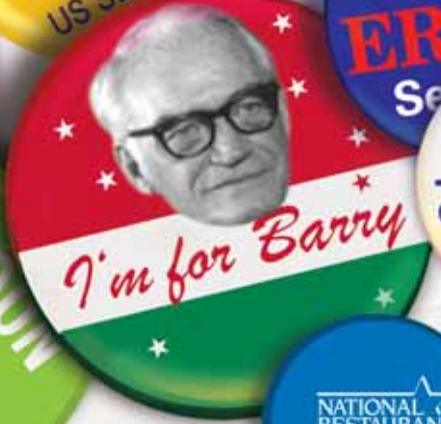


Official Ballot

LEGISLATIVE ISSUES

National Restaurant Association
2006 PUBLIC AFFAIRS CONFERENCE
SEPTEMBER 11-12, 2006

ociation
CONFERENCE





Bottom line message

The National Restaurant Association believes that a lawsuit shouldn't be the first step to make a business aware of potential accessibility issues. We support the ADA Notification Act as a more reasonable way to improve business accessibility for people with disabilities.

Background

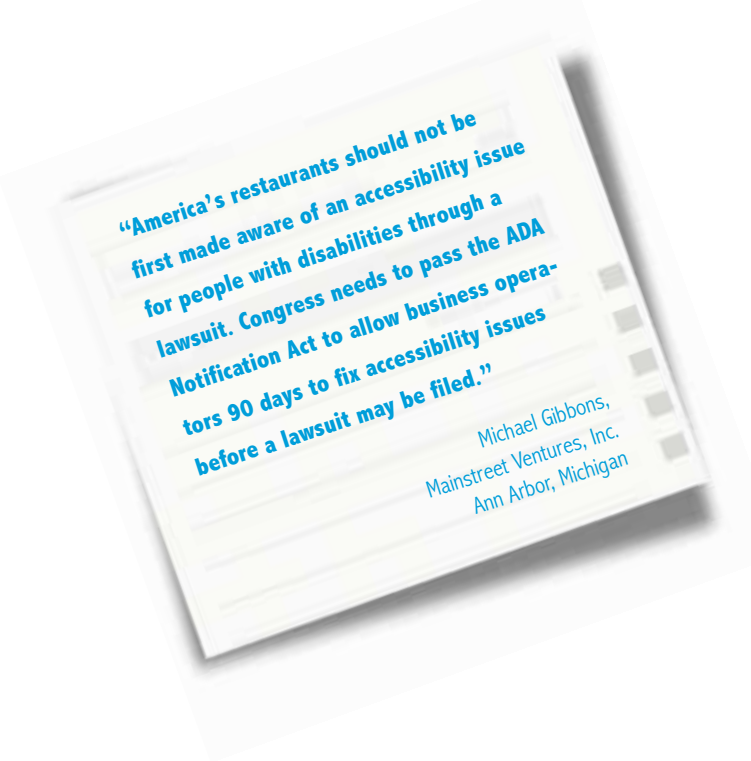
Rep. Mark Foley (R-Fla.)'s ADA Notification Act, H.R. 2804, would give business operators 90 days to review alleged accessibility problems and correct any necessary issues before they could be sued under the Americans with Disabilities Act.

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Talking Points

- ◆ The restaurant industry believes that it is more than just good business to improve access for people with disabilities; it is the right thing to do.
- ◆ Personal-injury attorneys are abusing the Americans with Disabilities Act by filing frivolous lawsuits. Typically, these attorneys will sue businesses for alleged technical violations of the ADA, hoping that small-business owners will opt for a quick financial settlement out-of-court instead of wasting precious time and money defending themselves in an expensive lawsuit. In some of these lawsuit-abuse cases, these attorneys simultaneously sue multiple businesses on the same street.
- ◆ Lawsuit abuse does not further the cause of accessibility for people with disabilities. Restaurateurs want to accommodate their patrons and their employees. Costly lawsuits divert scarce resources away from finding a solution—resources that could be used to help solve accessibility problems.
- ◆ Advance notice of patrons' accessibility issues allows business owners to address accessibility issues in their operations before attorneys can sue over alleged violations. This approach would benefit both restaurateurs and people with disabilities.





BUILDING DEPRECIATION

Bottom line message

The National Restaurant Association urges Congress to reduce the onerous 39½-year depreciation schedule to 15 years for restaurant-building improvements and new construction.

Talking Points

- ◆ The 39½-year depreciation schedule is unrealistic for restaurants and should be updated.
- ◆ Restaurants are high-volume businesses. Every day, more than half of all Americans dine out. Restaurants get more customer traffic and are open longer than other commercial businesses. Many are open 18 hours a day, seven days a week. This heavy use accelerates deterioration of a restaurant building's entrance, lobbies, flooring, restrooms and interior walls, resulting in far more wear and tear than most other places of business experience.
- ◆ Restaurants undergo constant renovations to accommodate both heavy customer traffic and changing consumer preferences. National Restaurant Association research shows that most restaurants remodel and update their buildings every six to eight years, far more often than reflected in a 39½ -year depreciation schedule.
- ◆ A recent U.S. Treasury Department study on recovery periods and depreciation methods concluded that the 39½-year recovery period for buildings and improvements is too long.

Background

Under current tax laws, restaurants depreciate a building's original cost, plus the cost of subsequent building renovations and improvements, over 39½ years. Congress has made exceptions by speeding depreciation schedules for some businesses that experience particularly heavy daily wear and tear, such as convenience stores with gas stations. The National Restaurant Association believes restaurants should be allowed quicker depreciation schedules for both new construction and improvements.

Congress enacted a 15-year depreciation schedule for restaurant-building improvements, but that expired at the end of 2005. Now efforts are underway in Congress to extend and expand that provision. The NRA supports legislation (S. 419/H.R. 920) sponsored by Sen. Jon Kyl (R-Ariz.) and Rep. Mark Foley (R-Fla.) to enact a permanent 15-year

depreciation schedule for restaurant-building improvements and new construction. The House approved a similar provision as part of its minimum-wage bill in late July.

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Bottom line message

The ability to do business over a meal is a prime marketing tool for most small businesses. Business-meal spending is a legitimate business expense and should be fully deductible, like other business expenses.

Background

Several bills pending in Congress would increase the tax deduction for business meals. Sen. Daniel Inouye (D-Hawaii) has introduced a bill (S. 298) to raise the income-tax deduction for business meal and entertainment expenses to 80 percent from 50 percent by 2008. In the House, Rep. Mark Foley (R-Fla.) has a bill pending (H.R. 3162) to increase the business meal and entertainment deduction to 80 percent. Among H.R. 3162's sponsors are Rep. Sam Farr (D-Calif.), along with Reps. Phil English (R-Pa.), Chris Cannon (R-Utah), Scott Garrett (R-N.J.), Dutch Ruppersberger (D-Md.), and Edolphus Towns (D-N.Y.).

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Talking Points

- ◆ Most small businesses consider the ability to conduct business over lunch or dinner to be one of the primary ways they have to build their businesses. Business meals make business deals!
- ◆ Small-business operators and self-employed people have been penalized the most by the reductions in this tax deduction over the years.
- ◆ A May 2004 study by the U.S. Small Business Administration found that the meal and entertainment tax deduction represents a larger percentage of small businesses' overall expenses, compared to larger businesses. The study strongly suggests that full reinstatement of the business meal and entertainment deduction for small businesses should be a major policy priority.
- ◆ The economic impact of fully restoring the business meal deduction would strongly benefit the entire economy. The restaurant industry is the nation's largest private-sector employer, with 12.5 million employees and \$511 billion in sales projected this year. Any change in restaurant operators' bottom lines reverberates throughout the economy.
- ◆ The NRA estimates that restoring the business meal deduction would increase sales in restaurants by an estimated \$6 billion, creating a \$19 billion boost to America's economy.

"Business dining is an essential marketing tool for America's small and family-owned businesses. All other business expenses are fully deductible and this one should be too."

Christianne Ricchi
i Ricchi Restaurant,
Washington DC

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Bottom line message

The National Restaurant Association encourages the House and Senate to work together to approve comprehensive immigration reform that strengthens border security, creates a temporary-worker program, and provides an eventual path to citizenship for currently undocumented immigrants who meet certain criteria.

Talking Points

- ◆ Today's system has numerous shortcomings: Unfortunately, our immigration system does not reflect America's need for workers. Our economy provided 134 million jobs last year, yet the federal government makes only 10,000 green cards available for service-industry workers each year.
- ◆ Congress must address future needs: Over the next decade, the National Restaurant Association projects that the number of jobs in the foodservice business will grow one and a half times as fast as the U.S. labor force. At the same time, the number of 16- to 24-year-olds in the labor force—half our industry's workforce—will not grow at all.
- ◆ Congress must take a comprehensive approach: Legislation must strengthen our borders, provide a mechanism for employers to hire from abroad when U.S. workers are not available, create a program for undocumented employees to earn green cards, and establish clear, inexpensive and reasonable hiring rules for employers.
- ◆ Congress must take a realistic approach: It is not realistic to track down 11 million individuals and require them to go home. This would disrupt America's economy and risk stranding our workers abroad while simultaneously creating a disincentive for them to come forward. Rather than create a permanent caste of second-class workers, legal or illegal, we must find a way for these workers to come forward, be screened by the Department of Homeland Security, pay a fine, learn English, and participate in a program that lets them earn permanent residency and eventual citizenship.

Background

The Senate and House have both passed immigration reform bills. The bipartisan Senate bill, S. 2611, was passed this spring and includes two provisions that the NRA believes to be critical: a worker program that opens up jobs to immigrants when no U.S. workers are available, and an eventual path to citizenship for many of the currently undocumented immigrants living in the United States, provided that they can demonstrate that they have satisfied a number of requirements, including passing background checks, learning English and paying a fine. Although S. 2611 is not a perfect bill, the NRA supports the Senate's efforts and will continue to work to improve the bill during a conference with the House of Representatives.

The NRA opposes the House immigration-reform bill, H.R. 4437. The measure mandates a massive new employer verification system to check the work eligibility of every employee, with fines of up to \$25,000 on even the smallest businesses just for paperwork violations. The House legislation also lacks any worker program.

The two bills now await action in a House-Senate conference committee, which—if it ever meets—will be charged with finding common ground on the legislation. The process slowed down this summer, when the House and Senate scheduled multiple hearings on this issue across the country.

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Death TAX

Bottom line message

While the NRA's top goal remains full and permanent repeal of the death tax, we applaud and support efforts at meaningful and permanent death-tax relief. Senators should vote to eliminate the death tax and "keep family restaurants in the family."

Background

Congress knows how burdensome the federal death tax can be. The Economic Growth and Tax Relief Reconciliation Act of 2001 reduced death-tax rates and increased the exemption every year until the tax is entirely repealed in 2010. But Congress didn't finish the job—the death tax returns at its old 55 percent rate in 2011. If Congress doesn't act, the death tax will continue to kill small businesses.

President Bush has repeatedly urged Congress to make death-tax repeal permanent, and the House has voted twice in the 109th Congress for legislation that would ease small business concerns on this issue. The House passed the Death Tax Repeal Permanency Act last year. More recently, the House passed a bill providing for permanent death-tax relief for estates valued under \$5 million per person. Now it's up to the Senate to act. Senators may have their chance to do so as part of a minimum-wage bill; estate-tax relief is part of the wage package that the Senate may consider again in September.

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Talking Points

- ◆ The death tax can destroy small businesses. Small, family-owned businesses are especially vulnerable to being broken up or sold to pay the death tax. Most small-business owners have the entire value of their businesses in their estates. While heirs to a family business work to carry an enterprise to the next generation, the government immediately "inherits" a 37 percent to 55 percent bite of the estate, a blow that many small businesses can't survive.
- ◆ The death tax is unfair. An estate passed on to children by their parents doesn't appear by magic. Someone worked over a lifetime to build that business. In that time, they paid income and other taxes. The government has taken its fair share of the earnings of the business. The estate shouldn't be taxed again after the owner's death.
- ◆ The death tax has created an accountants' and lawyers' paradise. The threat of the death tax forces small business owners to spend thousands of dollars trying to ensure that their business will survive after their death. A 1999 research study showed that small business owners in upstate New York spent an average of \$125,000 over five years for tax planning to avoid the blow of the death tax.

"Congress should be mindful that America's family restaurants are at stake here. This tax is a leading cause of family businesses being forced to shut down."

Van Eure
Angus Barn,
Raleigh, NC



Frivolous OBESITY Lawsuits

Bottom line message

The NRA urges senators to cosponsor the Commonsense Consumption Act (S. 908), introduced by Sen. Mitch McConnell (R-Ky.), and bring it to a vote.

Talking Points

- ◆ Lawsuit abuse is not the answer to the nation's obesity problems. The solution lies in education and healthier lifestyles.
- ◆ Nearly nine in 10 restaurant patrons believe obesity-related lawsuits against restaurants are frivolous and baseless, according to a recent Gallup poll.
- ◆ Lawsuit-happy lawyers continue to file suits blaming America's restaurants for obesity even though Americans consume approximately three out of four meals at home.
- ◆ While childhood obesity in the United States has increased over the last 20 years, former U.S. Food and Drug Administration Commissioner Mark McClellan noted that "Actual levels of caloric intake among the young haven't appreciably changed in 20 years."
- ◆ Nutrition experts remind us that weight gain is caused by burning fewer calories than we consume. However, the number of children biking or walking to school has dropped 75 percent within a generation, and almost one-third of all high school students do not engage in regular physical activity.
- ◆ Obesity is an extremely complex problem with a multitude of causes; policymakers cannot simplistically target restaurant foods as the reason for increased obesity.

Background

Personal-injury attorneys who claim restaurants should be held responsible for people's obesity-related health problems represent a serious threat to the restaurant industry. These activist attorneys claim that a protracted legal campaign is necessary to change consumers' diets. While courts have dismissed some of the initial lawsuits, more have been filed or are on the way. Defending against this sort of systematic lawsuit abuse is especially costly for smaller enterprises.

Sen. Mitch McConnell's Commonsense Consumption Act and Rep. Ric Keller (R-Fla.)'s Personal Responsibility in Food Consumption Act would ban most obesity-related lawsuits against restaurants and other food sellers. The House approved the Personal Responsibility in Food Consumption Act last October by a vote of 306-120. The NRA is now pushing the Senate to act.

Recognizing the threat of lawsuit abuse, 23 states have enacted legislation in recent years to block obesity-related lawsuits against restaurants using state law. These include Arizona, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Michigan, Missouri, North Dakota, Ohio, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin and Wyoming.

It's time Congress passed final legislation prohibiting these lawsuits at the federal level.

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Bottom line message

The NRA opposes any efforts to increase the federal starting wage, especially minimum wage bills that do not include meaningful provisions that lessen the impact of a higher wage mandate on employers who employ significant numbers of minimum-wage workers.

Background

By a vote of 280-130, the House of Representatives approved a minimum wage bill in late July that would increase the federal minimum wage in three 70-cent increments over three years, to \$7.25 per hour. The wage package included numerous provisions of interest to restaurants aimed at partially offsetting the wage mandate's impact on employers, including a two-year accelerated tax depreciation schedule for restaurant-building improvements and new construction; the introduction of a tip credit in states currently prohibited from utilizing a tip credit (Alaska, California, Minnesota, Montana, Nevada, Oregon and Washington), as these states increase their state wages; a permanent reduction in the death tax; and a two-year extension of the Work Opportunity Tax Credit. The Association worked aggressively to oppose the wage hike and also to include as many small business "offsets" as possible.

The Senate blocked action on the bill in early August, voting 56 to 42 to bring the wage/tax relief package to debate and a vote; 60 votes would have been needed to schedule the bill for debate. The package may come up for debate again in September.

The NRA will continue to oppose higher starting-wage mandates. The Association leads the Coalition for Job Opportunities, a group of more than 30 business organizations opposed to government-mandated increases in the entry-level wage.

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Talking Points

- ◆ Less-skilled employees would suffer most from an increase in the federal minimum wage. That's because the higher wage would attract workers with more skills and experience, heating up the competition for jobs and forcing out less-skilled employees.
- ◆ Workers employed at minimum wage typically are beginning their careers. As these employees gain skills, their wages increase significantly. In fact, two in three receive raises within the first year on the job, sometimes within the first month. The typical increase for full-time employees who make minimum wage is 14 percent, nearly three times higher than that for other employees.
- ◆ Nationally, seventeen in 20 of those who would benefit from a minimum-wage hike are teens living with their working parents; adults living alone; or second earners in dual-income households. Just three in 20 minimum wage earners are the only earners in households with children. These employees are helped far more effectively by making use of the Earned Income Tax Credit—a tax-free payment that supports lower-earning employees without threatening their employment by raising labor costs.

Bottom line message

Senators should pass S. 1955, the Health Insurance Marketplace Modernization and Affordability Act of 2005. The bill improves access to affordable health insurance for small businesses by creating Small Business Health Plans.



Talking Points

- ◆ Five years ago, seven in 10 American businesses offered health insurance to their employees. Today, only six in 10 do. Cost is the main obstacle preventing businesses from offering insurance.
- ◆ Six in 10 uninsured employees work for small businesses. Allowing small business access to small-business health plans is a key step toward helping America's 45 million uninsured.
- ◆ Five or fewer insurers control at least three-fourths of the small-group health insurance market in most states, according to the Government Accountability Office. This lack of competition contributes to double-digit rate increases for many small businesses, resulting in an increase in the number of small-business employees who are uninsured.

Background

Small Business Health Plans would make it easier for small- and mid-sized businesses to join together across state lines to buy health insurance through national associations such as the NRA. The plans are strongly supported by President Bush.

The House has passed legislation to create SBHPs at least six times over the past 12 years; in its most recent vote, the House voted 263 to 165 last July in favor of these plans.

The hold-up has been the Senate, which took its first vote on this issue in May. In a good sign for future action, the Senate fell only five votes short of the 60 needed to pass S. 1955, the SBHP bill crafted by Sens. Mike Enzi (R-Wyo.), Ben Nelson (D-Neb.) and Conrad Burns (R-Mont.). The NRA is hopeful that the Senate will vote again on this issue in September.

In the event the Senate is able to approve S. 1955, a House-Senate conference committee would have to meet to decide on the final provisions of a bill.

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Alternative Minimum Tax

The alternative minimum tax is an income tax system Congress created in the late 1960s to ensure that individuals and corporations earning above certain income thresholds couldn't use tax deductions, exclusions and gifts to avoid paying a minimum amount of taxes. Now, however, millions of middle-income Americans are starting to face AMT liability because Congress hasn't increased the income threshold in line with inflation. Congress has also failed to apply other tax changes to the AMT system, meaning taxpayers who face AMT liability are not eligible for many new and legitimate tax deductions and credits available to other taxpayers. The National Restaurant Association supports the full elimination of the AMT for individuals and companies and urges Congress to include AMT repeal in any broad tax legislation.

Lawsuit Abuse Reduction Act

It's often cheaper for a business to settle a frivolous lawsuit than fight it. This dysfunctional situation leads to costly and unnecessary legal proceedings, higher insurance premiums and price increases for businesses and consumers. The House passed the Lawsuit Abuse Reduction Act (H.R. 420, by Rep. Lamar Smith (R-Texas)) last October by a vote of 228 to 184. The bill now awaits Senate action. If passed, the bill would not only penalize attorneys who file frivolous claims but also prevent personal injury attorneys from "shopping" their cases to the state courts most likely to issue high-dollar judgments.

Mandatory Menu Labeling

In the early 1990s, Congress enacted the Nutrition Labeling and Education Act, which created the labeling system we see on packaged goods today. Congress exempted restaurants from this mandate because it recognized that restaurant meals are very different than packaged foods that are sold in a box or a can. The National Restaurant Association believes that Congress was correct to exempt restaurants and should maintain this exemption today.

Most restaurant food is prepared by hand, making it difficult to accurately assess nutrition content and label each

dish. Variations in cooking methods and daily offerings—as well as customer customization—make accurate analysis even more difficult.

The Food and Drug Administration's Obesity Working Group believes a voluntary approach to providing nutrition information is best for the industry. Restaurants listen to their customers, and menus are constantly evolving to meet customer needs—without government mandates! The NRA opposes all legislation that would mandate menu labeling.

Social Security Reform

Concerned that the Social Security system could be headed for serious problems, President Bush vowed to keep the system healthy without raising taxes. Now Congress needs to act. The National Restaurant Association is concerned that lawmakers could raise Social Security payroll taxes to keep the system solvent, damaging job creation.

Given the tremendous impact changes could have on the industry, including higher payroll taxes, the Association is advocating meaningful reform that preserves the system for future retirees. The Association is a member of the Coalition for the Modernization and Protection of America's Social Security, which is comprised of business organizations that support responsible reforms.

Tip Audits/Tip Tax Fairness Act

Congress never intended to give the Internal Revenue Service the authority to use aggregate assessments to bill employers for FICA taxes on allegedly unreported tips. The NRA believes restaurateurs shouldn't have to act as "tip police," and we urge Congress to reintroduce the Tip Tax Fairness Act, which would prohibit the IRS from billing employers for FICA payroll taxes on allegedly unreported tips without first verifying that individual employees actually under-reported their tips. The act would shift the burden of enforcing tip-reporting laws to the IRS—the proper authority for tax-law enforcement. Taxpayers are responsible for reporting their income and keeping records to document their earnings. The IRS is responsible for dealing with taxpayers who fail to do so. By law, restaurateurs can't report tip income on behalf of employees.

Travel and Tourism

Despite a robust economy, tourism's contributions to America's prosperity have not been fully recognized, understood or strategically developed by government. Yet tourism creates jobs, drives community development and small-business growth and generates exports. In addition to being an economic plus, travel and tourism are key components of our nation's public diplomacy effort. At a time when America's image abroad needs to be strengthened, travel and tourism are important diplomatic tools that introduce international visitors to the United States.

The NRA supports the creation of a presidential advisory council on travel and tourism, including Cabinet members, Congress members, governors, mayors and industry leaders. The panel would advise the president on national tourism-policy development. The NRA also wants increased and well-spent funding for such programs as the Department of Commerce's international destination-marketing campaign. Given the value of the U.S. dollar, America should be regaining its share of the international travel market. Sadly, we're losing ground to other countries.

Vocational and Technical Education Training

Congress is reviewing funding for key federal programs that support vocational and technical education, including the \$1.2 billion Perkins program that partially supports restaurant industry training. The National Restaurant Association Educational Foundation's ProStart® program—the industry's premiere workforce development and training program for high school students—receives critical support from the Perkins program. The ProStart program reaches 45,000 high school juniors and seniors from 1,100 schools in 45 states and territories.

The NRA believes that continued congressional support for Perkins funding is key to ensuring the ProStart program is maintained and can be expanded to reach more students.

Work Opportunity Tax Credit (WOTC)

The NRA believes that a permanent extension of the WOTC is the only way to ensure help for more disadvantaged workers to take the first step toward self-sufficiency. There are several efforts moving forward in Congress to extend the credit, which expired at the end of 2005.

Sen. Rick Santorum (R-Pa.) and Rep. Jerry Weller (R-Ill.) introduced legislation (S. 595 and H.R. 1272) to merge and permanently extend the Work Opportunity and Welfare-to-Work tax credits. A similar proposal was part of the minimum-wage package the House passed in July and that the Senate may take up again in September.

WOTC gives employers a federal income tax credit of up to \$2,400 per year against the wages of certain categories of disadvantaged workers, including former welfare recipients. The credit helps employers bear some of the additional costs associated with training and retaining disadvantaged workers. Typically, Congress extends these credits for only a year at a time, which creates problems for employers who want to be able to count on these programs.