

at your SERVICE

Official Magazine of North Carolina
Restaurant and Lodging Association

What's Hot Culinary Forecast

2016 Food Trends to Watch

Legislative Wrap-up

**5 Things to Know about
the Epi-Pen Bill**

**Understanding the Joint-
Employer Standard**



WHAT'S
HOT
2016 CULINARY FORECAST



Simplify. Improve. Keep costs down.

- US Foods is a innovative food company and leading distributor with a passion for food at the heart of who we are and everything we do.
- We are creating more innovative products, exclusive brands and expert services to help make you more successful.
- Whether your operation is large or small, we can help you:
 - Food & Supply Costs
 - Labor & Operational Efficiency
 - Operating Reporting
 - Menu Development
 - Quality Service Process
 - Ordering & Reporting

For more information, visit usfoods.com or contact your local US Foods representative.





**Proud of
the company
we keep**



Heartland

To learn more, contact Tammy Rigdon
919.345.3514 or tammy.rigdon@e-hps.com
heartlandpaymentsystems.com



table of contents

in every issue

- 6 Letter from the Chair and the President**
NCRLA Chair Randy Kolls and President/CEO Lynn Minges
- 10 Calendar of Events**
Network with North Carolina's hospitality industry leaders at one of NCRLA's upcoming events
- 11 Welcome New Members**
NCRLA welcomes several new members from across North Carolina
- 30 A la Carte**
A sampler of hospitality-related news stories

features

- 8 What's Hot Culinary Forecast**
Chefs predict top restaurant menu trends for 2016
- 12 Federal Overtime Rules**
Hospitality industry to labor: overtime increase too high, too fast
- 14 Taste of North Carolina**
Celebrate and mingle with hospitality leaders on Jan. 25
- 16 Legislative Wrap-Up**
How new laws impact your business
- 20 Health Safety News**
What does big data mean for health inspections?
- 22 Best Practices**
Be proactive with your online review management
- 24 Hospitality Law**
The Joint-Employer Ruling
- 26 Movers and Shakers**
Stephanie Shear of Pepsi Bottling Ventures
- 28 Technology**
Mobile technology for Restaurants and Hotels: What are the key risks?

NCRLA EXECUTIVE BOARD OF DIRECTORS

RANDY KOLLS, Chair
Washington Duke Inn & Golf Club

LANCE TRENARY, Vice Chair
Golden Corral Corporate

MICHAEL MARTINO, Treasurer
Sheraton Imperial Hotel & Convention Center

BILLY SEWELL, Secretary
NRA Representative
Platinum Corral, LLC

JOEL GRIFFIN,
Immediate Past Chair
Griffin Stafford Hospitality

VINAY PATEL
Travel & Tourism Board
Representative
AH&LA Representative
SREE Hotels, LLC

LYNN D. MINGES
President and CEO
NCRLA

FRANK GRAY
General Counsel and Lobbyist
Jordan Price Wall Gray Jones
& Carlton, PLLC

Directors

KYLE AGHA
The Last Resort

ED BOOK
Charlotte Marriott City Center

SCOTT BREWTON
Pinehurst Resort & Spa

PHIL FRIEDMAN
Salsarita's Fresh Cantina

GARY FROEBA
The Omni Grove Park Inn

BILL GANT
Concord Hospitality Enterprises
Company

PETER GRILLS
Charlotte Area Chapter
Representative
The Ballantyne Hotel & Lodge

BRAD HURLEY
42nd Street Oyster Bar &
Seafood Grill

CHRISTINA LARSON
Darden Restaurants

RANDY LASTER
Pepsi Bottling Venture

SCOTT MAITLAND
Top of the Hill Restaurant,
Brewery & Distillery

AMBER MOSHAKOS
LM Restaurants

ROBERT M. O'HALLORAN
East Carolina University

R. DOYLE PARRISH
Summit Hospitality Group, Ltd.

TOM SASSER
Harper's Restaurant

JIMMY SIZEMORE
Sizemore Investments, Inc.

STEVE THANHAUSER
Angus Barn, Ltd.

CHARLES THOMPSON
The Inn on Biltmore Estate

STERLING F. WEBSTER IV
Hilton Garden Inn OBX &
Ramada Plaza OBX



Save with rate discounts up to*

5% on Medical Plans

5% on Specialty Benefits

*Some restrictions apply.

Health Care Reform: Guidance and Solutions

► Guidance

NCRLA is committed to helping you understand what the regulations mean to your business and what you need to do to comply.

► Solutions

NCRLA trusts UnitedHealthcare to develop health care solutions for the hospitality industry that comply with the Affordable Care Act.



To discuss UnitedHealthcare's solutions for your business, contact **Kimberlee Vandervoorn** at **(301) 865-7058** or **kvandervoorn@uhg.com**.



NCRLA

NC Restaurant
& Lodging Association



letter from the chair and CEO

A philosophy of generosity

The holiday season brings out the best in people. We give thanks for our many blessings and focus on the important things in life, like family and friends. We look to help those less fortunate by volunteering, and donating time and money to charities and others in need.

And, as 2015 winds to a close, we pause to reflect and pay tribute to those who have enriched our lives and have expanded our personal and professional horizons.

This year has been one of prosperity and growth for NCRLA and we want to thank you for your generosity and support. Your involvement in our association and your contributions to the North Carolina hospitality industry are critical to our success, and we can't thank you enough for stepping up to the plate.

We wanted to take this opportunity to share with you some of the highlights of our efforts to improve and enhance the association and to elevate the work we are doing together.

First, we have posted significant increases in membership and engagement and have grown our financial resources exponentially. This growth has allowed us to increase our capacity to serve the industry and has brought tremendous opportunities.

Our work has and will continue to center around three main strategic objectives:

- ▶ **Building our industry's influence** by increasing the strength and impact of advocacy at all levels of government.
- ▶ **Building our industry's image** by helping to showcase the fact that restaurant and lodging establishments yield extraordinary benefits in communities across the state, provide excellent career opportunities, and contribute to the prosperity and growth of our state overall.
- ▶ **Building our industry's engagement** by offering opportunities for members to connect, and by providing services and products that serve to fuel business success.

We are excited about the path forward and the many opportunities before us. With your ongoing support and input, we will continue to build on our momentum and our strong foundation to better represent you and our industry.

Our best for the holiday season and the new year to come. May it bring you health, happiness, and success along the way.



Randy Kolls



Lynn D. Minges

At Your Service
Volume 4, Issue 4
An official publication of the
N.C. Restaurant & Lodging
Association®

OUR STAFF

President & CEO
LYNN D. MINGES

Chief Operating Officer/
Health and Safety Regulations/
N.C. Hospitality Education
Foundation
ALYSSA BARKLEY, IOM

Director of Government Affairs/
Staff Attorney
STEVE MANGE

Director of Events and
Sponsorship Development
LIZ DOBBINS-SMITH

Marketing &
Communications Manager
KAREN A. MANN

Membership Coordinator
KRISTIN WORRELL

Education Programs Manager
RANITA BULLOCK

Executive Assistant/
NCRLA Board Liaison
LORI JONES

General Counsel & Lobbyist
FRANK GRAY

Printer
CHAMBLEE GRAPHICS, INC.

Graphics and Design
PAIGE HAPPEL FRIDDLE
Creative Concepts & Solutions,
(336) 908-0966 or
paige-ccs@triad.rr.com

BUSINESS OFFICE

6036 Six Forks Road
Raleigh, N.C. 27609
Phone: (919) 844-0098
Toll free: (800) 582-8750
Fax: (919) 844-0190

For advertising and
sponsorship inquiries,
contact Marketing &
Communications Manager
KAREN A. MANN at
kmann@ncrla.org,
(919) 747-2205 or
(800) 582-8750

Want to save energy and money?

Be our guest.

Duke Energy can help you offset the cost of enhanced efficiency equipment, improve guest comfort and increase your profits.

Incentives are available for:

- LED lighting
- HVAC replacements
- Variable speed ventilation hoods
- Programmable thermostats
- Window film
- Energy management systems



Start saving today. Visit duke-energy.com.





CHEFS PREDICT TOP RESTAURANT MENU TRENDS FOR 2016

The annual What's Hot culinary forecast explores food and menu trends for the coming year. For this year's forecast, the National Restaurant Association surveyed nearly 1,600 professional chefs – members of the American Culinary Federation – to find which foods, beverages and culinary themes will be hot on restaurant menus in 2016.

The top trends in food also extend to the bar, with the hottest alcohol trends including locally produced and craft beer, wine and spirits.

When asked which current food trend has grown the most over that last decade, 44 percent of the chefs surveyed said local sourcing. Looking forward, 41 percent said the trend that will grow the most in the next 10 years is environmental sustainability.

Menu items that gained in trendiness since last year's survey include African flavors, authentic ethnic cuisine, ethnic condiments/spices, house-made/artisan soft drinks, Middle Eastern flavors and non-traditional liquors. Items that lost momentum include

underutilized fish, kale salads, fresh beans/peas, gluten-free cuisine, quinoa and flower essence in cocktails.

The survey, which was conducted in September, asked 1,575 American Culinary Federation members to rate 221 items as a "hot trend," "yesterday's news," or "perennial favorite" on menus in 2016. See a full list of hot trends, plus a video explaining the top trends, at www.ncrla.org/whatshot. ☘



2016 TRENDS TO WATCH

While the recent What's Hot in 2016 chef survey highlights what's trending on restaurant menus, additional analysis of survey results and respondents' answers to the open-ended question "What will be the next hot menu trend" reveal a few more food ideas to keep an eye on in the next year:

Veggie-centric: When referring to center-of-the-plate items, that usually means proteins, but that may be changing. Fresh produce as the star of the plate is being championed by more restaurants and culinary professionals, who are serving up vegetable-centric meals that are often vegetarian without being advertised as such. And even when animal proteins are included in the dish, the veg is still the main attraction. Basically the opposite of television character Ron Swanson's attitude toward veggies as "the food that my food eats."

Sriracha = The New Ketchup?: The red sauce in the bottle with the green top is ubiquitous, but just a few years ago, only Thai food enthusiasts were familiar with this condiment. Following in its popularity growth wake are a range of other condiments and spices from various global cuisines applied to anything and everything to create brand new flavor combinations. Chimichurri as a hamburger topping. Peri peri barbecue ribs. Za'atar spread on crostini. Raita with hot wings. You get the idea.

African Flavors: International cuisines have become ingrained in our everyday diets, but despite featuring numerous distinct cuisines, Africa is still relatively under-explored when it comes to culinary experiences in the United States. Perhaps not for much longer, however. Berbere, harissa, dukkah, ras el hanout, tsire and other spice mixes and flavors are likely to gain wider use, as African flavors are a fast-growing trend.

Restaurant Stores: "Grocerants" has been around for a few years now – grocery stores increasingly focusing on foodservice. We're now starting to see restaurants adapting that idea by considering fresh food retail operations. If consumers want to eat where they shop for groceries, it's reasonable to believe they also want to grocery shop where they eat. In fact, half of consumers say they would be interested in buying fresh,

uncooked food items from restaurants (think items like steak, shrimp, bread and pasta of the same quality as served in the restaurant). Hybrid concepts like food halls and market restaurants are leading the way.

Simple is Key: Simplicity, back to basics cooking, and classic dishes. These are words to live by in the year ahead according to many professional chefs. While molecular gastronomy is turning more mainstream, there is a counter-movement brewing that focuses on stripping down recipes to fewer ingredients to let them shine in all their glory. Venerable preparation methods like pickling, fermenting and smoking are back with a vengeance, and traditional recipes are being refreshed for today's palates.

No More Gluten-free Kale Salads?: All good things must come to an end, and we may be approaching the end of the trends line for kale salads and gluten-free cuisine. Both of these formerly hot trends have been losing steam over the past couple of years. But don't expect either to go away altogether. We're more likely to see these evolve into perennial favorites over time. For example, kale salads are being adapted to salads where other greens are traditionally used, like Caesars and Cobbs, and gluten-free items are becoming menu staples at many foodservice locations. ☼



upcoming events and webinars

Network with North Carolina's hospitality industry leaders at one of NCRLA's upcoming events

Throughout the year, NCRLA hosts several events that are open to members and the hospitality industry. We also provide event information for the National Restaurant Association and the American Hotel and Lodging Association. Learn more about these events at www.ncrla.org/events.



Jan. 25

NCRLA Annual Meeting **10-11 a.m.**

[Washington Duke Inn & Golf Club,](#)
[3001 Cameron Blvd, Durham](#)

The annual meeting is open to all members of the association and invited guests. During this meeting, the association will elect new members of the Board of Directors and elect officers for the association for 2016.

The NCRLA nominating committee, chaired by Immediate Past Chair Joel Griffin, is now accepting nominations for the Board of Directors as well as nominations of candidates for service on one of NCRLA's committees. For information on board or committee appointments or to submit nominations to the NCRLA Nominating Committee, please contact Lori Jones at ljones@ncrla.org or 919-277-8580.

Jan. 25

NCRLA Board Meeting

Noon-1 p.m.: Board Luncheon

1-4 p.m.: NCRLA Board of Directors Meeting

[Washington Duke Inn & Golf Club,](#)
[3001 Cameron Blvd, Durham](#)

Jan. 25

Taste of North Carolina and the Stars of the Industry Awards

5:30-6:30 p.m.: Welcoming Reception

6:30-7:15 p.m.: Awards Ceremony

7:15-9 p.m.: Taste of North Carolina Gala

[Washington Duke Inn & Golf Club,](#)
[3001 Cameron Blvd, Durham](#)

Join your hospitality peers for a fun evening of networking and fabulous food at Taste of North Carolina. Register at www.ncrla.org/taste2016.

March 14 & 15

N.C. ProStart Invitational

March 14: 8 a.m. – 5 p.m.

March 15: 8 a.m. – 3 p.m.

[Durham Convention Center,](#)
[301 W. Morgan St., Durham](#)

NCPI is a two-day secondary school competition focused on restaurant management and culinary

arts. Student competitors put their skills to the test in front of industry leaders, family and friends, all with hopes of earning a coveted scholarship from one of the nation's premier culinary and restaurant management programs. Learn more at www.ncrla.org/ncpi

April 11

Charlotte Chapter Golf Tournament

7:30 a.m.: Registration

9 a.m.: Shotgun Start

[The Ballantyne Golf Club,](#)
[10000 Ballantyne Commons Parkway, Charlotte](#)

All proceeds will benefit the N.C. Hospitality Education Foundation

April 12 & 13

NRA Public Affairs Conference

[Washington D.C.](#)

NCRLA will go to Capitol Hill to talk about top public policy issues that affect restaurants. We aim to help elected officials understand what it takes to run a restaurant business today. The agenda will include the National Restaurant Association Educational Foundation's Gala Awards Dinner, which honors winners of the 2016 Faces of Diversity and Restaurant Neighbor awards. Contact Lexa Lemieux at LLemieux@restaurant.org.

April 29-May 1

National ProStart Invitational

[Gaylord Texan Resort & Convention Center,](#)
[Dallas, Texas](#)

The National ProStart Invitational is the country's premier secondary school competition focused on restaurant management and culinary arts. Annually, more than 350 student competitors put their skills to the test in front of industry leaders, NRAEF Trustees, state restaurant associations, and family and friends – all with hopes of earning a coveted scholarship from one of the nation's premier culinary and restaurant management programs.

May 11

3-5 p.m.: Legislative Day Workshop

[NCRLA Offices, 222 N. Person St., Raleigh](#)

Legislative workshop on issues that affect your business

May 11

5:30-7:30 p.m.: Rally in Raleigh Legislative Reception

[Big Ed's City Market Restaurant, 220 Wolfe St., Raleigh](#)
NCRLA's annual legislative reception

May 17 & 18

AH&LA/AAHOA Legislative Action Summit

Washington, D.C

NCRLA will work with AH&LA & AAHOA on issues that impact your bottom line and your business. Contact Lauren Pravlik at lpravlik@ahla.com.

May 21-24

NRA Show

McCormick Place, Chicago

NRA Show has a little something for everyone: Fascinating new products, compelling education sessions, the coolest new tech, and, of course, exciting hands-on cooking demos and all your favorite chefs. Register at <http://show.restaurant.org/>

June 1

Summer Board Meeting

10 a.m.

NCRLA Offices, 222 N. Person St., Raleigh

June 20

Future of Hospitality Golf Classic

8:30 a.m.: Registration

10 a.m.: Shotgun start

Prestonwood Country Club,

300 Prestonwood Parkway, Cary

All proceeds will benefit the N.C. Hospitality Education Foundation.

Aug. 29 & 30

N.C. Restaurant & Lodging Expo

Raleigh Convention Center, 500 S. Salisbury St., Raleigh

The North Carolina Restaurant & Lodging Expo is the only event in North Carolina to bring together all sectors of the restaurant, foodservice, lodging and hospitality industry under one roof. The latest products, services, and technologies will be showcased for the industry, along with a comprehensive and leading-edge program of education that will provide restaurants and lodging establishments from North Carolina and surrounding areas with the best tools to grow and improve their business. Learn more at www.ncrl-expo.com

Aug. 29

6-9 p.m.: N.C. Restaurant & Lodging Expo Dinner

Location TBD

Oct. 24

5:30-9 p.m.: Manteo to Murphy PAC Fundraiser

The Angus Barn, 9401 Glenwood Ave., Raleigh

Annual PAC event to benefit the National Restaurant Association and N.C. Restaurant & Lodging Association political action committees. Chefs from across North Carolina will create their signature dishes for sampling. There will also be live and silent auctions, with proceeds benefiting advocacy efforts from both the NRA and NCRLA. ☘

new members

NCRLA welcomes new members

Go to www.ncrla.org/membership to learn more about NCRLA and to download a membership app.

Allied

Agilysys, Inc., Santa Barbara
Cabaret Systems, Charlotte
Chowan County TDA, Edenton
Comtrex Systems, Atlanta
Illuminating Technologies, Greensboro
iResponze, Greenville
The Justice Firm, LLC, Charlotte
Moxy Restaurant Solutions, Winston-Salem
Strategic Business Solutions, Inc., Columbia
Vistaramic LLC, Raleigh

Lodging

Concord Hospitality Enterprises Company, Raleigh
Embassy Suites Charlotte/Ayrsley, Charlotte

Restaurant

Barry's Cafe, Raleigh
Biscuit Head, Asheville
Ceviche's, Wilmington
The Last Resort, Clemmons
LeMarchande, Stallings
Nash Square Hospitality, Raleigh
Relish Cafe & Bar, Raleigh
Standard Foods, Raleigh
World of Beer, Charlotte



Grease Exhaust System Cleaning

We Validate What We Clean!

100% Satisfaction Guaranty

After Cleaning Photos - Every Service

Our Photo Compliance Program Actually Shows

All Your Exhaust Duct was Inspected & Cleaned

**Call Us for a Complimentary Inspection of
Your System for a Full Report & Proposal**

(800) 839-0832

www.Nelbud.com

Federal Overtime Rules

HOSPITALITY INDUSTRY TO DOL: OVERTIME INCREASE TOO HIGH, TOO FAST

The waiting for the Department of Labor's (DOL) final revisions to federal overtime rules has begun.

The DOL stopped accepting comments from the public on its dramatic proposed revisions to overtime rules on Sept. 4. In November of this year, The Wall Street Journal reported that Solicitor of Labor Patricia Smith told a panel discussion that the DOL's final rule on overtime eligibility isn't likely to appear before late 2016. According to several people who attended the panel, employers had been expecting the rule to go into effect earlier in 2016.

Since the department announced proposed federal overtime laws that would greatly increase the salary level that dictates which employees must be paid overtime, the National Restaurant Association and American Hotel & Lodging Association have stepped up to protect the industry in Washington, D.C.

Under the proposed revisions prompted by an order from President Obama, the threshold would increase from the current \$23,660, or \$445 a week, to \$50,440, or \$970 a week. This means most salaried employees earning below \$50,440 a year would be eligible for overtime pay if they work more than 40 hours a week. But that's not all. The proposal also left open the possibility that the DOL could make changes to the existing "duties test" – imposing more rigid guidelines to define the types of employees who must be paid overtime.

The DOL has proposed automatically adjusting the salary threshold after that, according to inflation or wage growth. About 5 million individuals would become eligible for overtime pay under the proposed revisions, according to the White House.

More than 1,500 restaurant operators and the NRA submitted comments outlining their concerns about the proposed revisions. The NRA focused on three main areas that restaurants are concerned about:

Duties Test: While most of their time is typically spent on management-related duties, it's also common for

restaurant managers to fill other roles – serving, cleaning, cashiering – as needed. Any changes to the current duties test that determines which employees may be defined as "management," and therefore exempt from overtime pay, could eliminate that important flexibility.

"The concurrent duties test rule recognizes that front-line managers in restaurants play a multi-faceted role in which they often perform nonexempt tasks at the same time as they carry out their exempt, managerial function," the NRA wrote in its comments. "It recognizes that exempt and nonexempt work are not mutually exclusive."



Total Compensation: The Department of Labor suggested that the new regulations could include nondiscretionary bonuses and incentive payments, such as bonuses related to productivity or profitability. The NRA supports that concept, but disagrees with another suggestion that would limit the bonuses that could be included to 10 percent of an employee's weekly salary level.

"It should make no difference to an exemption analysis whether someone earns \$40,000 per year in base salary with \$10,000 in bonus versus \$45,000 per year in base salary with \$5,000 in bonus," the NRA wrote.

The Proposed Minimum Salary Level is Unrealistic for Restaurants. While the NRA supports increasing the minimum salary level used to determine which

(continued on page 14)

Turn HEADS and Tables.

You're one of a kind. So are we. Butterball's quality and value truly set us apart, and don't even get us started on our flavor. Create with Butterball and get noticed for all the right reasons. Create with Butterball and keep people coming back for more. Visit us to find some ideas and insights of how you might get your creative juices flowing.



BUTTERBALL

SERVE WITH CONFIDENCE.™
BUTTERBALLFOODSERVICE.COM

Taste of North Carolina and the Stars of the Industry Awards

CELEBRATE AND MINGLE WITH HOSPITALITY LEADERS ON JAN. 25

Join your hospitality peers from across the state on Jan. 25 as we celebrate our industry's best and brightest at the Stars of the Industry Awards and Taste of North Carolina gala.

This event is where our industry comes together to network, have fun and honor the best and the brightest among our colleagues and employees. For 2016, we will return to the Washington Duke Inn & Golf Club in Durham. The evening will begin at 5:30 p.m. with a welcoming reception; the awards ceremony will take place at 6:30 p.m., with the gala commencing at 7:15 p.m. Learn more at Register at www.ncrla.org/taste2016.

Earlier that day, the NCRLA Annual Meeting of the Board of Directors will take place from 10-11 a.m., also at the Washington Duke. The annual meeting is open to all members of the association and invited



Revelers enjoy spectacular food at Taste of North Carolina.

guests. At that time there will be a formal vote of NCRLA's 2015 Board of Directors and Officers. The NCRLA nominating committee, chaired by Immediate Past Chair Joel Griffin, is now accepting nominations for the Board of Directors as well as nominations of candidates for service on one of NCRLA's committees. For information on board or committee appointments or to submit nominations to the NCRLA Nominating Committee, please contact Lori Jones at 919-277-8580 or ljones@ncrla.org. ☘

(Federal Overtime Rules continued from page 12)

employees are exempt from overtime, the proposed increase from \$23,660 (\$455 a week), to \$50,440 (\$970 a week) is not realistic for restaurants. The NRA suggested an alternative of \$657 a week to more accurately reflect the balance between salaried managers and hourly restaurant employees.

NRA research shows that 80 percent of restaurant owners and 97 percent of restaurant managers start their careers in non-managerial positions and move up, often with performance-based incentives.

AH&LA's comments highlight the lodging industry's concerns with DOL's proposal to more than double the salary threshold of employees eligible for overtime pay. The comments further urge the Department of

Labor to use a past precedent and methodologies that would result in a much more reasonable salary threshold.

"The hotel industry is responsible for nearly 2 million jobs in communities across America and offers desirable assets that attract employees from all walks of life, including flexible hours, career growth, training opportunities, and good-paying jobs and benefit packages," said Brian Crawford, AH&LA vice president of government and political affairs. "While the lodging industry supports a fair and equitable working environment for both employees and employers, we caution the unintended consequences of raising the threshold too high, too fast. Meddling in this employer-employee balance will surely cost business and stability." ☘



Partners.

You've worked hard to build your business. We work hard to protect it.
We're committed to your success.

Accessible. Experienced. Accountable. Responsive.

That's what mutual success is all about. That's Harford Mutual.



HARFORD MUTUAL
COMMITTED TO MUTUAL SUCCESS

Ask your agent about insurance with
Harford Mutual or visit HarfordMutual.com
800.638.3669

2015 Legislative Wrap-Up

HOW NEW LAWS IMPACT YOUR BUSINESS

With the longest legislative session in over a decade now in the rear-view mirror, the hospitality industry stands to benefit from new laws and other developments in 2015. Here's what you need to know:



TOPO Distillery owner and NCRLA Board Member Scott Maitland sells a bottle of liquor to State Sen. Rick Gunn – the first bottle of liquor lawfully sold outside the state ABC system since Prohibition. Sen. Gunn sponsored HB 909, which permits a distillery to sell one bottle of alcohol to a customer once a year in connection with a tour of the facility.

TAX CHANGES HELP THE HOSPITALITY INDUSTRY THRIVE

Forcing Airbnb to pay its fair share of taxes and keeping the Occupancy Tax Guidelines alive and well are just two of the many tax-related developments that will benefit restaurant and lodging establishments going forward.

Airbnb Paying Sales and Occupancy Taxes. After months of pressure from NCRLA – including General Assembly testimony, meetings with state and local officials, and a drumbeat of media stories – Airbnb is now collecting sales and occupancy taxes statewide. North Carolina is the first state in the nation where Airbnb is collecting all applicable taxes statewide. The benefits were immediate and dramatic, as monthly online travel company sales jumped by more than \$1 million after Airbnb officially went “on the books” in Buncombe County.

No New or Expanded Meals Taxes. Building on its recent success in blocking meals tax proposals for Charlotte, Brevard, and elsewhere, NCRLA put the brakes on a proposal by Cumberland County legislators to extend and expand an existing meals tax. This last-ditch maneuver in the waning days of session was tied to a non-compliant occupancy tax proposal that NCRLA also derailed when both provisions were removed from HB 531 before it passed.

Personal and Corporate Tax Rates Going Down.

The new two-year budget (HB 97) cuts the personal income tax rate from 5.75 percent to 5.49 percent and extends a sequence of reductions in corporate income tax rates set in motion by the 2013 tax reform law – from 6.9 percent in tax year 2013 to six percent in 2014, five percent in 2015, 4 percent in 2016, and three percent in 2017.

Unemployment Insurance Taxes Going Down.

SB 15 suspends a 20 percent surcharge on state unemployment taxes (SUTA) for the calendar year 2016. Earlier this year the state paid off a \$2.8 billion debt to the federal government, triggering a drop in federal unemployment taxes (FUTA). Taken together, these developments mean that employers can figure to pay \$700 million less a year in unemployment taxes in 2017 than they paid in 2014.

No Sales Tax on Advertising. After NCRLA and other business groups took issue with a Senate proposal to impose a broad new sales tax on advertising, the proposal was dropped from the final budget (HB 97).

No Contingent Fees for Tax Auditors. With support from NCRLA and other business groups, the General Assembly passed SB 682 to extend an earlier ban on paying contingent fees to tax auditors. Under the bipartisan legislation, state and local governments remain free to pay tax auditors a flat or hourly fee, but they may not pay the auditors a fee that is contingent on the outcome of the audit.

OCCUPANCY TAX GUIDELINES ALIVE AND WELL (FOR NOW)

After a sustained lobbying campaign by NCRLA and its allies – and tremendous assistance from the Asian American Hotel Owners Association (AAHOA) and its members – the Occupancy Tax (OT) Guidelines remain in effect, and not a single non-compliant OT bill passed in 2015. During the waning days – and even the waning hours – of session, lobbyists for NCRLA and the NC Travel and Tourism Coalition fended off forceful efforts to pass non-compliant OT provisions for several jurisdictions; and the five OT provisions that did pass the General Assembly this year were all in compliance with the Guidelines:

Compliant OT Proposals that Passed in 2015:

- ▶ Buncombe County. HB 347 authorizes an additional two percent OT.
- ▶ Graham County. HB 347 authorizes a three percent OT.
- ▶ Lake Santeetlah. SB 140 authorizes a three percent OT.
- ▶ Moore County. HB 504 authorizes an additional 3 percent OT – after the original out-of-compliance proposal was brought into compliance with Guidelines.
- ▶ Wayne County. HB 531 authorizes a one percent OT – after the original out-of-compliance proposal was brought into compliance, and Senate amendments (discussed below) were removed from the final version.

NON-Compliant OT Proposals that did NOT Pass in 2015:

- ▶ Dare County. Two bills would have let locals spend OT proceeds on coastal inlet dredging – not allowed under the Guidelines. The bills were SB 160 and HB 97 (Senate OT proposal dropped from final budget).
- ▶ Jacksonville. HB 46 would have allowed use of just one third of OT proceeds to promote tourism (not the required two thirds) and two thirds of the proceeds for tourism related expenses (not the permitted one third).
- ▶ Wilson. HB 50 would have allowed administration of OT proceeds by the city instead of a tourism development authority (TDA) as the Guidelines require.
- ▶ Cumberland County. A Senate amendment to HB 531 (removed before final passage) would have abolished the TDA and redirected OT proceeds to the county commissioners themselves for uses inconsistent with the guidelines – the most egregious violation of Guidelines proposed in years.
- ▶ Sanford. A Senate amendment to HB 531 (removed before final passage) would have directed OT proceeds to a specific project in violation of the Guidelines.

NON-Compliant OT Proposals that DID Pass in 2015: NONE

PROMOTING GROWTH IN HOSPITALITY, TRAVEL & TOURISM

NCRLA and its allies fought hard for laws and policies that advance the state's hospitality, travel and tourism industries:

State Tourism Promotion Spending Will Increase. Under the new state budget (HB 97), despite cuts to many government agencies and programs, state tourism promotion spending holds steady in the current fiscal year (July 2015 through June 2016) and increases by \$1 million next fiscal year (July 2016 through June 2017).

Film Grants Funded at \$30 Million Per Year.

In addition to tripling the film grant fund to \$30 million a year for the next two years, the budget raises the annual cap for a TV series from \$5 million to \$9 million.

Historic Tax Credits Restored. The budget restores the state's historic preservation tax credit at a lower level, with an appropriation of \$8 million for next fiscal year.

Jet Fuel Sales Tax Break Extended and

Expanded. Under HB 117, a jet fuel sales tax break – key to maintaining Charlotte as an American Airlines hub – is both extended and expanded. The new law provides that all sales of aviation gasoline and jet fuel to interstate air carriers for use in commercial aircraft are exempt from sales tax starting January 1, 2016.

School Calendar Preserved. NCRLA works tirelessly to protect the summer tourism season that is so vital to our state's hospitality industry. During the 2015 legislative session, NCRLA and its allies fended off 41 bills seeking statewide or local changes to the public school calendar law, which provides that the start date of public schools may not be earlier than the Monday closest to August 26, and the end date must be no later than the Friday closest to June 11.

Distillery Sales Allowed: NCRLA supported HB 909, which permits a distillery to sell one bottle of alcohol to a customer once a year in connection with a tour of the facility. The new law also allows beer and wine retailers to sell alcoholic cider and wine in glass jugs called "growlers," which have been popularized by craft brewers in recent years.

(continued on page 18)

GUARDING AGAINST ANTI-BUSINESS MANDATES

As much time and effort as NCRLA spends seeking legal and regulatory changes to benefit the hospitality industry, we spend even more time – sometimes MUCH more time – guarding against anti-business proposals that threaten your bottom line. In 2015, NCRLA took a stand on these issues:

No Minimum Wage Hikes. NCRLA successfully opposed legislation that would have increased the minimum wage, including two Senate and five House bills.

No Paid Sick Leave Mandate. NCRLA successfully opposed SB 339, which would have required employers to provide their employees with mandatory paid sick time.

No New Family and Medical Leave Mandate. NCRLA and our pro-business allies were successful in derailing two bills (HB 816 and HB 818) that would have imposed new family and medical leave requirements.

No E-Verify Changes. While current law requires E-Verify for businesses with 25 or more employees, an early version of HB 318 would have lowered that requirement to businesses with five or more employees. Concerns expressed by the business community led bill sponsors to drop the new requirement from the final version of the bill that passed the General Assembly late in the session.

No Onerous Debit/Credit Card Rules. NCRLA and its allies were successful in derailing HB 627, which would have imposed onerous new regulations on credit and debit card transactions, potentially crippling the ability of restaurants, hotels, and other businesses to accept credit and debit cards.

No Unworkable Veteran Reporting Rules. A coalition of business groups including NCRLA was successful in derailing legislation (SB 105) that would have required corporations and LLCs to include in their annual reports the number of employees who are veterans.

No Burdensome Firearms-Related Rules. The sponsors of controversial firearms legislation (HB 562) removed two provisions that members of the business community – including NCRLA – vigorously opposed. The first provision would have allowed employees to keep firearms in locked cars at work, while the second would have imposed detailed signage requirements on businesses that choose to prohibit the carrying of concealed handguns on their premises.

No Intrusive Franchise Reporting Rules. Facing questions and concerns raised by NCRLA and other business groups, lawmakers dropped a measure (part of SB 605) that would have imposed new burdens on franchisors to report tax-related information about their franchisees to the state Department of Revenue.

THE EPI PEN BILL: FIVE THINGS YOU NEED TO KNOW

This year the General Assembly passed legislation (HB 647) that allows – but does not require – businesses and organizations to maintain a supply of epinephrine auto-injectors (commonly known as “epi pens”). For those businesses that voluntarily choose to stock epi pens, the legislation allows trained employees to administer the epi pens to persons experiencing anaphylaxis (an allergic reaction to food) and extends “Good Samaritan” protection to those businesses and their trained employees.

The NCRLA government affairs team took a leadership role in revising the legislation to make it more protective of businesses that choose to stock epi pens as well as those that choose not to do so. The version of the bill that passed the General Assembly incorporated virtually all of the “business friendly” changes that NCRLA drafted. Here are five things you need to know:

- 1. Not Limited to Restaurants or Hotels.** The legislation allows “recreation camps, colleges, universities, day care facilities, youth sports leagues, amusement parks, restaurants, places of employment, and sports arenas” to stock epi pens. In contrast to a prior proposal that NCRLA opposed, the bill is not limited to restaurants.
- 2. There is No Mandate.** The bill does not require that any business or organization stock epi pens; the decision is completely voluntary.
- 3. If You Stock Epi Pens, You Are Protected.** If you choose to stock epi pens, you are generally protected from liability under broadly-written “Good Samaritan” language, which NCRLA strengthened in several ways.
- 4. If You Do Not Stock Epi Pens, You Are Also Protected.** NCRLA added express language to the bill (borrowed from Wisconsin’s new epi pen law) stating that nothing in the legislation “creates or imposes any duty, obligation, or basis for liability” on any business, employee, or other person “to acquire, possess, store, make available, or administer an epinephrine auto-injector.”
- 5. NCRLA is Here to Help.** If you have questions or concerns, want more information, or are considering the option of stocking epi pens at your business, we are here to help. Please visit our web site or contact NCRLA Director of Government Affairs Steve Mange at smange@ncrla.org or 919-861-0942. ☘

MONEY SAVING PROGRAMS EXCLUSIVELY FOR NCRLA MEMBERS

With NCRLA's statewide buying power, you can save considerable dollars with our member programs. In today's economy, the savings you gain using these programs offer a high return on your membership!

FOOD SAFETY & ALCOHOL SERVER TRAINING

Protect your business and meet regulatory requirements with nationally recognized and accredited high-quality foodservice sanitation, alcohol server, and allergen training for managers and employees. NCRLA members receive a 20% discount on all ServSafe products. Call 919-844-0098 or visit www.ncrla.org/servsafe.



COMPLIMENTARY NATIONAL RESTAURANT ASSOCIATION MEMBERSHIP

When restaurants and foodservice establishments join NCRLA, they automatically receive national benefits offered through the National Restaurant Association. NCRLA members have access to research and information about industry trends, topics and services. Call 800-424-5156 or visit www.restaurant.org/Membership/Tools-Solutions/Operations.



PARTNERSHIP WITH THE AMERICAN HOTEL & LODGING ASSOCIATION

NCRLA lodging members who also elect to be members of AH&LA receive exclusive discounts on staffing solutions through hcareers, STR reports, music licensing, and more. Visit www.ahla.com to get direct access to research, statistics and cost saving solutions for your hotel operation. Call 800-424-5156 or visit www.ahla.com.



CREDIT AND DEBIT CARD PROCESSING/PAYROLL SERVICES

NCRLA members benefit from innovative payment processing, payroll solutions and gift/loyalty programs, along with pricing and fees that are fair and upfront and statements that are easy to understand. Plus you'll enjoy superior service that's available around the clock with the most reliable data security solution in the country. Call 866-941-1477 or visit www.HeartlandPaymentSystems.com.



EMAIL AND ONLINE MARKETING

With Fishbowl, Inc. NCRLA members receive exclusive member benefits including a FREE local email marketing account with 500 free monthly messages, 10% member discount on list based pricing plans and more. Call 800-836-2818 or visit www.Fishbowl.com/northcarolina.



STAFFING SOLUTIONS

NCRLA's AH&LA members receive a 20% discount on the AH&LA Career Center, powered by hcareers, the nation's leading hospitality job board, attracting qualified candidates from line-level to management staff. Visit www.ahla.com and click "Career Center."



STREAMLINED ALCOHOL PAYMENT

Simplify payments for alcohol purchases, ensure compliance, and track purchase data using this secure, easy way to pay for alcohol electronically. Exclusive NCRLA membership discounts of 50% off set-up fees and ongoing preferred member pricing. Call Shelly Hurley at 813-727-3915 or visit www.fintech.net



MUSIC LICENSING

Broadcast Music, Inc. is the bridge between songwriters and the businesses and organizations that want to play their music publicly. NCRLA restaurant members save up to 20% on annual fees. Call 888-689-5264 or visit www.BMI.com.



STR

STR offers exclusive member discounts to NCRLA lodging members and suppliers including various customizable regional reports and industry profiles, including the STR Report. Call 615-824-8664 or visit www.str.com.



WORKFORCE DEVELOPMENT/TRAINING

NCRLA offers workforce development and training solutions to help meet the needs of NC's rapidly growing hospitality industry. Mentorships and job placements are available. Call 919-844-0098 or visit www.ncrla.org/prostart



WORKERS COMPENSATION INSURANCE

FHM specializes in providing worker's compensation insurance that for the hospitality industry. They specialize in meeting the unique needs of hotels, restaurants, resorts and offer quality service at low cost. Call 888-346-3461 ext. 402 or visit www.fhmic.com.



HEALTH INSURANCE OPTIONS

United Healthcare offers NCRLA members easy access to health care coverage and other valuable resources and tools, including: exclusive savings on standard medical, dental, vision, life and disability plans and more. NCRLA members receive an exclusive 5% discount on group health plans. Ask your agent or broker for a quote and tell them to include your NCRLA member discount. Call 301-865-7058 or visit www.ncrla.org/united.



BENEFITS SOLUTIONS

Managing employee benefit programs including the challenges associated with the Affordable Care Act can be overwhelming. Marsh & McLennan LLC specializes in helping hospitality industry businesses find affordable solutions to meet their business needs including group health plans, commercial property & casualty, executive benefits, surety and personal lines. Call 919-325-4753 or email treider@mma-pbs.com.



ALCOHOL LIABILITY INSURANCE

Whether you're a bar, restaurant or club, selling and serving alcohol your business. Hospitality Insurance Group offers commercial property, general liability, liquor liability, assault and battery, and excess liability insurance coverage to businesses that service or sell liquor. NCRLA members receive an exclusive 20% discount. Call 877-266-1140 or visit www.hmic.com.



LOBBYLIGHTS -- LOCAL AND REGIONAL HOTEL WAGE AND BENEFITS DATA

NCRLA's lodging members can participate in a dynamic, regularly updating survey tool that helps hotel managers better understand how their hotel compares to other hotels in their geographic area with wage and benefits survey data. Call 866-845-8600 or visit www.lobbylights.com.



NC RESTAURANT & LODGING EXPO

NCRLA restaurant and lodging members receive complimentary registration (\$50 value) to the 2016 NCRL Expo, Aug. 29-30 at the Raleigh Convention Center. NCRLA supplier members receive a 10% discount on exhibit space. Call steve.everett@expodevco.com or 770-432-4200. Ext. 111.



VISIT OUR WEBSITE AT WWW.NCRLA.ORG

What Does Big Data Mean For Health Inspections?

A NEW DIMENSION TO EXPLORE FOODBORNE ILLNESS

Picture this: Your environmental health specialist walks in unannounced. You're instantly nervous, but prepared.

This is just a routine inspection. Then the specialist says that thanks to some social media posts and 'big data analysis' they suspect your restaurant is involved in an outbreak. What is going on?

Welcome to the era of big data, a new approach to tracking and analyzing everything from retail purchases to political projections to food safety outbreaks. Here's what big data means for the foodservice industry.

Big data originally referred to sets of information too large for standard computers. The term is now used for high volume data sets, many of which contain large numbers of variables. Some big data available is on human behavior, including consumer patterns, technology usage and personal opinions. These data can be harvested in real time from purchases, social media outlets and Internet searches. Big data streams can be analyzed to help companies and organizations make decisions. Big data analysis is also used in other endeavors, such as public health.

One example of big data in public health is Google Flu Trends, a partnership between Google and the Centers for Disease Control and Prevention (CDC). Google uses formulas to track when, where and at what frequency people search flu-related terms with the goal of tracking outbreaks faster and more accurately. A similar approach has been used with analyzing social media platforms to track foodborne illness cases and outbreaks. Columbia University recently partnered with Yelp and the New York City Department of Health and Mental Hygiene to analyze restaurant reviews and researchers identified three previously unreported outbreaks. Health inspectors were then involved and reports showed the implicated restaurants had other issues as well.

But why did it take combing Yelp for signs of illness to find out there was a problem? Tracking foodborne illness outbreaks is a

tricky business. People don't always go to a doctor for diagnosis and treatment. Even if an individual does go to a medical professional, it is difficult to get a testable sample, or an accurate history of the foods that person consumed. Most foodborne illnesses take 24-48 hours after consuming the offending food to present symptoms, so traceback can be a challenge. Moreover, even if someone does get a diagnosis, they may not report to the health department. Health professionals are only required to report a few illness types to the health department, so many others go unreported. What is more likely is for someone to take to their favorite social media outlet and rant about the perils and suspected causes of their ailment.

Big data allows that communication pattern to be harnessed by the health department and used to track unreported illnesses. This data can also allow the health department to trace back to a particular restaurant and see if there are ongoing problems that could create repeat situations.

The use of big data in social media streams gives food safety professionals a new dimension to explore in foodborne illness. So next time you scroll online reviews or social media pages, watch for mentions of illness and food safety fails so you can stay ahead and prevent that surprise visit from the health inspector. ☘

Natalie Seymour is currently working on her Master's Degree in Food Science at N.C. State University.



**FROM OUR NORTH CAROLINA FAMILY
TO YOURS, WISHING YOU A HAPPY &
PROSPEROUS HOLIDAY SEASON**



Good things
come from
Sysco[®]

Sysco Raleigh & Charlotte
Sysco Charlotte
Freshpoint Raleigh & Charlotte
Sygma
Buckhead Charlotte
Guest Supply Charlotte

Be Proactive With Your Online Review Management

TURN DISSATISFIED PATRONS INTO CHAMPIONS FOR YOUR RESTAURANT

Let's be honest. Not every patron dining at your restaurant will always walk away 100 percent pleased with their experience. And they often take to online review sites such as Yelp or TripAdvisor to share their experiences with the world, not just their friends and family.

Love or Hate Online Review Sites Regarding Your Restaurant, They Play a Part in Gaining New Patrons

According to a Harvard Business School study, a positive evaluation on the popular review site Yelp appears to lead to increased business for restaurants and other service providers.

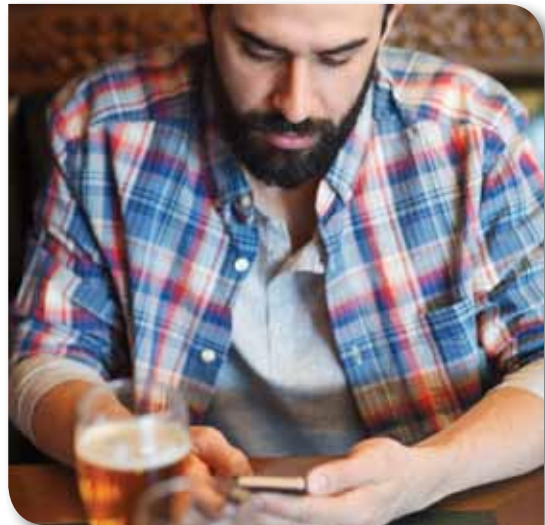
For example, a one-star increase in a Yelp rating leads to between a five-to-nine percent increase in revenue. While the study showed that Yelp ratings have no real effect on chain restaurants, it does have a huge impact on small restaurant groups for the positive and negative.

Online review websites like Yelp can be tricky for restaurants because there is no opt-out option. Your restaurant can be listed on a review site without your knowledge or consent. Yelp purchases basic business information from third-party providers and registered users can add businesses to the site.

An Online Review Management Plan is a Smart Investment

Based on the above, how can you manage a situation that is out of your control? By having a proactive plan in place before a negative review ever is posted. Many restaurants rely on TripAdvisor or Yelp to generate new business and hopefully regular patrons. There are two major pieces of a response plan: listening and responding.

Listening on social media and online review sites is



important. Paying attention to the conversations about your restaurant, competitors and industry can give you vital insights. Don't just listen to the negative, but also to the neutral and positive comments. All comments provide you with insights that can improve your restaurant's performance.

Responding to one or two star reviews is essential. Currently consumers have fairly low expectations that organizations will respond to their negative posts on social platforms. In a survey by The Retail Consumer Report, it was found that 61 percent of consumers would be shocked if a service provider responded to their negative comment on a social platform.

According to the survey, through listening and proactively responding on the social platforms, service providers have a chance to turn disgruntled customers into social advocates. Of those who received a reply in response to their negative review:

- ▶ 33 percent turned around and posted a positive review.
- ▶ 34 percent deleted their original negative review.

Responding to Negative Reviews Can Be Advantageous to Your Restaurant

There are some fundamentals when dealing with one or two star/negative reviews:

- ▶ Respond quickly, but only after giving the review careful thought.
- ▶ After exhaling, re-read the review objectively and understand what the poster wants or what their mindset is, then respond to it if warranted.
- ▶ Take time to research the situation. Is it a valid review from an actual customer? Who is the customer? Seek feedback from staff to the specific situation.
- ▶ Decide if you should respond publicly and have an open conversation. Or you can acknowledge the concern and then take it offline. How you handle a particular situation depends on the factors involved.
- ▶ Address the issues in the review in a calm and reasonable manner.

Another challenge restaurants must be aware of is

the possibility of fake reviews. Organizations need to be conscious of this underhanded practice of others. Having a listening or monitoring program in place can help you avoid and/or manage situations before they become issues. Have a trusted, experienced person reviewing these sites and providing you with insights on a daily or weekly basis.

By listening and responding, you can turn dissatisfied patrons into champions for your restaurant. ☘

Ann Marie van den Hurk is an award-winning, accredited public relations professional and is the principal of the digital reputation and crisis management firm, Mind the Gap Public Relations, located in Tarboro, N.C. She is the author of Social Media Crisis Communications: Preparing for, Preventing, and Surviving a Public Relations #Fail and a nationally distributed columnist to over 300 media outlets through the Tribune Content Agency. Mind The Gap Public Relations, LLC is a proud allied member of NCRLA. Email her at ann@mindthegappr.com, or follow her on Twitter at @amvandenhurk.



Thank You to Our Corporate Partners

Corporate sponsors support the endeavors of NCRLA in a variety of ways. From sponsorships to funding events, advertising and more, NCRLA thanks those who help make the association strong.

PLATINUM



Heartland



GOLD



SILVER



View our corporate partnership opportunities at www.ncrla.org/sponsorships.

For more information on how you or your organization can become a corporate partner of NCRLA, including the Hospitality Education Foundation and the NCRLA Political Action Committee, call Liz Dobbins-Smith at 919-277-8585.

NLRB Starts Down Slippery Slope With Controversial New Joint Employer Ruling

LABOR MOVEMENT HAS ROOM TO PUSH INTO MORE WORKPLACES

In a 3-2 decision, the National Labor Relations Board (NLRB) has announced a broad new standard for determining whether two businesses are “joint employers” for purposes of collective bargaining.

The case is *Browning-Ferris Industries of California, Inc.* Under this new standard, joint employment now exists even where one company only has the right to exert indirect or potential control over the terms and conditions of another company’s employees.

More troubling, however, is what this decision portends. The NLRB has left the door ajar for the labor movement to continue its aggressive push into more and more workplaces, and unions stand to rush in to fill the vacuum. This decision may one day be looked upon as the beginning of a slippery and dangerous slope for many employers.

Facts of the Case

Browning-Ferris Industries, or BFI, owns a recycling facility and employs unionized workers. It contracts with a non-union staffing company to provide additional workers at its recycling plant. Although the contract between the two separate businesses provides that the staffing company is the sole employer of the temporary workers, BFI maintained the right to control several terms and conditions of employment. While BFI contended that it did not exercise this right on a regular basis or in any meaningful way, this became irrelevant for the Board’s purposes.

Out With the Old...

For the past 30 years, the NLRB has held that two companies would only be considered joint employers if they share or codetermine those matters governing the essential terms and conditions of employment. Under this standard, an employer would only be held to be jointly employing workers if they actually exercised the right to control. Moreover, under the old standard, the exercise of such control must have been direct, immediate, and not limited and routine.

... And in With the New

The new standard announced in the August 27, 2015 decision eliminates the requirement that the employer actually exercise control. Instead, the business need only retain the contractual right to control – even if the business has never exercised such control. Further, the Board rejected the direct, immediate, and not limited and routine criteria, holding instead that indirect control (e.g., control through an intermediary) is now sufficient.

How Broad Is It?

The NLRB’s new standard includes control over any term or condition of employment and is not limited to an exclusive list of factors. Its analysis of the factors at issue demonstrates just how expansive the scope is. BFI played no actual role in hiring or disciplining the staffing company employees, but the NLRB determined it was critical that BFI retained the ability to reject workers assigned to its facility. BFI also did not actually supervise the staffing company workers, but the Board found critical that BFI levied indirect control by setting shift schedules and occasionally assigning tasks through the staffing company managers.

When Will the Other Shoe Drop?

This decision is not as significant for what it stands for so much as what it portends. The Board goes out of its way to emphasize that this decision is limited to these unique facts. Some employers might find comfort that the Board says it does not necessarily apply to other business models, nor does it expressly allow for

NRA and AH&LA Oppose Joint-Employer Decision

The NLRB's abrupt change in direction on its "joint-employer" standard is a serious threat to the growth potential for restaurants and hotels across the country. Decisions by the board in two recent cases mean that restaurants and hotels could be held responsible for labor practices of the companies they do business with, such as vendors, contractors and staffing firms. And franchisors can be held responsible by the NLRB for labor practices of their franchisees, even though franchisees make the labor-related decisions.

"The ongoing attempts by the NLRB to change the joint-employer standard are bad for workers, employers, franchises, and the economy," wrote Angelo Amador, National Restaurant Association senior vice president and regulatory counsel. The NLRB's new joint-employer definition, he wrote, makes "employers potentially liable for employees they do not employ – jeopardizing business partnerships in all industries."

"For more than 30 years, the franchisor/franchisee relationship has been based on the fundamental understanding that they do not exercise direct control over the same employees' responsibilities. Now, many of our small business owners could very

well lose their ability to make decisions about what is best for the men and women they work with every day. The focus of the government should be to encourage and empower businesses, not stifle them," said Katherine Lugar, president and CEO of the American Hotel & Lodging Association.

Here's why it matters: Increased liability could make large companies reluctant to contract with smaller businesses. It could also lead restaurant, hotel and other franchisors to assume a direct role in labor decisions like hiring, firing, scheduling and promoting – all of which have historically been the responsibility of franchisees. That puts the independence that has drawn hundreds of thousands of employers to purchase franchises, and the millions of jobs they've created, in jeopardy. In addition, large companies may be reluctant to contract with smaller businesses.

A solution from Congress: Bills have just been introduced in the House and Senate that would shift the joint-employer standard back to the one the NLRB followed for the three decades before it changed direction. The Protecting Local Business Opportunity Act would allow companies to be considered joint employers only if both exercise "actual, direct and immediate" control over "essential terms and conditions of employment," as opposed to the vague "indirect control" standard the NLRB now favors.

the inclusion of temporary employees into bargaining units with their regular counterparts. Unfortunately, however, the decision does not expressly foreclose that possibility, nor does it preclude the agency from extending this doctrine to cover those circumstances going forward.

As we have seen time and time again in past experience with the NLRB, this decision now frees the Agency's 26 Regions to utilize their vast discretion to push the envelope even further. This is especially troubling given that this expected expansion will play out against the backdrop of a "quickie election" rule that is now fully entrenched.

The Board remains predisposed to union interests, and is about to lose one of its two Republican members. We have every reason to believe the other shoe is about to drop, and for that reason alone, employers should monitor these developments carefully.

What This Decision Means for Employers

Given this new decision, any employer that retains the right to impose even indirect control over the working conditions of temporarily placed employees runs a serious risk of being deemed their joint employer – not only for bargaining purposes, but potentially for unfair labor practice liability as well.

It stands to reason that unions will likely attempt to exploit this situation, especially given their declining numbers and the current state of the economy. We expect unions to specifically target temporary employees with promises of "regular" status and all the perceived perks that come with it in an effort to secure their signatures, and ultimately their votes. This tactic could allow unions to gain a toe-hold that may ultimately lead to organizing direct employees.

(continued on page 27)

Stephanie Shear of Pepsi Bottling Ventures

THE GIFT OF A MOST WONDERFUL LIFE WORKING FOR PEPSI

For nearly 27 years, Stephanie Shear of Pepsi Bottling Ventures has been known for her impeccable customer service and her beverage expertise. Her commitment to keeping her clients' needs top-of-mind led to her receiving the N.C. Restaurant & Lodging Association's Hospitality Supplier of the Year award in February, 2015. She always makes time for customers, and often exceeds their expectations.

"In my many years in the beverage business, I have never met anyone more dedicated to customer service," said Randy Laster, director of cold bottle sales at Pepsi Bottling Ventures. "Being in the customer service business, we all know 'service sells', and that is why Stephanie is a top performer year after year."

Shear, for her part, is effusive in her love and admiration for the "wonderful life" that Pepsi has given her, from the birth of new concepts to the many friends she has made along the way.

"Through Pepsi's good will, I've helped to make a difference to many, but more than that, so many have made the biggest difference to me. Whether it be an internal customer or an external customer, I have been given the gift of a most wonderful life working for Pepsi. "

Shear has lived in Raleigh since February of 1988 and considers North Carolina home. In 1988 she began her career with PepCom Industries as a Data Entry Operator, keying in route sales from hand-written invoices. In March of 1989, she was introduced to Foodservice when the On-Premise Division was born,



Stephanie Shear accepts her award from NCRLA Board Chair Randy Kolls during the 2015 Stars of the Industry Award Ceremony.

and she has held various sales positions within the Foodservice Channel since that time. In October of 1990, Shear assumed management duties for Pepsi's annual support of The Foundation of Hope's various events, raising money for mental illness research. During 1994-1995, she served as Vice President and then President of the local chapter of Executive Women International. In 2002 Shear received the Pepsi-Cola Ring of Honor, the worldwide company's most coveted sales performance.

Shear serves on various fundraising committees for charitable organizations throughout the year, including the N.C. Hospitality Education Foundation's Future of Hospitality Golf Tournament. In 2005 she was selected to serve on the 2007 US Women's Open Executive Council, held in Southern Pines at Pine Needles Lodge & Golf Club. In 2013, she was recognized as one of Pepsi Bottling Venture's President's Key Contributors for the On-Premise Channel. Throughout her career, she has combined a love of people and a love of her work to provide outstanding service to her company, to her co-workers and to her clients.

Call Stephanie Shear for all your Pepsi needs. She can be reached at 919-418-0478. ☒

(NLRB continued from page 25)

By the same token, effective deployment of this strategy could preempt employers from revisiting their staffing models on the heels of such organizing activity. By pursuing joint employer status, unions may then assert that any attempt to sever the relationship constitutes unlawful discrimination.

What Employers Should Do Now

As a result of this decision, employers and temporary service providers alike should scrutinize the parameters of their written service agreements and their underlying practices for reference to right to control. This includes an analysis of preemployment qualification and hiring standards, assignment and retention of individual temporary employees, shift schedules, workload and pace of work, and wages and benefits.

No doubt that the complete elimination of many of these factors may be impractical in many cases. But to the extent that their presence can be minimized,

the parties can at least develop and preserve viable arguments against imposition of joint employer status.

If you have any questions about this decision, or how it may affect your business, please contact Hagood Tighe. ☒

Hagood Tighe is a partner with Fisher & Phillips. He concentrates his practice exclusively in the labor and employment area, representing employers across the country. Hagood Tighe can be reached at htighe@laborlawyers.com or 803-255-0000.

Fisher & Phillips, founded in 1943, is one of the oldest and largest labor and employment law firms concentrating its practice exclusively upon representation of employers. For more information, please visit our website at www.laborlawyers.com



PEPSI BOTTLING VENTURES CONGRATULATES STEPHANIE SHEAR, NCRLA'S HOSPITALITY SUPPLIER OF THE YEAR



Contact Stephanie at
(919) 418-0478 for
all your Pepsi needs

Mobile Technology for Restaurants and Hotels: What Are The Key Risks?

WHAT TO USE, HOW THEY WILL BE USED AND DEVELOPMENT OF PROCESSES

Consumers have many choices when selecting restaurants and hotels. Therefore, restaurants and hotels are constantly looking at ways to optimize their operations, stay competitive and enhance their brand value.

An emerging trend is that restaurants and hotels are utilizing mobile technology to distinguish themselves from their competitors by introducing new ways to serve customers in an effort to drive sales and gain market share.

The table below outlines the many different types of emerging mobile technologies (e.g. tablets, mobile apps, etc.) that are being implemented in today's restaurants and hotels.

Advantages

Some of the advantages of utilizing mobile technology for both restaurants and hotels include:

- ▶ Enhanced customer experience by providing convenience and efficiency in making purchases, etc.
- ▶ Increased accuracy in satisfying customer orders and requests
- ▶ Reduced labor costs
- ▶ Increased customer spending and upsell opportunities
- ▶ Enhanced capacity to collect and analyze data, including customer satisfaction and other feedback

NEW MOBILE TECHNOLOGIES

RESTAURANTS

- ▶ Tablets for employees to take customer drive-thru orders at fast food restaurants
- ▶ Customer self-service kiosks for ordering at fast food restaurants
- ▶ Tablets for customers to order and pay from their table at dine-in restaurants
- ▶ Mobile paging systems that notify customers via text message when their table is ready at dine-in restaurants
- ▶ Mobile apps for customers to make reservations, view menus, place orders and pay at a variety of restaurant types

HOTELS

- ▶ Mobile check-in to select a specific room
- ▶ Mobile room key, which replaces the traditional physical card to access the guest's room
- ▶ Making payments such as a guest's hotel stay
- ▶ Placing requests for housekeeping and other guest services
- ▶ Checking loyalty points and other account services
- ▶ Booking reservations
- ▶ Purchasing movies and food



Key Risks

While there are advantages of leveraging mobile technology, the listing below represents several key risks that should be considered for both restaurants and hotels. However, this listing is not meant to be inclusive of all potential risks. Furthermore, as technology continues to evolve, businesses will need to monitor new or changing risks that develop over time.

- ▶ **Customer Security/Privacy** – As we continue to expand our use of technology there are more opportunities for a customer's data to be compromised. Customers may have concerns about the privacy of personal information or credit card data related to their use of mobile technologies. There may be a perception that their data would more easily be compromised with some mobile technologies. Furthermore, hotel guests using mobile room keys may have specific concerns about the security of this technology for fear that hackers may access their rooms. Training employees on the proper response to these types of customer concerns is imperative. Also, performing security testing on technology involving access to sensitive data should be done periodically.
- ▶ **Device Functionality** – Rolling out new technology that is prone to errors will quickly erode the benefits. First, the technology should be tested properly in many scenarios prior to going live. Second, procedures must be implemented that outline what actions should be taken when the technology fails. Such failures could leave a negative perception for customers.
- ▶ **Employee and Customer Training** – Employees

will require training on how to use new technology. Some employees may resist this technology and any new operating procedures that are created. Furthermore, customers who aren't familiar with the new technology may need assistance from employees. Customers may get frustrated if employees don't provide timely assistance or sufficient explanation, which may result in customer complaints and other negative impacts.

- ▶ **Lost Sales** – Customers may not make a purchase if they get frustrated with new technology. These customers may also voice their concerns using social media outlets, which could impact other customers' perceptions and future use of the new technology.
- ▶ **Costs of Technology Investment** – New technology costs include development, implementation and ongoing maintenance. Companies should ensure sufficient research and cost/benefit analysis occurs prior to moving forward with new technology. If the majority of customers prefer interacting with restaurant servers or hotel staff, the full benefit of new technology may not be realized.

It is critical that all relevant stakeholders be involved in decisions to implement mobile technology to ensure these key risks are addressed. Relevant stakeholders may include Operations, Information Technology, Human Resources, and potentially Executives. Forming a project committee with representatives from each of these areas is also a best practice to ensure open communication amongst all relevant stakeholders.

Lastly, pilot programs should be conducted for a set of locations before rolling out to all locations. This will enable Management to analyze the success of the new technology, obtain customer feedback, fix issues and determine if the technology is scalable. Mobile technology is a growing trend for restaurants and hotels that provides several benefits. However, there are risks related to implementing these technologies that should be considered. Relevant stakeholders must carefully consider what mobile technologies to use, how they will be used, and what processes and controls need to be developed or modified. ☘

For additional information about how DHG can assist your company with mobile technologies, please contact Chris Kalafatis, CPA, CIA, CFE Advisory Services at 804-307-2610 or chris.kalafatis@dhgllp.com



a la carte

A sampler of hospitality-related news stories

SUCCESSFUL MANTEO TO MURPHY RAISES FUNDS FOR PACS

The Angus Barn and Golden Corral hosted another successful Manteo to Murphy PAC event Oct. 26 at the Angus Barn Pavilion in Raleigh. Ticket sales and live auction sales benefitted the NRA's Restaurant PAC. Silent auction sales benefitted the NCRLA PAC. Both PACs are vital weapons in the fight to elect candidates who are friendly to the hospitality industry. ☘



(Above photo, left-right: Golden Corral President & CEO Lance Trenary, Angus Barn owner Van Eure and NRA board member Ted Fowler)

(Left) Steve Thanhauser of The Angus Barn delivers words of encouragement to ProStart students from Cary High School and Broughton High School who were working the event.

HUGE WIN FOR HOSPITALITY BUSINESSES ON AUTO-ENROLL MANDATE

In a major win for restaurants and lodging properties, a provision of the Affordable Care Act that was confusing, redundant, bureaucratic and costly for both employers and employees is now finally, officially dead. On Nov. 2, President Obama signed a budget bill that ends the ACA's unpopular and unworkable auto-enrollment mandate, which would have forced employers of 200 or more to automatically enroll full-time employees in company health plans if they hadn't already opted out. It's been a high-priority ACA legislative fix for the hospitality industry for more than four years. Repealing the mandate was one of House Speaker John Boehner's final actions. We thank him and all other legislators who heard our message. ☘

NCRLA OFFICES TO RELOCATE TO DOWNTOWN RALEIGH

The NCRLA team is currently in the process of moving our offices to downtown Raleigh. In early 2016, we expect to be settled into our new home in the N.C. Medical Society Building, directly across the street from the Governor's Mansion. This move will give our team unparalleled access to the General Assembly, the Governor's Office and various State agencies. NCRLA's new address will be Suite 210, 222 N. Person St., Raleigh, 27601. ☘





Try something new this
holiday season.



Side Dishes | Custom Cut Meats | Fresh Seafood | Exclusive Desserts

We have all the wonderful ways to feed a large group and to satisfy your customers' palates. Create a new holiday tradition for your customers with the help of **Performance Foodservice.**

For more information on Performance Foodservice, please visit
PerformanceFoodservice.com/Hickory

Exclusive Brands



WEST CREEK

PERFORMANCE
CUSTOM MEATS



543 12th Street Drive NW, Hickory, NC 28601 | (800) 800-0434



We continually strive to be the "Broker of Choice" by adding value to our customers, every call, every day!

21st Century Spirits	Distell USA	Patron Spirits
A. Hardy USA	Distillery No. 209	Prost Beverage
Agave Loco	Duggan's	Pura Vida
Anchor Distilling	Duke Spirits	Pure Holdings
Aveniu Brands	Extraordinario Brands	Sammy's Beach Bar Rum
Barrell Craft	Fabrizia Spirits	Sandbar Rum
Barrister & Brewer	Few Spirits	Serralles USA
Beam Suntory	Gas Monkey	Shaw-Ross
Blue Ridge Distilling	Hobson & Roberts Distilling Co	Sugarlands Distilling
Braided Oaks Spirits	Imperial Brands	Top of the Hill Dist.
Breckenridge Distillery	Island Club Brands	Topper's Rhum USA
Cadre Noir	Klin Spirits	Total Beverage Solution
Catoctin Creek Distilling Co.	Laird & Company	VeeV Spirits
Charles Jacquin	Leopold Brothers	Virgil Kaine LLC
Chopin Vodka	Luxco	Vision Wine & Spirits
Cooper Spirits	Luxe Vintages	Voli Vodka
Copper Fox Distillery	Monarca Spirits Int	Whyte and Mackay
Davos Brands	Old Nassau Imports	Wilson Daniels
Deutsch Family W & S	Ole Smoky Distillery	Zeiler Spirits LLC
Dilawri Barrels LLC	Palm Bay International	Zuma Importing

To schedule an appointment with our brand specialists, please contact:

Mark Andersen
NC ACES - West
Artisanal, Craft, & Estate
(919) 412-9441
mandersen@southernwine.com

Kevin McCabe
NC ACES - East
Artisanal, Craft, & Estate
(919) 413-2382
kmccabe@southernwine.com

Bill York
VP
Performance Division
(704) 287-6762
byork@southernwine.com