



May 12, 2020

The Honorable Lindsey Graham
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Graham, Ranking Member Feinstein and Members of the Committee on the Judiciary:

On behalf of the undersigned organizations representing America’s hospitality, travel, restaurant, retail, gaming, attractions, and entertainment industries, we thank you for holding today’s hearing entitled, “*Examining Liability During the COVID-19 Pandemic.*” As customer-centric industries whose employees interact with the general public in physical locations on a constant basis, we write in support of Congressional efforts to create a targeted and limited safe harbor from liability for companies that implement federal public health guidelines related to the transmission of COVID-19.

Many of our member companies are providing necessary goods, services and opportunities for Americans to return to work, and have taken extraordinary measures to protect the safety and well-being of our guests and employees while following government health guidelines in good faith. As you know, even with extraordinary protective measure, our employees or customers could still contract COVID-19 due to the extremely contagious nature of the virus. We fear that without Congressional action, the threat of litigation - even for those companies that faithfully follow federal public guidelines - will mire our recovery and negatively impact the economy writ large.

While some of our members have continued to operate throughout the COVID-19 health crisis to provide food, goods and services to the public, others are taking steps to prepare their businesses to safely reopen and create opportunities for Americans to return to work when restrictions are lifted. In all cases, the top priority has been the safety of our guests and employees, and our member companies are doing all that they can to safely and responsibly keep their doors open. That is why our associations have been working with member companies, government officials, health experts, and others to devise industry-specific protocols to mitigate the transmission of COVID-19 and address future public health emergencies.¹

Evolving information about COVID-19 and differences in federal, state, and local guidelines, however, have created legal uncertainty. As a result, companies that diligently implement safety protocols and rely in good faith on public health recommendations and guidelines nonetheless face the prospect of substantial litigation based on virus transmission. Such lawsuits do nothing to reduce transmission of COVID-19 but do threaten the ability of companies to provide much-needed services and opportunities for Americans to return to work. Consumer-facing businesses should be able to rely on the safety guidelines and reopening parameters issued by experts without the threat of liability for implementing that

¹ See, e.g., [American Hotel and Lodging Association’s Industry-Wide Cleaning Standards and “Safe Stay” Initiative](#); [U.S. Travel Association’s Industry Guidance for Promoting Health and Safety of All Travelers](#); [National Restaurant Association’s ServSafe Guidance for restaurant reopening](#); [National Retail Federation’s “Operation Open Doors”](#); [Retail Industry Leaders Association’s Blue Print for Shopping Safe](#);

guidance. Such businesses should instead be permitted to focus their strained resources on revitalizing operations and growing jobs for American workers.

Historically, Congress has acted to provide limited safe harbors from liability in the face of a public crisis. We ask that you do so again.

Again, we thank the Committee on the Judiciary for their attention to this critical issue. The undersigned national and state associations, which represent industries that interact with the general public on a daily basis, stand ready to work with you in this moment to help stabilize our economy, ensure our businesses can return to normal operations and support our impacted employees

Sincerely,

Airlines for America
American Gaming Association
American Hotel & Lodging Association
American Society of Travel Advisors
Asian American Hotel Owners Association
Coalition of Franchisee Associations
Global Business Travel Association
Home Care Association of America
International Association of Amusement Parks and Attractions
International Franchise Association
Job Creators Network
Latino Hotel Association
National Association of Black Hotel Owners, Operators and Developers
National Association of Theatre Owners
National Council of Chain Restaurants
National Restaurant Association
National Retail Federation
Small Business & Entrepreneurship Council
Retail Industry Leaders Association
U.S. Travel Association

Alabama Restaurant & Hospitality Association
Alabama Retail Association
Alaska Cabaret, Hotel, Restaurant and Retailers Association
Alaska Hotel & Lodging Association
Alliance of Wisconsin Retailers
Arizona Lodging & Tourism Association
Arizona Restaurant Association
Arizona Retailers Association
Arkansas Grocery and Retail Association
Arkansas Hospitality Association
Association of Lodging Professionals
California Hotel & Lodging Association
California Restaurant Association
California Retailers Association
Casino Association of Indiana
Cincinnati Hotel Association
Colorado Hotel & Lodging Association
Colorado Restaurant Association
Connecticut Lodging Association

Connecticut Restaurant Association
Connecticut Retail Merchants Association
Deadwood Casino Association
Delaware Hotel & Lodging Association
Delaware Restaurant Association
Elevanta
Florida Restaurant & Lodging Association
Florida Retail Federation
Franchise Business Services
Franchise Management Advisory Council
Georgia Hotel & Lodging Association
Georgia Restaurant Association
Hawaii Restaurant Association
Hospitality Maine
Hospitality Minnesota
Hotel Association of New York City
Hotel Association of Washington DC
Idaho Lodging & Restaurant Association
Idaho Retailers Association
Illinois Casino Gaming

Illinois Hotel & Lodging Association
Illinois Restaurant Association
Illinois Retail Merchants Association
Indiana Restaurant & Lodging Association
Indiana Retail Council
Iowa Gaming Association
Iowa Restaurant Association
Iowa Retail Federation
Kansas Restaurant & Hospitality Association
Kentucky Restaurant Association
Kentucky Retail Federation
Louisiana Casino Association
Louisiana Restaurant Association
Louisiana Retailers Association
Louisiana Hotel & Lodging Association
Lowcountry Hospitality Association
Maine Restaurant Association
Maryland Association of Chain Drug Stores
Maryland Food Industry Council
Maryland Hotel & Lodging Association
Maryland Retailers Association
Massachusetts Lodging Association
Massachusetts Restaurant Association
Michigan Restaurant & Lodging Association
Michigan Retailers Association
Minnesota Restaurant Association
Minnesota Retailers Association
Mississippi Gaming & Hospitality Association
Mississippi Hospitality & Restaurant Association
Missouri Restaurant Association
Missouri Retailers Association
Missouri Tire Industry Association
Montana Lodging & Hospitality Association
Montana Restaurant Association
Montana Retail Association
National Franchisee Association
Nebraska Hotel & Lodging Association
Nebraska Restaurant Association
Nebraska Retail Federation
Nevada Hotel & Lodging Association
Nevada Resort Association
Nevada Restaurant Association
New Hampshire Lodging & Restaurant Association
New Hampshire Retail Association
New Jersey Hotel & Lodging Association
New Jersey Restaurant & Hospitality Association
New Jersey Restaurant Association
New Jersey Retail Merchants Association
New Mexico Restaurant Association
New Mexico Retail Association
New York State Hospitality & Tourism Association
New York State Restaurant Association
North Carolina Restaurant & Lodging Association
North Carolina Retail Merchants Association
North Dakota Hospitality Association
North Dakota Retail Association
Ocean City, MD Hotel-Motel-Restaurant Association
Ohio Council of Retail Merchants
Ohio Hotel & Lodging Association
Ohio Restaurant Association
Oklahoma Hotel & Lodging Association
Oklahoma Restaurant Association
Oklahoma Retail Merchants Association
Oregon Restaurant & Lodging Association
Oregon Restaurant Association
Pennsylvania Restaurant & Lodging Association
Pennsylvania Retailers Association
Puerto Rico Restaurant Association
Regulatory Management Counselors, P.C.
Restaurant Association Metropolitan Washington
Restaurant Association of Maryland, Inc.
Retail Association of Maine
Retail Association of Nevada
Retail Council of New York State
Retailers Association of Massachusetts
Rhode Island Hospitality Association
South Carolina Restaurant & Lodging Association
South Carolina Retail Association
South Dakota Retailers Association
South Dakota Retailers Association Restaurant Division
St. Louis Area Hotel Association
Tennessee Hospitality & Tourism Association
Texas Hotel & Lodging Association
Texas Restaurant Association
Texas Retailers Association
Tri State Jewelers Association
Unique Lodging of Ohio
Utah Restaurant Association
Utah Tourism Industry Association
Vermont Chamber of Commerce
Vermont Retail and Grocers Association
Virginia Restaurant Lodging & Travel Association
Virginia Retail Merchants Association
Washington Hospitality Association
Washington Retail Association
West Virginia Hospitality & Travel Association
Wisconsin Hotel & Lodging Association
Wisconsin Restaurant Association
Wyoming Lodging & Restaurant Association