

**House Labor and Industry & House Health Committee**  
**Joint Hearing – Impact of Department of Health Pandemic Mitigation Efforts on**  
**Businesses and Employment**  
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On July 15, Governor Wolf ordered that restaurants reduce indoor dining capacity from 50 percent of fire code rating to 25 percent. With proper social distancing and face masking, the arbitrary number of 25 percent has no basis in science that we can ascertain. As the governor likes to say, the virus will determine our actions. It has been shown that the virus respects social distancing and face masking, standards that are already in place and being followed by restaurants. The only significance of the 25 percent number is that it WILL put restaurants out of business and employees on the streets. While we understand the need and urgency in taking steps to mitigate the spread of covid19, we are disappointed and frustrated by the course of action taken by Governor Wolf and Secretary Levine in focusing on the restaurant industry, an industry first closed and one of the hardest hit by the pandemic. Also, the restaurant industry is the second largest private industry in the country with over half a million employees just in Pennsylvania.

By his own words, Governor Wolf is targeting the restaurant industry although there is scant real evidence that the entire restaurant industry is either the problem or the solution. Even the highly quoted September 10 CDC study which implied a linkage between COVID-19 and the restaurant industry has been criticized as containing numerous flaws and further the lack of a direct correlation should be evidence that, when restaurants demonstrate effective mitigation efforts, the risk is low when dining outside or inside. Specifically, the study tells us that people who were diagnosed with COVID-19 had *also* dined out. There is no clear evidence that the virus was contracted at a restaurant versus any other community locations. Also, the study's limited number of participants came from 10 states with greatly varying restrictions on restaurants during the potential period of potential exposure. It should be noted that not a single restaurant in Pennsylvania was included in the study.

Even the CDC recognized the limitation of the study within its report, but that did not make the headlines. It is irresponsible to pin the spread of COVID-19 on a single industry. Restaurants have historically operated with highly regulated safety protocols based on the FDA's Food Code and have taken additional steps to meet the safe operating guidelines required by CDC, FDA, OSHA, federal, state, and local officials. Of all retail operations, restaurants operations already comply with numerous licensing and certification requirements, including oversight by the Department of Health and the Department of Agriculture AND a requirement that every foodservice operation have managers who are ServSafe certified. And yet, restaurants are asked to undergo yet another form of certification to provide indoor dining at 50% of fire code capacity. A level that will barely allow most restaurants to survive.

The Governor highlights a few bad actors when in fact most restaurants are doing the right thing, and many have invested significantly in equipment to ensure the safety of their guests and employees.

Reduction to 25 percent capacity on July 15 was essentially the same as eliminating indoor dining entirely and there is no scenario that restaurants can survive at that level of occupancy. The solution should be enforcement and shutting down those bars and restaurants not complying with the guidelines rather than punishing those who have been doing it right all along.

It is disappointing that the governor, despite his commitment to work with the PRLA in crafting operating standards, elected not to do so in this crucial decision. We were grateful that our work with the governor's team led to the addition of outdoor dining in the yellow phase and safe, balanced reopening standards in the green phase. Ironically, in one of the very first meetings with the Wolf Team, we were asked about capacities and pointed out then that 25% was unsustainable. How the number resurfaced two months later is baffling.

Again, I would reiterate that in the restaurant industry, we understand safety. Next to hospitals, we might be the most highly trained and regulated industry as far as safety is concerned. If there was any real evidence that 25% vs. 50% impacted safety when proper social distancing and face masking is enforced, that would be different. However, there is no scientific basis for 25 percent capacity when masks and social distancing have been proven effective in stopping the spread of COVID-19." The only significance of the 25% number is that it will ensure that thousands of restaurants will close and hundreds of thousands of restaurant employees will once again be unemployed.

On Monday, September 21, the Governor's most recent order took effect, which allowed restaurants to return to 50% fire code capacity with some snarled strings attached. Self-certification is required, bar seating is prohibited, a meal must be purchased to get a drink, a glass of wine, or a beer AND an 11pm curfew on alcoholic beverages is imposed. The order continues to enforce the non-sensical 25-person capacity limit on indoor events such as weddings.

Last Tuesday, the Senate passed with broad bipartisan support PRLA-endorsed HB 2513, sending it back to the House for a concurrence vote. HB 2513 will essentially bring restaurants and private event venues back to the safe, sensible, and well researched standards that were in place during the green reopening phase, until the governor pulled the rug out from under the industry on July 15.

In a surprise move, the House came back to session on Wednesday and put HB 2513 on the day's agenda. HB 2513 cleared the House with strong support from both sides. Once the Senate signs the bill, it heads to the Governor's desk for action.

The Governor quickly announced that he would veto 2513. In his Thursday press conference he accused the legislature of playing, and I quote, "fast and loose with the lives of Pennsylvanians," but neglecting to point out the 2513 brings the industry back to the exact same carefully developed, science driven standards that his team put in place prior to his July 15 order. Closing thousands of restaurants permanently and putting hundreds of thousands of

Pennsylvanians out of work sounds a lot more like fast and loose rather than trying to safely reopen restaurants and save jobs, as House Bill 2513 does.

Perhaps the following data point can help you understand the human consequences of the disproportionate coronavirus mitigation efforts that have devastated the Commonwealth's restaurant and hospitality industries. The National Restaurant Association released the results of its latest national economic impact survey. The findings are grim, with 100,000 restaurants closed across the nation. What was even more telling was the significant difference between the Pennsylvania numbers and the national statistics, which can only be explained by Governor Wolf's draconian mitigation efforts.

For instance, 63 percent of Pennsylvania restaurant operators reported that it is unlikely their restaurant will still be in business six months from now if current business conditions continue. The national response was 38 percent, nearly a 30-percentage point difference. Another glaring disparity between the national results and Pennsylvania's comes to employee layoffs. Nationally, 19 percent of operators reported they had laid off more employees in July and August. Whereas in Pennsylvania, 42 percent of restaurants have laid off employees, which we attribute to the Governor's surprise July 15 order that dropped indoor dining to 25% capacity. If all restaurants are not permitted to safely return to at least 50% capacity AND have the ability to use all their seats, with CDC recommended social distancing, we could lose almost 17,000 restaurants and about 365,000 employees could lose their jobs permanently. Clearly, the unfair targeting of one industry is egregious, and the decision to choose the capricious number of 25 percent capacity for restaurants is unfounded and irresponsible. There are only 3 states in the U.S. where restaurants are expected to operate at 25% and only one with more stringent requirements than Pennsylvania. 26 have no capacity restrictions at all – they utilize tested and proven social distancing.

In closing, with the passage of HB 2513 last week was a good week for restaurants and event venues in Pennsylvania. There is some light where there only seemed to be darkness. There is hope, where there was only dismay. A key reason why this is the case is that over 200 legislators heard directly from hospitality employees and restaurants owners during legislative roundtables sponsored by PRLA across the state. Legislators on both sides of the aisle listened to them and recognized that restaurants can keep guests and employees safe AND survive at the same time. These are not mutually exclusive concepts. On behalf of the 26,800 restaurants and foodservice operations and over half a million employees in Pennsylvania, we urge Governor Wolf to swiftly return restaurants and private event venues to the safe standards that his team meticulously researched and developed prior to July 15. The governor can do so by simply signing the overwhelmingly bipartisan House Bill 2513 before any more irreparable damage is done to the real people who work in this great industry.