

Massachusetts Pork Law “stay” extended until August 23, 2023

Last week a motion was filed by both the plaintiffs and the MA AG’s office extending the “stay” preventing the pork law from taking effect. Today, the judge signed the motion and the “stay” on our law will be extended until **August 23, 2023**. The previous “stay” regarding our law was set to expire on July 12.

Both sides recognize that more time is needed to stay enforcement with respect to trans-shipped products that travel through Massachusetts, while also coming up with a way to exclude products from enforcement if they are in the supply chain as of August 23, 2023 to avoid market disruption for several months while the pork producers adapt to the regulation.

More to come as this continues to develop over the coming weeks.

A copy of the order can be found [here](#).

Commentary: Restaurants must pay twice to collect meals tax

You go to your favorite restaurant. You had a wonderful meal and enjoyed excellent service. The check comes, and you pull out your credit card. This happens in restaurants every single day. However, that credit card swipe comes at a significant cost to the small-business owner. Just to process that credit card, the restaurant is now paying an added 2% to 4%, not only on the food and drink, but also on the gratuity and the meals tax collection.

The average small restaurant pays between \$20,000 and \$50,000 annually to process credit cards.

Massachusetts is one of two states that does not allow a business to add a convenience fee to consumer purchases to cover the cost of processing payment by credit or debit card. And while it has been like this for many years, the pandemic has exacerbated the issue, as more and more consumers rely on credit cards. While 2% to the customer only amounts to a few dollars, 2% on all credit card transactions is a large expense for a business owner.

Restaurant owners collect and remit more than \$1 billion in meals taxes each year. About 80% of all meals are paid with a credit card, which equates to hundreds of millions of dollars that restaurants are paying to collect and remit money directly to the state, which adds zero dollars to the bottom line.

The same state that does not give the option to pass on credit card fees does, in fact, add on a 2.35% fee to make payments to the state. And while many states have vendor tax credits for businesses collecting money, Massachusetts does not. Every time a credit card is swiped, the processor charges a fee.

Every day, our mailboxes are filled with offers from credit card companies and banks offering huge incentives (cash back, travel rewards, etc) not to use cash. Inevitably, these costs get shifted back to the small restaurant. To compensate, the restaurant must raise prices. This price increase is shifted to all consumers, whether cash or credit. The cash consumer, who often does not have access to credit, ends up subsidizing the perks going to credit card users and paying the higher price.

The actual cost to the credit card companies to handle the transaction has dropped dramatically in the last 20 years. The cost of computing, communications and consumer credit management is a tiny fraction of what it once was. The savings have not been passed on and in fact, the fees charged to businesses have only increased.

There are thousands of small restaurants across Massachusetts operating on razor-thin profit margins. A model where the restaurant operator has to pay 2% (at a minimum) in added costs, without the ability to pass those fees along to the customers who incur them, is unsustainable.

It just seems fair to give our small businesses a choice to be transparent about these credit card fees and give consumers a choice. If it's OK for the government, it should be OK for everybody else.

Doug Bacon is the owner of multiple neighborhood restaurants and bistros across Boston and Stephen Clark is President and CEO of the Massachusetts Restaurant Association, as appearing in the Boston Business Journal on 6/9/23.