
Empire State Restaurant & Tavern Association

Report From The Executive Director...Scott Wexler

July 2021

Department of Labor Releases HERO Act Standards & Templates - The State Labor Department has released the Airborne Infectious Disease Prevention Standard, Model Airborne Infectious Disease Prevention Plan, and industry specific templates (including the template for the Food Services industry) to facilitate compliance with the recently enacted HERO Act.

The HERO Act requires employers to adopt and maintain an airborne infectious disease prevention plan to be implemented when an airborne infectious disease is designated by the New York State Commissioner of Health as a “highly contagious communicable disease that presents a serious risk of harm to the public health.” This plan will not apply to any seasonal or endemic infectious agent or disease, such as the seasonal flu, that has not been designated by the Commissioner as a highly contagious communicable disease that presents a serious risk of harm to the public health.

Currently, while employers must adopt plans as required by the law, no such designation has been made by the Commissioner and plans are not required to be in effect. But all employers have obligations under this new law they need to meet over the next few months nonetheless.

The law requires employers to adopt a written plan within 30 days of the release of these documents. Therefore, all employers should have a written plan in place no later than Thursday, August 5, 2021. Employers then have 30 days after adoption to communicate the plan to their employees. There must be a verbal review of the plan as well as posting the plan in the workplace and included in your employee handbook. The deadline for communicating your plan to your employees is Saturday, September 4, 2021.

Other than developing and communicating the plan itself, there are no additional responsibilities placed on employers at this time. It is only when the plan is activated by a designation of the Commissioner of Health that new employer obligations kick in.

There is a second part of the HERO Act that will be effective November 1, 2021. It will require employers with at least 10 employees to permit the establishment of workplace safety committees to address airborne infectious disease in the workplace. The Department of Labor will be providing more information about the implementation of these committees over the summer. We will notify you of any noteworthy updates.

Governor Signs Bill Permitting Restaurants to Use Sidewalks & Closed Streets - Governor Cuomo signed legislation (S.6353-A/A.7733) that will allow restaurants to utilize municipal spaces like sidewalks and streets for outdoor dining. First granted under an Executive Order by the Governor, this law allows restaurants to continue using these public spaces for another year as they recover from the economic devastation brought by the COVID-19 pandemic.

Initially issued in June 2020 and expiring after a year, the Governor's Executive Order allowed restaurants and bars to serve their patrons food or beverages on-premises in outdoor space while their indoor capacity was limited. Establishments were permitted to expand the licensed premises to use public spaces, such as sidewalks or closed streets, subject to reasonable limitations and procedures set by the State Liquor Authority and the safety and supervision plans of the local municipality.

With the conclusion of the declared Disaster Emergency, the Executive Orders must be codified by the Legislature to continue in effect. The legislation was necessary to allow the State Liquor Authority the discretion to continue to permit licensees to use this space without prior approval.

Restaurant usage of outdoor public space must meet all federal, state, and local laws, rules, and guidance, according to the new law. Restaurants must also have a temporary use permit from the municipality, which is tasked with ensuring the public space is used in a safe, orderly manner. New applicants will need to provide community notification in a manner consistent with the state's Alcoholic Beverage Control Law. All licensees who were using such spaces may continue to do so, but you will be required to provide the SLA with a notification within 90 days (subject to guidance the Authority will publish).

Golf Outing Set for September 13th at Cronin's - We're excited to announce the 2021 Cleo Emmer Open, our annual golf outing, is scheduled for Monday, September 13th at Cronin's Golf Course in Warrensburg, New York. The day will be filled with hospitality and good times starting with lunch before a noon shotgun start, refreshments on the course, hors d'oeuvres & dinner, awards, and prizes. There are cabins available for those who want to spend the night (or two) and we have green or tee sponsorships for those who want to support the cause. The enclosed flier has all the information you need including a registration form for golfers and sponsors. We hope to see you at Cronin's!

Big Bucks Drawing Tickets Now Available - We're conducting the annual Big Bucks Drawing this year on October 19th at our Fall Board Meeting and tickets are now available. An application is enclosed if you want to purchase a ticket. Send it back to our office along with your \$100 check and we'll send your ticket and a copy of your completed ticket stub. Get your payment in by the Early Bird Drawing on September 13th at the Golf Outing for a chance to win an extra \$1000. We're hoping every member will buy or sell at least one ticket to help support our biggest fundraiser of the year.