

# TEXAS RESTAURANT SURVIVAL PLAN



3300 North Interstate Highway 35, Suite 610 | Austin, Texas 78705  
[www.txrestaurant.org](http://www.txrestaurant.org)

## Background

The State of Texas closed restaurant dining spaces, bars, and other foodservice businesses for at least six weeks to flatten the curve of COVID-19. With a day's notice, over 53,000 food and beverage businesses across Texas saw their revenue disappear, their employees leave, and their supplies become waste through no fault of their own.

The scope of this loss is astronomical. In 2019, the restaurant industry was one of Texas' largest, employing about 1.3 million people, generating \$70 billion in sales, and paying an estimated \$4.6 billion in taxes. Now, restaurants have lost nearly three times more jobs than any other industry, which for Texas means 700,000 jobs and \$4.2 billion in revenue are gone already. If the restaurant industry cannot recover, these losses will impact the entire Texas economy for years to come.

Restaurants are starting to reopen, but they cannot replace weeks of lost revenue and product in the current environment of reduced occupancy and new COVID-related costs. They expected help from Congress and the business interruption insurance policies they purchased, but for many, it hasn't arrived. As many as 10% of our state's restaurants have closed permanently, and that number will grow above 30% if Texas does not implement a comprehensive restaurant survival plan.

The Texas Restaurant Survival Plan leverages the billions of dollars in aid that our state will receive from the CARES Act with policy reforms to provide immediate and lasting relief to Texas' food and beverage businesses. This not only benefits the restaurant industry, but it benefits the entire State of Texas by investing in the front lines of our economy at a time when we need it most.

## Agenda

1. Create and fund the Foodservice Industry Recovery Fund (FIRF).
2. Award a workforce development grant to deploy high-quality, COVID-19 health and sanitation training to restaurants, bars, and their employees.
3. Continue and expand the regulatory waivers that allow restaurants to sell retail bulk items, sealed containers of alcohol to-go with food orders, and prepared food in grocery stores.
4. Provide tax and fee relief to restaurants and bars that are negatively impacted by COVID-19 and government-mandated closures.
5. Enact liability protections for businesses, including foodservice businesses, that demonstrate reasonable, good-faith efforts to comply with COVID-19 protocols and industry-specific health and safety guidance.
6. Prohibit landlords from evicting or foreclosing restaurants or bars for non-payment of rent or mortgages during the COVID-19 crisis and recovery.
7. Suspend any new state or local government mandates set to come into effect for foodservice businesses over the next 120 days.
8. Prohibit third-party delivery companies from charging restaurants predatory fees.



## This is Personal

“I had to use a printed-out script when we laid off our employees, and my hands were shaking so badly,” said Jessica Delgado, a restaurant owner from the Rio Grande Valley. “I could barely get the words out through the tears.”

Despite facing the most uncertain time the industry has ever seen, Texas’ restaurants, bars, and other foodservice businesses continue to exhibit remarkable resiliency and dedication to their customers and employees.

In Houston, Ricardo Molina runs the two locations of Molina’s Cantina along with his two brothers. A third location is still under construction, and right now he still plans to open it within six weeks.

“We’re still here, even if we’re limping along,” Molina said with a laugh. “One day we’re a full-service restaurant, the next day we’re a ghost, just selling to-go.”

Molina said he was able to keep nearly every staff member on board, but they are only working about 30% of the hours they were before. Waitstaff have been retrained to manage phone orders, to-go packaging, and curbside carry out.

“Our grandparents started this business in 1941, in the middle of a world war,” said Molina. “I remember my grandpa telling us stories about having to ration everything and deal with price ceilings. We’ve definitely had crazy times before, but this is unimaginable. It’s not just about profit, this just isn’t a business model you’d ever want to deal with.”

Molina points to the ability to sell cocktail kits as a life saver for his business and hopes to continue to do so in the future. However, now the rising costs of protein is a concern, and he’s seen prices jump as much as 80% already. There’s also the worry over rent, and an “unforgiving landlord,” as he describes.

He also says he’s concerned about his friends in the industry, knowing full well some of their businesses won’t survive. “It’s depressing to see friends in the industry not doing well, so we reach out and text each other,” Molina said.

Despite the obstacles, the hospitality spirit and Houston pragmatism runs deep with the family. “Nobody’s breaking down, we’re just getting with it,” he said. “Come hell or high water, we’re not going to stop.”

Down in McAllen, Larry and Jessica Delgado run the Delgado Collective, three highly acclaimed restaurants that stand out for their cuisine and service in the border city.

“This community embraced us from day one,” said Chef Larry Delgado. “We were told that we couldn’t make it, that no one would be able to afford to eat at our restaurants, and we trusted this community to lift us up. Going through this disaster together, even as we’re losing money, we knew we had to keep lifting our community up, too.”



The Delgados sprang into action after their dining rooms closed, implementing curbside ordering, doing their own delivery (“We can’t afford the fees from GrubHub and those guys,” said Delgado), selling cocktail kits, and even offering affordable family meals much lower than the cost of their normal entrees. Every package to go includes a handwritten thank you note.

“We are filled with gratitude every day,” said Jessica Delgado. “We are alive, we are healthy, and our businesses are open. When people choose us, we have to share that gratitude.”

Pre-pandemic, the Delgado Collective had 120 employees. Now they are down to just 43 to operate all three restaurants.

“This has been a punch to the gut. We didn’t foresee a seven-week shutdown; we thought it would just be a couple weeks and we could figure it out,” said Jessica Delgado. “This has been much longer and more difficult than any of us could have imagined.”

Despite the hardships, the Delgados say they have been able to keep their spirits up. “God knows there have been dark days. But people see us as pioneers in this community. Eating food is one of the most intimate things you can share, and people trust us. There’s an expectation that we are going to do it right. I’m not sure how we are going to survive this, but we’ll do whatever it takes.”

\*\*\*

As these examples show, restaurants have done what they always do in a crisis—they’ve rolled up their sleeves to help their communities. The difference with this crisis is that nearly every restaurant and foodservice business is struggling to survive as they continue to serve.

Texas’ restaurants have always been there for us, and now they need us to be there for them.



UNIVERSITY PARK, 3300 N IH-35, STE. 610, AUSTIN, TEXAS 78705 | MAIL: PO BOX 1429, AUSTIN, TEXAS 78767  
512.457.4100 | 800.395.2872 | FAX 512.472.2777

[txrestaurant.org](http://txrestaurant.org)



Before COVID-19:

# Texas

## RESTAURANT INDUSTRY AT A GLANCE

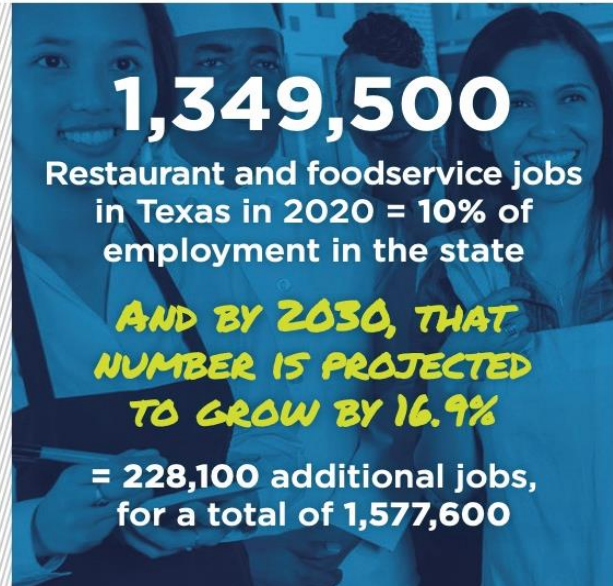
Restaurants are a driving force in Texas's economy. They provide jobs and build careers for thousands of people, and play a vital role in local communities throughout the state.



**49,666**  
Eating and drinking place  
locations in Texas in 2019



**\$70.6 billion**  
Estimated sales in Texas's  
restaurants in 2019

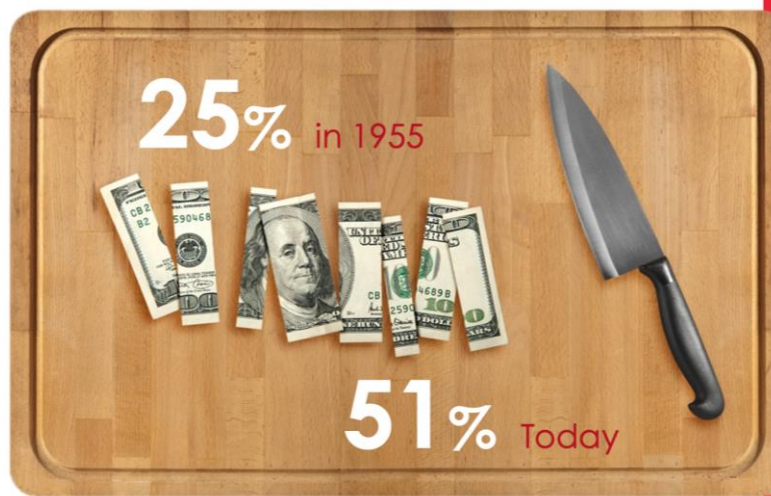


**1,349,500**  
Restaurant and foodservice jobs  
in Texas in 2020 = 10% of  
employment in the state

**AND BY 2030, THAT  
NUMBER IS PROJECTED  
TO GROW BY 16.9%**

= 228,100 additional jobs,  
for a total of 1,577,600

### ... Restaurant Industry's Share of the Food Dollar



**25%** in 1955

**51%** Today



UNIVERSITY PARK, 3300 N IH-35, STE. 610, AUSTIN, TEXAS 78705 | MAIL: PO BOX 1429, AUSTIN, TEXAS 78767  
512.457.4100 | 800.395.2872 | FAX 512.472.2777

[txrestaurant.org](http://txrestaurant.org)

## AFTER COVID-19:



**COVID-19 UPDATE**

The Texas Restaurant Industry will lose more than **688,000 JOBS** and **\$4.2 BILLION IN SALES** by the end of April.

A survey of 6,500 restaurant owners and operators reveals the devastating economic losses sustained by the industry since March.

**BY THE END OF APRIL,** the Texas restaurant & foodservice industry...



... will **LOSE \$4.2 BILLION**, about a **70% DECLINE** in sales.

...will **LAY OFF MORE THAN 688,000** restaurant employees.

### THE IMPACT IN PERSPECTIVE

The industry in Texas employs **1.12 MILLION PEOPLE.**



Because of COVID-19, **61% OF THE INDUSTRY IS NO LONGER WORKING.**

**84%** of restaurant operators have laid off employees and reduced the number of hours worked.

**ROUGHLY 18%** anticipate doing more of this (layoffs and hours reduction) during the next 30 days.

**63%** anticipate operating for off-premises traffic during the next 30 days.



**RESTAURANTS & OUR EMPLOYEES are suffering**

**2%** of operators permanently closed their restaurant.

**34%** of operators have temporarily closed their restaurant.

**6%** anticipate permanently closing within the next 30 days.

**96%** of restaurant operators say their total dollar sales volume during the period from April 1-10 was lower than it was during the same period in 2019.



## **Priority 1: Create and fund the Foodservice Industry Recovery Fund (FIRF).**

### **Background**

Texas isn't a stranger to disasters, but this pandemic has been uniquely devastating for the restaurant industry for several reasons. First, government orders caused the losses. With little notice, restaurants had to close their dining spaces and bars had to close completely, resulting in spoiled inventory and over six weeks of lost revenue. Restaurants and bars complied with these orders to protect our entire state, and so it's only fair that the entire state compensate them for their losses. This will be critical for restaurants and bars to accumulate the capital they need to adapt to the post-COVID market and once again run a profitable business.

Second, federal disaster relief has been confusing and ineffective. Unlike with Hurricane Harvey and other natural disasters, the federal government has not provided the recovery aid that restaurants and other small businesses need to survive. Most of the federal money for business relief went into the Paycheck Protection Program, and SBA data shows that the foodservice industry only received about 5% of that money nationally. This is shocking considering that the foodservice industry was the nation's second largest private sector employer and lost nearly three times more jobs than any other industry. Even for those restaurants that were lucky enough to get a PPP loan, the guidance has been incredibly confusing and eligible expenditures are very limited.

Third, insurance claims were summarily denied. Restaurants and bars purchased expensive business interruption insurance policies to help in just this type of situation where they're forced to close. Shockingly, the COVID-19 claims have all been summarily denied, and even if foodservice businesses sought relief in the courts, they would not see insurance proceeds for years.

For these reasons, restaurants and bars have been left to deal with huge losses on their own in a way that makes this pandemic unique compared to previous disasters. If restaurants and bars do not receive help to cover these losses, many will close for good. Since the restaurant industry is one of Texas' largest in terms of employees, revenue, and tax contributions, this would have significant and long-lasting effects on our entire economy.

### **Solution**

Texas should create and fund the FIRF to compensate foodservice businesses for their losses and help this critical industry succeed in a post-COVID environment. The FIRF can be housed in and administered by the Governor's Office, and it should fund grants to restaurants and other food and beverage businesses that demonstrate a reduction in sales revenue of at least 50% due to COVID-19. Funds should be administered in phases based on a lottery system to ensure small and independent businesses are not unfairly disadvantaged.

Grants should be capped at either the sum of lost revenue plus reopening costs or \$25,000, whichever is less. Accountability metrics should ensure funds are only used for eligible expenses that are not covered by other COVID-19 aid. Eligible expenses should focus on helping restaurants and bars invest in the future of the industry and our economy and include:

- Operating costs including mortgages, rent, utilities, and outstanding debt;
- Reopening costs including reconfiguring the restaurant space, restocking inventory, and purchasing personal protective equipment or sanitation products;





- Rehiring, retaining, or training employees; or
- Updating the business model to adapt to the post-COVID market. Examples of these investments include transitioning to cashless payment models, creating a delivery zone, and integrating technology or a new layout to help with social distancing.

In this way, permissible uses of the FIRF ensure the money is reinvested in our economy and workforce so that every dollar of aid generates many dollars in economic benefit for all taxpayers.

### **Funding**

At least \$390 million should be allocated to the FIRF from the \$6.18 billion the State will receive from the federal government under the CARES Act. This will allow at least 15,000 restaurants and other foodservice businesses to receive a grant, with \$15 million set aside to cover administration. Importantly, Treasury guidance confirms that providing grants to businesses interrupted by COVID-19 is a permissible use of this CARES Act aid.

By passing this recovery aid back to the businesses that suffered significant financial losses due to government orders, we not only compensate them, but we also get Texans back to work and generate far more tax revenue than the State would otherwise see from this funding. In this way, every recovery dollar can simultaneously benefit the State, businesses, and our workers—creating an investment in our economic future.

### **Priority 2: Award a workforce development grant to deploy high-quality, COVID-19 health and sanitation training to restaurants, bars, and their employees.**

### **Background**

Businesses that are beginning to reopen to the public must implement a long list of new, detailed health and sanitation protocols to keep their employees and customers safe. This poses a significant challenge for restaurants in particular because they're seeing such high rates of employee turnover. The foodservice industry lost nearly three times as many employees as any other industry. Many of these employees are now on unemployment, and for some, they're making more from unemployment benefits than they received from their job due to the extra pandemic benefit that Congress funded through July. Restaurants are having a difficult time recruiting employees to come back to work, given these economics.

Despite the staffing challenges, restaurants and bars need to implement the new health and sanitation protocols immediately and consistently in order to protect the public. This will also help revive the economy, since customers will return once they trust that food and beverage businesses are following the necessary protocols to keep them safe. Finally, increased training will also result in greater customer cooperation, which will produce better health outcomes.

### **Solution**

The Texas Restaurant Association Education Fund (TRAEF) is a 501(c)(3), industry leader in restaurant workforce development, training, and safety. TRAEF is partnering with the Dallas County Community College District, another expert in this space, to develop and deploy high-quality, online health and safety training that's specific to the new COVID-19 best practices, including Texas' Minimum Standard Health Protocols. TRAEF and the Dallas County Community College District are seeking a grant from the





State to quickly deploy this training to restaurants and other foodservice businesses throughout Texas.

### **Funding**

TRAEF and Dallas County Community College District seek a \$1 million grant from the approximately \$307 million in discretionary education funding the Governor's Office is receiving from the CARES Act. Alternatively, funding for this grant could come from the \$6.18 billion in CARES Act recovery aid the State will receive, or from existing workforce development funding.

### **Priority 3: Continue and expand the regulatory waivers that allow restaurants to sell retail bulk items, sealed containers of alcohol to-go with food orders, and prepared food in grocery stores.**

The regulatory waiver allowing restaurants to sell retail bulk items like bags of beans and rice, toilet paper, and other essential goods, is helping to relieve the pressure on an overburdened supply chain. The waiver is working well, but restaurants are at a disadvantage because the sales tax applies to the same items that are sold tax-free in grocery stores. Creating parity for restaurants and grocery stores on this point is a straightforward way to provide further assistance to restaurants and their customers.

The alcohol to-go waiver is also proving to be very popular, effective, and safe. To expand its benefits without compromising safety, Texas restaurants recommend expanding the waiver to include:

- Alcoholic beverages that are mixed by a restaurant or other TABC-licensed business, sealed, and transported so they are not easily accessible to the vehicle driver;
- Growlers of beer that are filled and capped by a restaurant or brewery; and
- Distilled spirits in manufacturer-sealed containers that are 750 mL or less. The current limit is 375 mL or less, but the vast majority of spirits are bottled in 750 mL containers.

Restaurants also have received a waiver allowing them to sell prepared food in grocery stores. This is another great partnership that allows restaurants to relieve the supply chain and serve their customers, and so it should be extended throughout the duration of the recovery.

### **Priority 4: Provide tax and fee relief to restaurants and bars that are negatively impacted by COVID-19 and government-mandated closures.**

Restaurants and bars are losing months of revenue due to government-required closures and restrictions, and yet their franchise, mixed beverage, sales, and property tax bills are still due. Restaurants, bars, breweries, and similar businesses also have to pay their TABC license fees in full when they're due for renewal, even if the business is or was closed due to the COVID-19 crisis. Restaurants and other foodservice businesses need relief in the form of tax credits, long-term deferrals, and freezes so they can invest their limited resources staying in business and paying their employees and suppliers. Tax credits could be a particularly effective way to encourage the restaurant industry to make the investments we need to stimulate the economy and see long-term gains.

Along with tax and fee relief, Texas restaurants and bars respectfully request that Texas avoid raising taxes or fees, including for unemployment taxes. Texas' food and beverage businesses simply cannot afford additional taxes on top of their losses and reopening expenses.



**Priority 5: Enact liability protections for businesses, including foodservice businesses, that demonstrate reasonable, good-faith efforts to comply with COVID-19 protocols and industry-specific health and safety guidance.**

Many restaurants and bars are concerned about the uncertain liability landscape because this is an unprecedented disaster. Even if a lawsuit is unlikely to be successful, most restaurants simply cannot afford to defend themselves while they struggle to recover from government-mandated closures. To encourage businesses to reopen during this time of uncertainty so we can restart our economy, a reasonable safe harbor should be offered. At the same time, the safe harbor should be targeted to those businesses that make reasonable, good-faith efforts to comply with COVID-19 protocols and industry-specific health and safety guidance to ensure businesses prioritize safety.

**Priority 6: Prohibit landlords from evicting or foreclosing restaurants or bars for non-payment of rent or mortgages during the COVID-19 crisis and recovery.**

Texas extended eviction and foreclosure protections to residents, but businesses also need this relief. For many restaurants and bars, their mortgage or lease payment is their largest expense. Further exacerbating this problem, provisions in the Paycheck Protection Program make it difficult for the lucky few who obtained a PPP loan to use that money for their mortgage or lease expenses. Restaurants and bars need eviction and foreclosure protection, so they have time to rebuild their business.

**Priority 7: Suspend any new state or local government mandates set to come into effect for foodservice businesses over the next 120 days.**

Restaurants and bars must be able to focus on reopening safely, implementing the new health and sanitation protocols, and rebuilding their business over the next 120 days. New mandates, particularly those that vary at the local level, will greatly frustrate this effort at a time when small businesses in particular are already struggling to survive.

**Priority 8: Prohibit third-party delivery companies from charging restaurants predatory fees.**

Some third-party delivery companies have taken advantage of restaurants during the COVID-19 pandemic, and since restaurants must rely on to-go orders right now, they have very little bargaining power to prevent this. The abuses have been well-documented and include third-party delivery companies charging outrageous fees, charging hidden fees, and putting restaurants on their website or app without receiving any approval from the restaurant.

Options for reform include:

- Prohibiting third-party delivery companies from charging a restaurant fees that are not explicitly agreed to by the restaurant in advance.
- Requiring third-party delivery companies to disclose to customers restaurant fees and when they will pass advertised discounts on to the restaurant.
- Prohibiting third-party delivery companies from charging a restaurant fees and commissions that total more than 15% of the food bill.





COVID-19 UPDATE

# The Restaurant Industry CONTINUED IMPACT

Published May 8, 2020

The devastating impact of the coronavirus pandemic on the U.S. labor market continues to come into focus. The below illustrates the current landscape according to preliminary data from the Bureau of Labor Statistics.

A historic & grim

# LOW



## OVER 3 DECADES of restaurant jobs were lost during the last 2 months

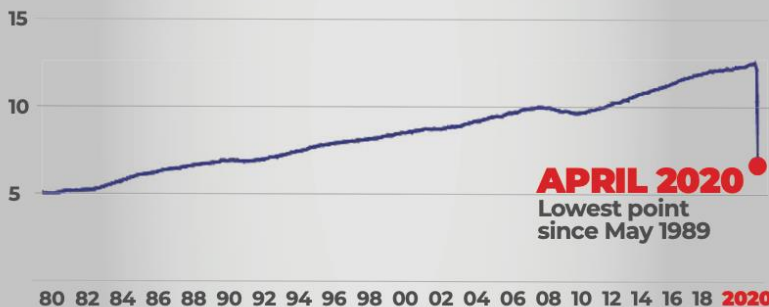
Restaurants  
have **lost nearly**



**more jobs than  
any other industry**



### Number of jobs at eating and drinking places (in millions)



The  
**6.4 million**  
eating and drinking place  
employees on  
payroll in April was  
**the lowest since  
May 1989**



UNIVERSITY PARK, 3300 N IH-35, STE. 610, AUSTIN, TEXAS 78705 | MAIL: PO BOX 1429, AUSTIN, TEXAS 78767  
512.457.4100 | 800.395.2872 | FAX 512.472.2777

[txrestaurant.org](http://txrestaurant.org)

The Texas Restaurant Survival Plan was created by the Texas Restaurant Association (TRA), in collaboration with a diverse set of restaurants and bars throughout Texas.

For more information, please contact:

Emily Williams Knight  
President and CEO  
Texas Restaurant Association  
(817) 713-0989  
[eknight@txrestaurant.org](mailto:eknight@txrestaurant.org)

Kelsey Erickson Streufert  
Vice President of Government Relations and Advocacy  
Texas Restaurant Association  
(214) 236-2649  
[kstreufert@txrestaurant.org](mailto:kstreufert@txrestaurant.org)

Joe Monastero  
Chief Strategy and Operations Officer  
Texas Restaurant Association  
(512) 537-0989  
[jmonastero@txrestaurant.org](mailto:jmonastero@txrestaurant.org)

Anna Tauzin  
Chief Revenue and Innovation Officer  
Texas Restaurant Association  
(202) 320-5784  
[atauzin@txrestaurant.org](mailto:atauzin@txrestaurant.org)

John Gessner  
Chairman of the Board  
Texas Restaurant Association



UNIVERSITY PARK, 3300 N IH-35, STE. 610, AUSTIN, TEXAS 78705 | MAIL: PO BOX 1429, AUSTIN, TEXAS 78767  
512.457.4100 | 800.395.2872 | FAX 512.472.2777

[txrestaurant.org](http://txrestaurant.org)