

New Laws Impacting Restauranters: What You Need to Know

Every April, KROST travels to Sacramento to participate in the [California Restaurant Association's Restaurant Day at the Capitol](#). This year, [Jean Hagan](#) (Principal) and [Robert Benson](#) (Manager - Restaurant Operations) attended. This annual event affords KROST and the California Restaurant Association the opportunity to lobby directly to California's legislators about pending legislative bills that impact our industry.

This year alone there has been over **2,700 new laws proposed in the legislature**. Here are some of the bills we think are important and our position on them. We encourage you to reach out to these bills' authors, or your own State Representatives, to express your opinion on the newly proposed legislation. When we all work together in support of common goals, we have greater influence on policy decisions in our government.

BILLS WE SUPPORT (and encourage you to support too)

On-sale General Alcohol Licenses for Restaurants – SB 352

State Senator Bill Dodd (Napa), Tel. 916-651-4003, email: senatory.dodd@senate.ca.gov

We support this bill because it authorizes up to 10 new original on-sale general alcohol licenses per year for restaurants in counties that have reached the limit of on-sale general licenses. It will also prohibit new on-sale licenses from being sold or transferred for a price greater than the original fee paid by the seller or transferor. In counties like Los Angeles, San Diego, or San Francisco; where demand is higher for restaurants, this bill will help stimulate restaurant growth and job creation.

Appropriate Application of the California Consumer Privacy Act – AB 25

Assembly Member Ed Chau, (Arcadia); Tel. 916-319-2049, email: assemblymember.chau@assembly.ca.gov

The California Consumer Privacy Act (CCPA) has a "right to delete" provision allowing consumers to request that a business delete any personal information about the consumer that the business collected. Currently, there is a broad definition of a "consumer" which could lead to employees requesting their employers delete their employment information or files. We support this bill because it seeks to provide a clear distinction between an employee and a consumer to close this loophole in the CCPA.

Preserve Guest Loyalty Programs – AB 846

Assembly Member Autumn Burke (Inglewood), Tel. 916-319-2062, email: assemblymember.burke@assembly.ca.gov

The California Consumer Privacy Act (CCPA) has a "nondiscrimination" clause that leaves in question restaurants' or businesses' ability to effectively use loyalty programs because it prohibits the offering of different prices to consumers who "opt out" or do not participate in the loyalty program. We support

this bill because it makes it clear that businesses of all sizes can continue to offer an array of benefits to customers who sign up for loyalty programs without being in violation of the CCPA.

BILLS WE OPPOSE

Mandatory E-Receipt Technology – AB 161

Assembly Member Philip Ting (San Francisco); Tel. 916-319-2019, email:
assemblymember.ting@assembly.ca.gov

This bill requires restaurants and retailers who accept credit cards to have technological systems in place to give customers electronic or text receipts, except under certain circumstances. One of the main reasons we oppose this bill is because of its potential financial impact to restaurants of all sizes. If your current POS is not designed to generate electronic receipts, you would have to purchase a new system that does. This costly investment could disproportionately affect smaller and medium sized restaurants. Although AB 161 is optional for guests, the technological infrastructure would still need to be in place at all restaurants.

In addition, there are consumer privacy and logistical concerns to consider. AB 161 will create significant operational challenges. In order for a customer and restaurant to execute and complete a transaction with an electronic receipt, a customer would have to provide personally identifiable information to a restaurant employee, raising privacy concerns and adding delays to guests waiting in line at a fast-casual or quick service restaurant.

The California Consumer Privacy Act (CCPA) also requires businesses to make specific disclosures before collecting any personal identifying information, including email addresses. We see significant challenges with educating restaurant employees on how to communicate legal privacy disclosures and having customers willing to read them or listen and sign the consent would create impossible situations in most fast-paced restaurant environments.

Litigation Trap – SB 561

State Senator Hannah-Beth Jackson (Santa Barbara), Tel. 916-651-4019, email:
senator.jackson@senate.ca.gov

This bill seeks to add private rights of action to sue for any violations of the California Consumer Privacy Act (CCPA). It effectively removes businesses' 30-day right to cure an alleged violation as well as businesses' ability to seek guidance from the Attorney General on compliance with the CCPA, which is a complex and confusing law. We oppose this bill because we believe the existing framework in the law preserving a businesses' right to 30-day cure and to seek compliance guidance from the Attorney General is important and would avoid a flood of litigation by private attorneys for technical violations of the law. A similar provision in the Labor Code's Private Attorney General Act (PAGA) has actually seen a flood of private lawsuits over technical violations of the law.

Paid Sick Leave – AB 555

Assembly Member Lorena Gonzalez (San Diego), Tel. 916-319-2080, email:
assemblymember.gonzalez@assembly.ca.gov

This bill seeks to expand statewide employer mandated Paid Sick Leave (PSL) time from 24 to 40 hours. We oppose this bill because many restaurants are already dealing with cumulative cost pressures of higher minimum wages, energy, and workers' compensation along with the original PSL of 24 hours. It

effectively forces restaurants to find more ways to cut costs such as cutting back on staffing levels or raise prices which may have unintended consequences such as loss of competitive advantage in the marketplace.

In addition, other provisions in this bill such as limiting the employer's ability to seek documentation to establish legitimate use of PSL and carry over requirements place onerous regulations on the restaurant industry.

Arbitration Ban – AB 51

Assembly Member Lorena Gonzalez (San Diego), Tel. 916-319-2080, email: assemblymember.gonzalez@assembly.ca.gov

Most employers have arbitration and settlement agreement language in their handbooks that allows both the employee and employer the option of less costly and faster resolution of claims by going to arbitration. AB 51 seeks to eliminate arbitration and settlement clauses made as a condition of employment for any claims arising under the Labor Code or Fair Employment and Housing Act. We oppose this bill because it will unnecessarily give rise to costly lawsuits and drawn out court proceedings to claims by employees and/or job applicants of violations of the Labor Code or Fair Employment and Housing Act. We believe it is beneficial to both employers and claimants to have cases arbitrated to keep costs down and provide timely resolution to disputes.

KROST has over 80 years of experience in the foodservice industry. As a reliable third-party consultant, we can help you examine your business and put the right tools and strategies in place to protect your profit margins.

If you have any questions on recent or pending restaurant legislation and upcoming issues or would like to hear more about the California Restaurant Association, please do not hesitate to contact Jean Hagan at Jean.Hagan@krostcpas.com or Robert Benson at Robert.Benson@krostcpas.com or call 818.616.7377 for a free consultation.

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