

# Report

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## THIS WEEK

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**Congress opens debate on paid sick leave** Sen. Ted Kennedy conducts hearing on proposal that would require businesses to provide a week's paid sick leave to workers. *Page 2*

**Report would help employers prep for pandemic** The Centers for Disease Control and Prevention issue guidance on pandemic planning. *Page 4*

**Air Force foodservice employees take on CIA** Restaurant executives share their passion for the industry with Air Force foodservice professionals at Culinary Institute of America. *Page 5*

**South Dakota adopts ProStart** The South Dakota Retailers Association implements two-year restaurant management curriculum. *Page 5*

**State exec celebrates 20 years of advocacy** Restaurant Association of Maryland builds strong grassroots system, thanks to Marcia Harris. *Page 6*



## Bill Would End Private Votes On Union Organization

**A**n NRA-opposed bill that would make it easier to unionize workplaces is headed to the U.S. Senate this spring.

The House voted 241–185 to approve H.R. 800, the so-called Employee Free Choice Act. It moved quickly to satisfy the demands of organized-labor lobbyists who cite it as one of their highest-priority issues this year.

In the March 1 vote, 228 Democrats and 13 Republicans supported the bill, and 183 Republicans and two Democrats voted against it [see box].

The card-check bill essentially strips 140 million workers of their legal right to decide privately whether to unionize.

Under current law, union organizers can ask management for bargaining-representation status if 30 percent of employees at a workplace sign union-authorization cards.

However, the law essentially allows employers to demand an election — and a secret-ballot vote — before union representation kicks in.

Employers then have a chance to talk to employees about management's views on unionization, and employees have the opportunity to vote in privacy without coercion from union representatives, co-workers or employers.

H.R. 800 would dispense with the time-honored secret-ballot election process, part of the law since 1935.

It also would make union recognition mandatory if a majority of workers signed a union-representation card.

“This attempt to remove the private ballot is totally un-American,” said NRA board member Mike Kull, Dairy Queen Corporate Stores, Louisville, Ky., who contacted his lawmakers to ask them to oppose the bill. The NRA and nearly every other business group are united in their opposition to what restaurateurs consider an affront to worker freedom and the election process.

Take action today by asking your Senators to vote against the bill. A Senate hearing is scheduled for March 29. Visit [www.restaurant.org/government/issues](http://www.restaurant.org/government/issues) for more information.

### The Card-Check Bill Vote

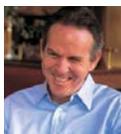
The House passed H.R. 800 by a largely party-line vote, with almost all Democrats voting for the bill and almost all GOP members voting against it. These 15 members of Congress crossed party lines in their votes:

#### Republicans who voted for H.R. 800 (against the NRA position)

Michael Ferguson (N.J.)	Timothy Murphy (Pa.)
Vito Fossella (N.Y.)	Jim Saxton (N.J.)
Peter King (N.Y.)	Chris Shays (Conn.)
Steven LaTourette (Ohio)	Chris Smith (N.J.)
Frank LoBiondo (N.J.)	James Walsh (N.Y.)
Thaddeus McCotter (Mich.)	Don Young (Alaska)
John McHugh (N.Y.)	

#### Democrats who voted against H.R. 800 (in favor of the NRA position)

Dan Boren (Okla.)  
Gene Taylor (Miss.)



## NYC Councilman Backs Flexible Calorie-Data Option

New York City Council Majority Leader Joel Rivera (D) is pushing a bill to allow restaurants more flexibility in providing nutrition information to customers. The National Restaurant Association supports the bill.

At issue: City health-department rules that will require certain restaurant companies to post calorie counts on menus and menu boards in a size as prominent as prices. The NRA believes the rules threaten to clutter menus and confuse customers.

The rules, imposed last December by the city's unelected Board of Health, are to take effect July 1.

The board's action came after a single day of hearings — and over the objections of the National Restaurant Association, the New York State Restaurant Association and companies representing thousands of restaurant locations. The mandate affects any restaurant company that made nutrition information publicly available as of March 1.

More than 12 state legislatures have introduced similar mandates in recent years but none of the proposals passed. That's largely because of vocal opposition from restaurateurs who have told their elected officials that inflexible mandates penalize restaurateurs and are unnecessary.

New York's approach repre-

sents the first time an unelected regulatory agency circumvented the legislative process.

As an example of the confusion, the health department has had difficulty spelling out how its regulations will apply to beverages that can be ordered in multiple sizes with multiple ingredients and similar items. It suggests that restaurants post calorie ranges that cover everything from the customized low-calorie option to the highest-calorie option.

Another example that restaurateurs say will confuse customers: Health-department regulators suggest posted pizza calories could be presented in a range that represents the calories in a single slice or the calorie content of an entire pie with "the works."

After hearing from angry restaurant constituents, Rivera introduced a bill that he hopes would overturn the health-department regulations by allowing restaurateurs to offer nutrition data in multiple formats. The information would have to be displayed in a "clear and conspicuous" manner within the restaurant. Options include signs, posters, brochures, kiosks and other means. The NRA and many of its members appeared with Rivera when he introduced the bill late last month.

Activists at the Washington, D.C.-based Center for Science in the Public Interest immediately



describes a proposal that would allow restaurants more flexibility in providing guests with nutrition information. Sheila Cohn Weiss, director, nutrition policy, National Restaurant Association (second row, left), appeared with NRA members in support of the proposal. Pictured is an example of what a menu board might look like under the health board's regulation, which takes effect July 1.

attacked Rivera's bill. "It goes against what the public wants," CSPI's director of nutrition policy Margo Wootan told the New York

Times. CSPI was the driving force behind the health-department action and continues to press other health boards for similar action.

## Kennedy, Dodd Urge New Paid-Leave Mandates

Two months into the 110th Congress, leading Democrats officially opened debate on whether to require employers to provide certain paid leave for employees.

**• Mandatory paid sick leave.** Sen. Ted Kennedy (D-Mass.) last month conducted a hearing on a proposal that would require businesses with 15 or more workers to provide employees with at least seven days of paid sick leave a year. The measure would apply to any employee who works 30 or more hours a week, with part-time workers eligible for pro-rated benefits. Employees would be entitled to take the leave in increments of less than an hour.

Kennedy introduced the proposal in the last Congress but has not introduced it this year.

Not surprisingly, nearly all the witnesses Kennedy invited sup-

ported mandatory paid leave. Many accused the restaurant industry in particular of not providing enough paid sick leave. Only one witness raised concerns about how paid-leave requirements would be paid for, defined and enforced.

"Employers in this country are already burdened by numerous federal, state and local regulations which result in millions of dollars in compliance costs," said attorney G. Roger King, Jones Day, Columbus, Ohio. King cited examples of how the bill could open employers to more litigation.

**• FMLA expansion.** Sen. Chris Dodd (D-Conn.), author of Congress's 1993 Family and Medical Leave Act, said last month that he planned to introduce a proposal to extend the law's scope and reach. The FMLA requires

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### Restaurant Health-care Innovators:

## Let Us Know What You're Doing

The National Restaurant Association is looking for examples of restaurant companies, large and small, that offer innovative health-care benefits and programs. Do you offer your employees health savings accounts? Have you joined in local buying cooperatives to provide affordable, high-quality plans for your restaurant's staff? Contact Kelly Benedetti at [kbenedetti@dineout.org](mailto:kbenedetti@dineout.org) or (202) 331-5900.

# Share American Dream Story With Congress in September

**G**et active on political issues and get ready to help tell the restaurant industry's story to Congress.

A little more than six months from now, more than 700 restaurateurs from every state will meet in Washington, D.C., for the National Restaurant Association 22nd Public

Affairs Conference. The conference is set for Sept. 25 and Sept. 26.

"To tell the restaurant industry's story, there's nothing like the NRA Public Affairs Conference," says NRA Chairman Ed Tinsley, Tinsley Hospitality Group, Santa Fe, N.M. "It's an opportunity for restaurateurs who know that Congress's decisions affect their bottom line to join together for two days to learn about restaurant issues, organize in state delegations and go to Capitol Hill to lobby U.S. House and Senate members.

"Whether you're a political novice or you've done this 20 times, it's thrilling to see the difference we make when we're united."

The restaurant industry serves

the American Dream every day, but restaurateurs must go in person to lawmakers to make sure they understand what operators do to support their communities, develop and grow a strong workforce and contribute to local, state and national economies, Tinsley said.

"As we head toward the 2008 elections, this year is a critical year for staking out our industry as a leader," he noted. "We're putting our elected representatives on notice that we're aware, involved and intend to shape election results."



Before going to Capitol Hill, restaurateurs at the conference get briefings on top restaurant-industry issues from lawmakers, political analysts and NRA lobbyists.

"The more people we bring to Washington, the greater the impact of our message," Tinsley said. Get information at [www.restaurant.org/paconference](http://www.restaurant.org/paconference), contact your state restaurant association, or e-mail Meredith Nethercutt at [mnethercutt@dineout.org](mailto:mnethercutt@dineout.org).

## New Paid-Leave Mandates

*Continued from Page 2*

employers with at least 50 employees to give eligible workers up to three months of job-protected unpaid leave to care for themselves, immediate family members or new or adopted children.

The FMLA Expansion Act would require employers to provide six weeks of paid leave, funded by the federal government, employers and employees. Dodd wants to apply the expanded FMLA to businesses with 25 or more employees.

As some Congress members move to expand the FMLA, thousands of employers are raising concerns about the current law. The National Restaurant Association joined about 50 employer organizations to form the National Coalition to Protect Family Leave. The coalition wants FMLA amendments to streamline record-keeping rules for employers, guarantee employers sufficient advance notice for time-off requests and clarify the meaning of "serious health condition." Confusion over the term has sparked numerous lawsuits against employers.

For more details contact Brendan Flanagan, Association vice president of federal affairs, at (800) 424-5156, ext. 5916, or [bflanagan@dineout.org](mailto:bflanagan@dineout.org).

## Produce-Safety Meeting to Feature Supply-Chain, Government Experts

**T**he director of the Food and Drug Administration's Center for Food Safety and Applied Nutrition is among the confirmed speakers for the National Restaurant Association's upcoming produce-safety conference.

Robert Brackett, whose agency oversees produce safety, will offer insight into the produce regulatory system at "Produce Safety and the Foodservice Industry: A Farm-to-Table Conference." Jeff Farrar, chief of the California Department of Health Services' food and drug branch, will share the stage with Brackett.

The meeting, set for March 29 and March 30 in Monterey, Calif., will set the stage for restaurant-industry professionals to work with suppliers and government officials to enhance produce safety. Taco Bell is sponsoring the conference, which aims to educate leaders at all levels of the food-

supply chain about efforts necessary to improve produce safety.

In addition to government officials, speakers include restaurant operators, suppliers and food-safety experts, as well as NRA chairman Ed Tinsley.

Session topics include:

- **Congressional priorities:**

Federal lawmakers are looking at ways to reform the federal food-safety regulatory system. Michelle Reinke, the Association's legislative affairs director, will explain the pros and cons of Congressional proposals, including the idea of a single federal food-safety agency.

- **Produce-group action:**

Executives from the United Fresh Produce Association, Produce Marketing Association and Western Growers Association will discuss what the produce industry is doing to improve the safety of fresh fruit and vegetables. Attendees should come armed

with questions for a related panel discussion.

- **Lessons from the meat industry:** Randy Huffman, vice president, scientific affairs, American Meat Institute, will share strategies for controlling pathogens.

- **Supply-chain efforts:** Processors and distributors will discuss their safety-management systems, and restaurateurs will outline their vendor requirements and how they track safety.

The conference is open to the entire farm-to-table supply chain. Attendance is encouraged for quality assurance, food safety, public relations, government relations and purchasing professionals from restaurant and foodservice professionals, foodservice distributors, food manufacturers and suppliers.

Visit [www.restaurant.org/produceconference](http://www.restaurant.org/produceconference) for more information.

# CDC Guidance Available Report Would Help Employers Prepare for Pandemic

Early planning and preparedness by businesses is critical to minimize the impact of an influenza pandemic, according to a U.S. Centers for Disease Control and Prevention report.

“Businesses ... will be essential partners in protecting the public’s health and safety when a pandemic occurs,” the report states.

“Interim Pre-pandemic Planning Guidance: Community Strategy for Pandemic Influenza Mitigation in the United States” is available at [www.pandemicflu.gov](http://www.pandemicflu.gov).

The report outlines how U.S. employers can prepare for, respond to and recover from an influenza pandemic, defined as a worldwide outbreak of a new virus easily transmitted from person to person. Pandemics have

occurred throughout history, and many scientists believe it is a matter of time before another occurs.

To help communities respond to a pandemic, the report describes a new system that would classify pandemics by the percentage of infected people who die after becoming ill.

Under the CDC rating system, a Category 1 pandemic would cause fewer than 90,000 U.S. deaths in a year, while a Category 5 pandemic could result in up to 1.8 million U.S. deaths. The CDC assumes a pandemic virus could cause between 20 percent and 40 percent of the U.S. population to become ill.

Health experts say vaccines and anti-viral drugs might not be available in sufficient quantities to combat at least an initial wave

of a pandemic. So the report focuses on four key non-pharmaceutical steps that communities could take to limit the spread of infection. They are:

- Voluntary isolation and treatment for people who become ill.
- Voluntary quarantines in households where a member has become ill.
- School and day-care closings.
- “Social distancing” to prevent adults from coming into close contact at workplaces, public events, on public transportation and in other venues.

A Category 1 pandemic would trigger voluntary isolations. In Category 2 and 3 pandemics, communities would be urged to consider school closings of up to four weeks, among other steps. In Category 4 and 5 pandemics, the CDC would recommend schools and day-care programs close for up to three months, and it would call for social-distancing measures.

## Employer guidance

The report recommends employ-

ers follow these steps:

- Develop and communicate sick- and family-leave policies to ensure sick people remain at home and that staff can stay home to care for family members.
- Cross-train to cover critical functions, and cover the most critical functions with fewer staff.
- Investigate ways to reconfigure work areas and processes to put more distance between employees, as well as employees and customers. Examples: Greater use of drive-through or home delivery services.
- Encourage good hygiene at the workplace, including proper hand-washing techniques and cough etiquette. Offer convenient access to soap and water and/or alcohol-based hand gel.

The CDC isn’t the only federal agency offering guidance to employers. The Department of Labor’s Occupational Safety and Health Administration last month released updated guidance on protecting employee health and safety during a pandemic flu. All guidance is available at [www.pandemicflu.gov](http://www.pandemicflu.gov).

## Pandemic facts

### What’s a pandemic?

A pandemic occurs when a new virus strain emerges and infects humans. People might not have natural immunity because the strain is new, so the disease would spread rapidly. Pandemics can vary in severity from something that seems simply like a bad flu season to an especially severe outbreak that could lead to high numbers of illness, death, social disruption and economic loss.

### When will a pandemic occur?

Pandemics most recently occurred in 1918, 1957–1958 and 1968–1969. There currently is no influenza pandemic, and scientists say it’s impossible to predict when the next pandemic will occur or how severe it would be. Most agree that future pandemics are likely.

### Will the H5N1 strain of bird flu cause a pandemic?

Scientists are keeping an eye on the strain of bird, or avian, flu now causing problems for bird populations in Europe, Asia and Africa. Many scientists believe this strain has the potential to mutate into a form that could spread easily among humans. However, the H5N1 strain has remained largely a disease of the animal population and has shown little ability to jump from birds to humans or from human to human. The strain has been linked to 168 human fatalities but most involve cases where humans were in close contact with infected poultry.

## Pandemic-Flu Preparation for Businesses: Resources

Visit the National Restaurant Association Web site at [www.restaurant.org/avianflu](http://www.restaurant.org/avianflu) or [www.restaurant.org/pandemicflu](http://www.restaurant.org/pandemicflu) to get more resources on avian and pandemic flu, including links to key documents on the federal government’s Web site, [www.pandemicflu.gov](http://www.pandemicflu.gov):

- Business Pandemic Influenza Planning Checklist, CDC.
- Interim Pre-pandemic Planning Guidance: Community Strategy for Pandemic Influenza Mitigation in the United States, CDC, Feb. 2007.
- OSHA Guidance on Preparing Workplaces for an Influenza Pandemic, Feb. 2007.
- Links to state pandemic-flu Web sites.

# Restaurant Executives Show Appreciation for Air Force Foodservice Professionals

Restaurant executives shared their passion for the industry with more than 50 Air Force foodservice professionals at a weeklong program at the Culinary Institute of America's Greystone Campus.

The weeklong program in St. Helena, Calif., was an educational initiative created by the National Restaurant Association and Hennessy Travelers Association. Airmen and women from bases around the world received an expense-paid week at the CIA, including culinary education and training from CIA faculty.

Industry leaders, including 10 National Restaurant Association board members, provided insider advice in roundtable and panel discussions.

Association Vice Chairman Richard Rivera said the event was a powerful recruiting tool as well as valuable exposure for airmen and women. "This was an excellent chance to increase their awareness of ... what lies in the civilian world," said Rivera, CEO of Sarasota, Fla.-based Rubicon Enterprises. "For many of them, it was a glimpse of food expertise and industry opportunity that they might not have realized existed."

NRA board member David Goronkin, CEO, Famous Dave's of America, said the event was a great opportunity to share experiences. He said he fielded questions ranging from, "What is it like to work as a restaurant manager," to "What does it take to get from the dish room to the boardroom."

"These are bright, talented men and women who may be looking to make a career in the private-sector foodservice industry when they leave the Air Force," Goronkin said. "They

have a passion for what they do."

Rivera said he participated in the event because of his interest in helping young professionals further their careers. Also, he was a mess officer during his two years in the Army. "That gave me an added incentive to see if we could help these airmen become more successful in their Air Force careers and beyond."

The airmen and women were energetic, enthusiastic about their work, serious about learning and personal development and ambitious in their career aspirations, Rivera said. "They were straightforward in their questions and eager to learn from our career paths," he said. "I was proud to be there and proud of them."

Other NRA member panelists were: Ted Balestreri, Sardine Factory Inc.; John Metz Sr., Metz & Associates; Pete Mihajlov, Parasole Restaurant Holdings; Sally Smith, Buffalo Wild Wings; Matthew Baizer, Zao Noodle Bar; Jim Broadhurst, Eat 'n Park Hospitality Group; Peggy



National Restaurant Association Vice Chairman Dick Rivera, CEO, Rubicon Enterprises, Sarasota, Fla., fields questions from airmen and women at the Culinary Institute of America's Greystone Campus. Rivera was among the NRA board members on a CEO panel at the weeklong educational initiative created by the NRA and the Hennessy Travelers Association.

Cherng, Panda Restaurant Group; and Carmen Vacalebre, Carmen Anthony Restaurant Group. Metz and Mihajlov are former Hennessy Travelers.

Hennessy Travelers visit Air Force bases around the world to evaluate their foodservice operations. They award the Hennessy Trophy each year at the National Restaurant Association Restaurant, Hotel-Motel Show. Hennessy Traveler teams consist of representatives from the National Restaurant

Association board of directors, the Society for Foodservice Management, the International Food Service Executives Association and the Air Force.

Last year was the 50th anniversary of the Hennessy Award Program. As part of the anniversary celebrations, the National Restaurant Association and Hennessy Travelers Association created the CIA program to honor 50 outstanding Air Force foodservice professionals.

## South Dakota Adopts ProStart

More South Dakota high school students might pursue foodservice careers, thanks to a partnership between the National Restaurant Association Educational Foundation and the South Dakota Retailers Association.

The South Dakota Retailers Association is implementing ProStart, a two-year high school restaurant- and foodservice-management curriculum that blends classroom learning with mentored work experience. When students meet academic standards, complete certain competencies and partici-

pate in at least 400 hours of mentored work experience, they receive the ProStart National Certificate of Achievement. The certificate signifies they are qualified to enter the industry workforce.

The NRAEF has been working for the past two years with a group of educators in South Dakota to bring ProStart to the state. Several high schools last fall began to implement the program.

"In South Dakota, there is a need for a program to teach students not just how to cook, but how to manage a restaurant from the front-of-the-house to the



back-of-the-house," said Shawn Lyons, executive director of the South Dakota Retailers Association. "ProStart combines culinary and business instruction to fill that need."

Nationwide, ProStart is administered by the NRAEF in conjunction with state restaurant associations. With the addition of South Dakota, ProStart serves more than 54,000 students in 1,400 high schools in 47 states, districts and territories.

## FOOD FOR THOUGHT

# State Executive Celebrates 20 Years of Advocacy

## Restaurant Association of Maryland builds strong grassroots system under Harris's leadership

When Marcia Harris became CEO of the Restaurant Association of Maryland in 1987, the one-woman show had 198 members and a \$25,000 annual budget. Today, Harris manages a 25-employee association with 3,000 members and a \$3 million budget.



Marcia Harris

would show up at the state capital with a busload of restaurateurs. It would be the first time legislators heard from us on an issue, and we would be surprised that we weren't effective.

**TURNING POINT:** I was in Washington, D.C., visiting a Senate staffer who came from a social-work background. I was explaining about the harm a bill would cause: Restaurants would lose money; businesses would close. The staffer looked at me in wide-eyed amazement and said, "You business people are just interested in making money." It was a novel idea that someone would invest their life savings, risk their children's inheritance and go into business without a slim possibility of turning a profit.

**WELL-CONNECTED:** We educate our

members so they understand the issues. We make sure at least one RAM member knows at least one General Assembly or Congress member. A few years ago, we got a call saying the state senate was about to vote on a certain issue. One of our members went to college with the senator who was the swing vote. He called him on his cell phone on the senate floor and explained why the bill was bad for restaurants.

**PROACTIVE APPROACH:** In most cases, policymakers will call us before they put a pen to paper. A lot of times, we can show them how to accomplish the same thing without legislating it. For example, a state legislator had a constituent with a peanut allergy, so she wanted restaurants to list every single ingredient of every item on their menus. We set up a meeting with the Food Allergy and Anaphylaxis Network. We also offered to teach our members to set

up procedures for addressing allergic customers' needs, such as bringing out a chef or manager to answer questions about ingredients.

**GETTING THROUGH:** Policymakers want to talk to real people. They will remember the true-life story of an employer who had to decide between two long-time employees or when Mabel had to be laid off because the employer couldn't afford whatever. That gets their attention.

**ROI:** We offer to refund restaurateurs' dues if they join and participate in one of our programs but don't feel they got their money's worth. One person in 20 years asked for his money back. I suggested I give him next year's dues free and he sign up for just one program. He's paid his dues on time ever since. We're a good deal.

—As told to Linda Busche

**TAKING ON ISSUES:** In my first year, I spent about 10 percent of my time lobbying. Our main issues were food-inspection and alcohol laws. Within three years, that changed. Seventy percent of my time was advocacy. We began to look at ourselves not just as restaurants and took leadership on more general business issues.

**LESSONS LEARNED:** In the early years, we didn't know about legislative issues until we read about them in the newspaper. We