



Legislation Text

File #: Res 1565-2021, **Version:** *

Res. No. 1565

Resolution calling on the New York State Legislature to overturn the Governor's executive order on indoor dining capacity for NYC and increase indoor dining capacity to 50 percent.

By Council Member Holden

Whereas, On March 7, 2020, Governor Cuomo issued Executive Order Number 202, declaring a disaster emergency for the State of New York to deal with the outbreak of COVID-19; and

Whereas, To stop the spread of COVID-19, the Governor used his powers under Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation if compliance would “prevent, hinder, or delay action necessary to cope with the disaster;” and

Whereas, The Governor also used his powers under Section 29-a of Article 2-B of the Executive Law to issue directives necessary to cope with the disaster during the emergency; and

Whereas, On March 20, 2020, Governor Cuomo signed the New York State (NYS) on PAUSE executive order, which mandated the closure of all non-essential businesses statewide; and

Whereas, Essential businesses were allowed to remain open but were required to implement strict social distancing rules; and

Whereas, On April 26, 2020, Governor Cuomo announced a phased approach to reopen industries and businesses in NYS based on specific health metrics; and

Whereas, On July 20, 2020, New York City (NYC) entered “phase four,” the final phase of the Governor’s reopening plan; and

Whereas, Even after NYC entered phase four, restaurants in NYC were still prohibited from offering indoor dining; and

Whereas, Restaurants in all other regions of NYS were allowed to offer indoor dining in some capacity after their region entered phase four; and

Whereas, In response to the continued closure of indoor dining in NYC after it advanced through the Governor's phased reopening plan, Andrew Rigie from the Hospitality Alliance argued, "we're in no man's land. No one knows when we're going to be able to reopen and what the metrics are that must be met. It's very unfair;" and

Whereas, At certain points during the pandemic, indoor dining was allowed in regions of NYS that had higher COVID positivity rates than NYC, where indoor dining remained closed; and

Whereas, For example, on January 27, 2021, the seven-day average COVID-19 positivity rate in NYC was 5.4 percent and restaurants could not offer indoor dining, while the positivity rate on Long Island was 6.8 percent and indoor dining remained open; and

Whereas, The Governor's closure of indoor dining has had major implications for the financial success of struggling restaurant owners; and

Whereas, According to a recent survey of restaurants, bars, nightclubs, and event venues in NYC, over 90 percent could not pay their full rent in December 2020; and

Whereas, Unemployment in the full-service restaurant industry in NYC was over 55 percentage points higher in December 2020 than in December 2019; and

Whereas, On February 8, 2021, Governor Cuomo announced that indoor dining in NYC could reopen at 25 percent capacity starting on February 12, 2021; and

Whereas, On February 19, 2021, Governor Cuomo announced that restaurants in NYC could increase indoor dining capacity to 35 percent starting on February 26, 2021; and

Whereas, As of March 3, 2021, the Mid-Hudson region and Long Island had higher COVID positivity rates than NYC, but could offer indoor dining at 50 percent capacity; and

Whereas, The Governor's unilateral control in determining the reopening process of the restaurant

industry has therefore disproportionately hurt NYC restaurant owners; and

Whereas, As long as NYC's COVID positivity rate is consistent with other regions in NYS, NYC restaurants should be allowed to abide by the same restrictions on indoor dining; and

Whereas, Under Section 29-a of Article 2-B of the Executive Law, the NYS Legislature "may terminate by concurrent resolution executive orders issued under this section at any time;" and

Whereas, If Governor Cuomo continues to prohibit restaurants in NYC from offering indoor dining at 50 percent capacity, the NYS Legislature must get involved to save NYC's restaurant industry; now, therefore, be it

Resolved, That the Council of the City of New York calls on the State Legislature to overturn the Governor's executive order on indoor dining capacity for NYC and increase indoor dining capacity to 50 percent.

LS #17193
3/4/21
NM