



NEW YORK STATE SENATOR

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## NYS Senate & Assembly Republicans: Lift the Arbitrary 11 P.M. Curfew for Bars and Restaurants

ROBERT G. ORTT March 22, 2021

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Senate Republican Leader Robert Ortt, Assembly Republican Leader Will Barclay, and members of their conferences today announced the introduction of a concurrent resolution (J541) to rescind Governor Cuomo's arbitrary 11 p.m. curfew for bars and restaurants.

Last November, Governor Cuomo issued Executive Order 202.74 that imposed a 10 p.m.

curfew for bars, restaurants, gyms, fitness centers, and other facilities throughout the state. Earlier this year, he extended the curfew to 11 p.m., and just last week, lifted it altogether for gyms, fitness centers, casinos, movie theaters, bowling alleys, and billiard halls beginning April 5. However, he left the arbitrary and damaging rule in place for bars and restaurants, saying it would be reevaluated next month.

“Despite claims by the Democratic Majorities that they revoked the Governor’s emergency powers, there are still egregious mandates in place that have absolutely no scientific basis. These arbitrary rules remain in effect at the whim of one man -- our embattled Governor -- and they continue to harm our small businesses. I’m hopeful the Majority will bring our commonsense proposal to the floor and join us in providing some relief to our bars and restaurants who have been devastated by the pandemic,” said Leader Ortt.

“It’s obvious that we are no longer operating under a system where science is driving decisions. There is no data that explains lifting curfews on certain facilities and leaving bars and restaurants off that list. Overturning Gov. Cuomo’s senseless, arbitrary directives is as easy as passing a resolution. It’s time for Democrats to take that step,” said Leader Barclay.

“Governor Cuomo’s ‘revoked’ emergency powers remain extraordinarily real and profoundly harmful to our bars, restaurants and hospitality businesses, which continue to struggle under his senseless mandates. Without a doubt, the 11 p.m. curfew is one of the most glaring examples of an unjustifiable, unscientific edict. Yet, despite having no impact on the virus, the curfew has had a terrible impact on the bottom lines of countless small businesses in the hospitality industry and their hardworking employees by reducing the number of patrons they can serve each evening, compounding the effect of capacity limits. These curfews are disappearing in neighboring states and New York needs to follow suit immediately,” said Senator George Borrello.

“The 11 p.m. restaurant curfew and food requirements have no basis in logic or data. Are we really supposed to believe that casinos and pool halls are safe from COVID after 11 p.m., but not restaurants? Or that having a cheeseburger on the table keeps us safe from the virus? If the Governor refuses to lift these nonsensical rules, the Legislature can and should repeal them immediately,” said Assemblyman Jarett Gandolfo.

“The state keeping this arbitrary curfew in place is all you need to see to understand that the Supermajority did nothing to meaningfully repeal the Governor’s Emergency Powers. As someone who spent decades working as a waitress, bartender and restaurant manager, it is clear that those making these illogical rules have never spent any amount of time trying to run one of these businesses. While the Governor and his political advisors continue to set arbitrary and contradictory rules from their ivory tower, it is the people in our communities who suffer the very real consequences. Our small businesses have made tremendous sacrifices in the name of public health, and now as we look to rebuild, it is time for the Legislature to do all that it can to put an end to these haphazard rules,” said Senator Sue Serino.

“For months we were told by Governor Cuomo that we must follow the science and trust the facts. Now, as we approach the one-year anniversary of when these policies were first implemented, the science is telling us that the restaurants and bars are among the lowest contributors to the COVID-19 transmission rate, and the facts are telling us that these policies are destroying our state’s economy by forcing small businesses to shutter permanently. I invite my Democrat colleagues to follow the science, trust the facts, and show they support our small businesses by voting in favor of this resolution,” said Assemblyman Michael Reilly.

“Our small businesses, which are the backbone of our economy and the heart and soul of our communities, have suffered greatly during this pandemic. While it is a positive step forward

that the nonsensical curfews for most businesses have been lifted, the Governor's edict that curfews at restaurants and bars be maintained defies logic. These businesses are major employers in our communities and often the driving force to bring people to our business districts. Bars and restaurants have proven they can operate safely following the most up to date safety guidelines—it is long past time we give them the flexibility to operate at the hours they wish to operate,” said Senator Alexis Weik.

“The executive orders put in place by Governor Cuomo are the reasons we fought so hard to return his emergency powers back to elected legislators. Here on Eastern Long Island, these arbitrary and ever-changing mandates have crippled the economy and have many small businesses fearful that this year's tourist season may not be enough to keep them out of bankruptcy. Since he won't listen to the plight of the restaurant, bar and catering hall owners, we are moving to lift his mandates legislatively,” said Assemblywoman Jodi Giglio.

“We need to lift the curfew on bars and restaurants, just as the state has done for other businesses. Our bars and restaurants should not have to wait until late April to fully open. With Easter around the corner and the nice weather here, people are starting to go out more. They are beginning to travel, and they want to support our local bars and restaurants. No more delays. Let's lift these onerous restrictions and let them do their work,” said Senator Pam Helming.

“We feel that the curfew was unscientific and unnecessary from its beginning. From when indoor dining was reopened in June we were able to operate safely at 50 percent occupancy until 4 a.m. nightly. The added hours allowed us to serve more customers in a safe environment. The ridiculous 10 p.m. curfew in November found us turning away guests as the same patrons had to be squeezed into a day that was six hours shorter. The latest order by the governor that allows pool halls, bowling alleys and casinos to operate without a curfew is just another blow to our industry that has proven we can operate safely. I would

love an explanation on the science and facts behind this decision. We are constantly checked by the State Liquor Authority multiple times per week with no issue. It's time to lift this curfew and let us operate responsibly as we have proven we can do," said Mike McElwee, Bay Shore Restaurant Committee.

Legislative Republicans have been leading the charge to repeal the Governor's emergency powers since last May. On March 5th, the Majorities put forward a Democrat-negotiated bill with the Governor's office that was supposedly intended to remove the Governor's emergency powers. However, that bill did not go far enough and was not an actual repeal, as has been made clear since its passage, and arbitrary rules -- including the curfew on restaurants and bars -- remain in effect, further harming our small businesses.

Under the bill passed by the Majorities -- and agreed to by the Governor's office -- directives already made by the Governor still remain in effect, and he maintains the ability to modify or extend them. Senator Gianaris stated "if there is something in there you don't like, put it in a resolution and call for its repeal. We have the ability to do that with a simple majority."

In relation to the arbitrary curfew, Senator Gianaris also stated on the floor, if "there is no real good reason why to set an arbitrary time limit, then that directive will not be able to be issued." But in reality, under the bill passed by the Majority, the Governor still has the sole discretion to extend or modify that order.

Earlier this month, the New York State Senate Republican Conference announced the introduction of another concurrent resolution (B477) that would rescind Governor Cuomo's mandate that prohibits bars and restaurants from serving alcoholic beverages to patrons who do not order food. The Majority has so far not allowed the resolution to the floor for a vote, despite indicating support for doing so on the floor of the Senate on March 5th.

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