
Empire State Restaurant & Tavern Association

Report From The Executive Director...Scott Wexler

November 2020

Senator Schumer Continues Fight for Small Business Relief - US Senate Democratic Leader and New York Senior Senator Chuck Schumer continued his fight to get COVID-19 relief for small business owners, including restaurant owners, at a press event this week in Athens, New York. Senator Schumer highlighted the provisions of the HEROES Small Business Lifeline Act. The Act provides relief for New York's smallest businesses that have been severely impacted by the economic effects of the COVID-19 pandemic and it includes the provisions of the RESTAURANTS Act, a \$120 billion economic relief package for independent restaurants and taverns.

Where Are We? - The question we get every day is where are we? Is the Governor going to shut us down? What restrictions are coming next? The truth is we don't know. The Governor continues to emphasize the micro-cluster approach to imposing restrictions. Under this plan areas as small as individual neighborhoods can be designated as either yellow, orange, or red zones with varied restrictions imposed based on the designation. This approach is more tailored than the regional shutdowns imposed in the Spring. The goal is to allow activity in as much of the state as possible, while imposing restrictions as needed to control the spread of the virus.

The Governor's preference for the micro-cluster approach does not mean regional or statewide restrictions are off the table. For example, the 10 pm curfew that was recently instituted by the Governor is obviously a statewide restriction. And the Governor has made it clear he will reduce the permissible indoor capacity of restaurants and taverns if the health circumstances warrant. A statewide shutdown of indoor dining is possible if the virus spins out of control. For now, New York State is emphasizing compliance with the various restrictions in the hope that wearing masks, frequent hand washing, and socially distancing will contain the virus and keep the infection rate below the levels that will trigger additional restrictions.

The reality is that where we will be over the next weeks and months depends on those around us in our various communities. You're not only bearing the brunt of the restrictions that are already in place, but you'll suffer even further if compliance with these restrictions lag. We'll continue to post updates on our website and Facebook page so you can stay in the loop on the latest developments.

State Legislative Election Update - With all 213 seats in the New York State Legislature up for grabs on Election Day all eyes were on whether the State Senate Democrats would increase their majority to at least 42 members or more, achieving a super-majority and giving them the potential to override a veto by Governor Cuomo. Three weeks after Election Day almost all of the Senate races are decided and the Democrats have 42 seats or more within their grasp.

The new Senate Democratic Conference will look different than the current group. Upstate could have five new members of the majority - combined with the five returning members of the majority from Long Island, they will make up a sizeable segment of the Democratic Conference that is sympathetic to small business concerns. Since the State has a deficit of more than \$15 billion and we're in desperate need of economic relief, these new legislators will be key to our success next year.

Chairman Bradley Provides Board With SLA Update - NYS Liquor Authority Chairman Vincent Bradley met with the ESRTA Board at its meeting last month in Saratoga Springs. The Chairman reported that the Authority's resources are dedicated to COVID-19. He expressed concern that if the industry failed to comply with the public health restrictions it could cause a statewide shutdown, acknowledged the good work being done by most operators, and urged us to continue our diligent efforts to follow the rules.

We were surprised to learn that in spite of the pandemic license applications have not lightened up. It's taking 24 – 36 weeks to process a license from start to finish, but a temporary permit can be obtained in about 30 days. Chairman Bradley also informed us that catering permits are getting scrutiny due to the limits on large gathers. Applicants should expect longer processing times and more questions from the SLA licensing staff.

The Chairman reminded us that SLA Advisory #2020-21 requires all renewals to be filed at least seven calendar days prior to the license expires in order for a licensee to continue operating if their license is not renewed before it expires. Licensees that submit their licenses for renewal is less time will not be able to continue operating if their license expires prior to being renewed. The SLA continues to permit on-premises licensees to renew their licenses without paying their renewal fees. That policy expires at the end of November but we expect the Liquor Authority will extend it for another month.

Our complaint against Empire Merchants and Southern Wine & Spirits for charging split case fees in excess of what's allowed by law is still awaiting review by the Counsel to the Authority according to Chairman Bradley. While we see it as pretty straightforward – the regulation has a limit on split case fees which the wholesalers' fees clearly exceed – the wholesalers claim the regulation doesn't apply.

Cortland County Restaurant & Tavern Association Gets Chamber Award - The Cortland County Chamber of Commerce presented their award for Non-Profit Organization of the Year to our Cortland County Association. The Chamber recognized County Association President (and State Association Treasurer) Tammy Timmerman and the Association for their outstanding efforts during the past year to keep local businesses aware of the ever changing rules impacting their business and for promoting members' offerings, however limited, during this crisis, helping them generate as much income as possible.