

Summary of Illinois Restaurant Association / Restaurant Law Center Amicus Brief
Fox Fire Tavern LLC v. Gov. Jay Robert Pritzker (Ill. 2d. App. Dist.)

On Friday October 30, the Illinois Restaurant Association and the Restaurant Law Center filed an amicus brief supporting the industry and Fox Fire Tavern, a restaurant that successfully challenged the Governor's authority to issue a new order shut down restaurants.

IRA and RLC submitted the brief to highlight the importance of the restaurant industry in Illinois and why it is absolutely critical to allow restaurants across the state to continue to operate their businesses safely and serve guests indoors. The brief made a few major points:

- The top priority of the restaurant industry is to provide a safe and healthy environment for guests and employees.
- The industry has worked with government to develop workable solutions, and done everything asked of and more. Restaurants have spent millions to adapt their businesses and adopt new measures to keep diners and workers safe, only to be shut down again.
 - o We have added new protocols for masking, sanitizing, cleaning.
 - o We have invested in new materials and technology, including ventilation, PPE, and other products to make indoor dining as safe as possible.
 - o We have created new ways to operate takeout, delivery, and outdoor dining.
 - o Our spaces have been physically altered and our property has been lost and damaged.
- A blanket ban on indoor dining, especially when so many restaurants are already struggling to survive, is the wrong approach. Without government aid, the impact will be severe.
 - o The restaurant industry is in crisis as restaurants fight for their survival.
 - A majority of Illinois restaurateurs say it is likely they close *permanently* if business continues at current levels.
 - Conservatively, researchers estimate 20% of restaurants will close nationwide.
 - In Illinois alone, that would mean approximately 120,000 people out of work.
 - o Outdoor dining is not an option in many parts of the state, and in many minority communities.
 - o We believe in science and support efforts to gather data to guide how to best respond to the continuing challenges facing our communities. But existing data and statistics, which are inconsistent and unreliable, do not support unfairly targeting restaurants and mandating that all restaurants shut down.
- The trial court was correct to strike down the new shutdown order.
 - o The Legislature gave the Governor emergency powers “for a period not to exceed 30 days,” 20 ILCS 3305/7, but he has now exercised that authority for more than 225 days.
 - o The Legislature did not authorize the Governor to issue successive emergency orders based on the same disaster, or issue a new order if some facts changed. The Court cannot provide the Governor that authority now.
- The Governor's orders are invalid as to all similarly situated restaurants across the state, which should all benefit from a decision without having to take independent legal action.