

Governor Pritzker's Ban Against Dine-in Service Has Crippled Restauranters

New Rule allowing outside dining just isn't enough; here's what owners must do now to save their restaurant before it's too late

By Francis Ostian, Esq.

Thousands of independent Illinois restaurants will not survive much longer unless Governor Pritzker's ban against dine-in service ends soon.

Outside of Illinois, at least 34 states have allowed restaurants to reopen for dine-in service of some kind. But, here in Illinois, dine-in service remains off the table.

Mr. Pritzker no doubt had good intentions when he issued his first coronavirus shutdown order. But, when he extended the order, he may have abused his powers. More on that in a moment.

Before his shutdown order, the state's bars and restaurants employed more than 500,000 people. Now, as his shutdown order drags on, thousands of restaurants and their employees face financial ruin.

See, many owners can't pay their rent and overhead. And, these owners say the governor's five-step plan to "re-store" the state will wipe them out. Here's why...

Governor's Plan Will Not Work for Restaurants

According to his plan, restaurants can't resume dine-in service until phase four. This may not happen until the end of June. And, some say won't happen until July or August. This will be too late for many small restaurants coupled with the expected reduction in occupancy.

Recently, the governor agreed to allow outside dining. But, it won't help restaurants without a patio or access to a street. And, bear in mind, cold weather and rain limit outside profits.

Of course, most restaurants' core business model is inside dining. Which Mr. Pritzker still refuses to allow in some reasonable form.

Can Governor Pritzker Save the Restaurant Industry with Reasonable Restrictions?

Yes. After all, at least 34 governors across America have allowed restaurants to resume dine-in service typically with reduced capacity.

Even hard hit states like Texas, Florida, Washington and Louisiana have let restaurants reopen their dining rooms. Also, some large states like Florida have achieved better results than Illinois.

Why is Florida Doing Better Than Illinois?

Florida Governor Ron DeSantis took steps to manage the pandemic without crushing Florida's economy. Unlike Mr. Pritzker, DeSantis issued a tailored shutdown order that focused on the elderly and other high risk groups. But that's only half the story.

You see, Florida's coronavirus stats continue to surprise scientists. That's because Florida has 21.5 million residents compared to 12.7 million in Illinois. Yet, Illinois has more than TWICE the number of cases than Florida.

So, despite Florida's larger population and looser restrictions, the stats prove it's doing far better than Illinois.

Point being, there are reasonable measures available to protect the public and allow dine-in service. For instance, you can limit capacity, wear masks, and health screen staff. This now raises a question no one is asking...

Did Governor Pritzker Abuse His Powers?

The governor's lawyers say he has supreme authority over the state's coronavirus response.

In fact, his team argues he can reissue disaster proclamations to extend his 30-day emergency powers. Mr. Pritzker uses this unchecked power to restrict what restaurants and bars can do.

But, the Illinois Constitution doesn't allow him to suspend constitutional rights. Furthermore, it appears he can't exceed his emergency statutory authority.

That's because there's a 2001 Illinois Attorney General Memorandum that reveals governors may need legislative approval to extend their emergency powers.

Which if right, may mean Mr. Pritzker abused his powers when he extended his shutdown order that bans dine-in service.

Also, his team may have realized his extended shutdown order was on shaky legal grounds. Which is why his team likely passed an emergency administrative rule in an attempt to legitimize the ban against dine-in service. Violators of this rule risked arrest. The governor recently



withdrew this harsh rule.

Regardless, owners should not resume dine-in service unless they consult with their attorney.

Now, if a court rules the governor's shutdown order is invalid, it does not mean restaurants are free to ignore other local and state health department laws.

For example, the Illinois Department of Public Health Act protects the public from the spread of infectious disease. This law allows a certified local health department to shut down a restaurant for disease related reasons. In which case, the department must then request a court order authorizing the continued closure.

So, this health law already protects the public from places deemed dangerous. And, obviously, offers an alternative to the governor's crude one-size-fits-all statewide ban.

How Illinois Restaurants Can Resume Dine-in Service

You can resume reasonable dine-in service by successfully challenging the governor's shutdown order in court.

In fact, Wisconsin is a great example. There, the State Supreme Court struck down Wisconsin's unlawful stay-at-home order.

Let's face it; no one typically wants to go to court. But, the price of doing nothing, for many, will cost them their restaurant. In other words, it may be the best option. After all, Mr. Pritzker still refuses to allow reasonable dine-in service to resume despite strong lobbying efforts by restaurant groups.

For all these reasons, consider stepping up to...

Join the Fight Now to Save Your Restaurant

Restaurant owners are struggling to keep their doors open. Plus, more than 300,000 hospitality industry employees have been laid off—all due to the Covid-19 pandemic.

In fact, the *New York Times* reported that industry analysts predict as many as 75% of independent restaurants will not survive much longer.

But, you don't have to become one of those sad statistics.

Keep in mind, Governor Pritzker continues to ban dine-in service even with reasonable restrictions. So, if you must resume dine-in service to save your restaurant, join the fight by legally challenging his shutdown order.

That's because even if a state trial court in one county rules for or against the shutdown order, it may not mean it's binding in another county.

Anyway, we are all in this together. So, owners, please contact your attorney right now.

But, if you don't have an attorney willing to help save your business, visit www.FrancisOstian.com. There, you can learn the next legal steps you must take to resume dine-in service.

Act now, before it's too late.

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