department of Public Health and Environment to create revised health code guidelines for the interim that allow for flexibility within those guidelines.
  o Additionally, simple educational written documents and videos (in multiple languages) should be used to help educate restaurants on how to effectively comply.

• Offer clear direction about reopening timelines and requirements. Restaurants need timely notice, including what requirements are going to be. We need time to prepare.

• Revise current requirements for licensing processes that delay the expansion of a licensed premise to include patios, parking lots, or other open areas directly adjacent to the restaurants. Consider allowing restaurants to share this space, i.e. a common consumption area. Require state and local licensing agencies to process these requests within a week of the submitted request. Suspend or change posting requirements that are currently required to modify a licensed premises.

• In order for Common Consumption Areas to be a viable option for a restaurant to expand their licensed premise in a promising way, an Executive Order would have to be put into effect that does the following:
  o Allow for the sale and service of alcohol in the Common Consumption Area that is currently limited to consumption only,
  o Allow for the use of reusable, non-logo cups in the Common Consumption Area,
  o Require that participating licensees designate which areas or tables are going to be used by each licensee, and;
  o Make it clear that the licensee responsible for the table or area is liable for any violation of liquor law in that area or at that table.

Thank you for your leadership, consideration, and for your continued support of the restaurant industry. We welcome dialogue and are happy to be a resource for your office. You can reach me via cell at 720-937-3992 or email at sriggs@corestaurant.org.

Sincerely,

Sonia Riggs, President & CEO