

NCRLA

North Carolina Restaurant
and Lodging Association

Immigration

In the continued absence of a comprehensive federal reform of the United States' flawed immigration system, states have displayed an unprecedented level of activity and have developed a variety of their own approaches and solutions. In 2007, state legislators introduced roughly two and a half times more bills than the previous year dealing with immigration. During the 2007 session, seven bills were introduced addressing immigration.

NCRLA supports comprehensive immigration reform led by the National Restaurant Association (NRA) and the American Hotel & Lodging Association (AH&LA) at the federal level, but is opposed to attempts to reform immigration at the state level.

Travel and Tourism Promotion

NCRLA was successful in getting a \$250,000 increase in funding for statewide tourism marketing budget in 2007. The Division of Tourism, Film and Sports Development received \$1 million in additional funding for statewide travel and tourism marketing efforts in the 2006 Appropriations Act.

NCRLA strongly supports and will advocate for an additional \$5 million for statewide tourism marketing in the 2008 budget, bringing total tourism marketing funding to \$14,000,000.

School Calendar Change

Per legislation enacted in 2004, public schools in NC can not start school earlier than August 25th or end later than June 10th. The House Committee on Education approved HB-359 - Restore Flexibility to School Calendar, a proposal that would make it easier for schools to open before August 25th each year. The bill passed the House and is eligible for consideration in the 2008 session in the Senate.

NCRLA strongly supports the existing law and will oppose any efforts to repeal this legislation.

Smoking Ban in Public Places

Currently in North Carolina, a local jurisdiction cannot adopt a non-smoking requirement. The U.S. Surgeon General released a report stating that secondhand smoke causes heart disease and lung cancer and indicated that separate "no smoking" sections do not protect individuals from second-hand smoke. The restaurant industry remains an industry of choice and operators are currently allowed to choose a smoking policy that works best for them and their patrons. NCRLA believes that this should continue.

During the 2007 session, HB 259 was introduced which would ban smoking in restaurants while still allowing it in workplaces and age-restricted bars. NCRLA successfully convinced legislators that it was unfair to target smoking in restaurants, while giving other businesses a competitive advantage. Although the bill passed in our favor, the fact that the House did pass five other smoking ban bills is a clear indication that smoking bans are likely to remain on the legislators' minds during this session.

NCRLA opposes government-mandated smoking policies, as well as any statewide smoking bans that do not create a level playing field for all indoor public places and places of employment. In addition, NCRLA also opposes legislation which would give cities and counties the right to pass local smoking bans or non-smoking policies.

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Mandated Sick Leave/Mandatory Health Care

During the 2007 session HB 1711 - Establish Paid Sick Days was introduced, which would mandate that all employees receive at least seven paid sick days during a 12 month period. The days could also be used to care for an immediate family member or for medical appointments for the employee or immediate family member.

It is the policy of the NCRLA, NRA and AH&LA to pursue proactive legislative and regulatory initiatives that would expand accessibility to health care; improve affordability for both employees and employers; promote flexibility to meet the diverse needs of the industry's workforce; and enhance portability to help America's increasingly mobile workers take their health insurance with them from position to position.

Minimum Wage and Living Wage

The term "living wage" is used by advocates to refer to the minimum hourly wage necessary for a person to achieve a specific standard of living. There are two or three municipalities that have a local living wage for city contract workers. NCRLA has been instrumental in the defeat of similar legislation at the state level and is opposed to state or local governments establishing a living wage.

NCRLA strongly opposes increases in the starting wage, whether state or federally mandated, believing that increases in labor costs will result in fewer jobs for entry-level workers. While the state minimum wage is mandated to increase when the federal minimum wage increases, under the state's existing law, NCRLA has and will continue to oppose state increases in the minimum wage above the federal level. NCRLA also supports a cash minimum wage for tipped employees at \$2.13 per hour, as allowed under federal law.

Meals Tax

A meals tax is an additional higher sales tax on food and beverages sold at restaurants that is initiated by local governments. NCRLA remains opposed to all new prepared food and beverage taxes, but will not oppose broad based, local-option taxes to the extent that all retail industries pay a fair share. NCRLA will also oppose any effort to allow local governments to implement a prepared food and beverage tax as a part of a local option tax menu.

Occupancy Tax

In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. NCRLA supports the following guidelines for the revision or implementation of occupancy taxes:

Rate – cannot exceed 6%.

Use – 2/3 to promote travel and tourism and 1/3 must be used for tourism related purposes.

Administration – net revenues must be administered by a local TDA.

Costs of Collection – taxing authority can keep its costs of collection from the revenues

During the 2007 session, 20 local occupancy tax bills were introduced and NCRLA ensured that all occupancy tax bills that passed met our guidelines. NCRLA will not oppose occupancy taxes that meet our set of guidelines for legislation but will oppose all those proposals that do not adhere to them. A more complete look at NCRLA's stance on occupancy tax guidelines is available at www.ncrla.biz.

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Gross Receipts of Occupancy Tax

Operators of hotels are considered retailers for purposes of administering the North Carolina sales and use tax laws. Their sales are subject to sales and use tax under three separate provisions of the Sales and Use Tax Statute including the sale of tangible personal property (i.e. food, beverage, pro shop), the rental of tangible personal property (i.e. cribs, roll-aways), and the rental of rooms and accommodations. Currently there is no clear definitive test or standard for determining whether a particular fee or charge for rental of a particular item is "derived from the rental of a hotel room or other accommodation".

The NC Department of Revenue has clarified the types of charges that are included in the gross receipts derived from rentals of rooms and accommodations and NCRLA supports the department's clarification. However, NCRLA will oppose any interpretation or application of the term which is not consistent with the intent and purpose of the occupancy tax.

Fees for Cost of Sanitation Inspection

In its public health improvement plan, the 2004 North Carolina Public Health Task Force recommended that the General Assembly "empower the local health departments statutorily to charge fees commensurate with the local costs of conducting the food and lodging program activity."

NCRLA defeated legislation in the 2007 session that would allow local health departments to charge fees for the cost of health inspections, but due to the Medicaid relief that counties received last year, there may not be as great of a push to enact the legislation this session.

NCRLA is opposed to any proposal that requires the restaurant or lodging industry to pay for public health inspections. It has always been the policy in NC that when a service, such as sanitation or environmental health inspection of a restaurant or lodging establishment is provided to benefit the general public, the cost of that service is paid for through public funds.

ABC Recycling Requirement

During the 2005 legislative session, the General Assembly passed a bill requiring ABC permit holders to recycle all beverage containers sold at the retail level for on-premise consumption effective January 1, 2008. During the 2007 session, NCRLA was successful in protecting ABC permittees from the risk of losing their permit for recycling violations.

During the 2008 session, NCRLA will be working to advocate for a tax credit to offset the costs of recycling for the business owner.

ABC Taxes and Permits

ABC tax increase proposals come up almost every session. Mixed beverage liquor is now subject to an extra \$20 tax, per four liters, more than the consumer pays at ABC stores. Further, all ABC permit fees have been increased by the enactment of an annual permit renewal requirement three years ago.

NCRLA is opposed to increases in alcoholic beverage tax and increased fees on ABC permits.

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Frivolous Lawsuits (Nutrition and Obesity)

NCRLA helped introduce HB 1835 - Liability of Purveyors for Obesity, which would prohibit civil actions against restaurants arising out of weight gain, obesity, or a health condition associated with weight gain or obesity. The bill passed the House Commerce Committee, but then failed in a House judiciary committee.

NCRLA strongly opposes federal and state legislation that prohibits frivolous lawsuits in regard to obesity. Obesity should be addressed through education, not litigation. The NC Chamber has indicated their support of working with NCRLA to pass the legislation in this session.

Pervious Parking Requirement

A provision placed in last year's budget requires that "any area designated for use as a vehicle parking area, except for covered vehicle parking areas or multilevel vehicle parking areas, shall not exceed 80 percent built upon area..." This provision is effective October 1, 2008 and its intent is to require that parking areas have 20 percent pervious surfaces.

NCRLA believes that the current language is unclear and does not provide businesses a reasonable method to comply with the law, which was apparently intended to reduce storm water runoff. We are part of a work group formed by the Environmental Review Commission that is examining this law.

Coastal Issues

There are an increasing number of environmental issues in regulatory agencies that would greatly impede developments and rebuilding in the coastal counties. The state's Environmental Management Commission has approved new rules aimed at protecting coastal waters from runoff pollution. The rules are subject to review by the state legislature before they take effect. NCRLA has been monitoring the rules and the impact they may have on hotels and restaurants in coastal areas.

In addition, the state's Coastal Resources Commission is poised to approve new rules that would tie the size of oceanfront building setbacks to the size of the structure and not the use. Proposed changes would allow the setback factor to increase incrementally with structure size, with the maximum setback at 90 times the erosion rate for structures of 100,000 square feet or larger. NCRLA sent written comments to the Commission requesting that action on these proposed regulations be tabled in order that statewide public hearings may be done by the Commission and reviewed by the state legislature.

Outdoor Advertising

Despite objections from two state agencies and environmental groups, the Senate approved SB 150, which would allow billboard owners to remove trees and shrubs 375 feet in front of their billboards, an increase of 250 feet. With plans by the Outdoor Advertising Association to pass this legislation through the house, Gov. Easley said in 2007 that he would veto the legislation in its current form.

NCRLA is supportive of this legislation because businesses, including the hospitality industry depend on outdoor advertising.



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