



NEW YORK STATE SENATOR

Robert G. Ortt

Senator Ortt and Legislative Colleagues Call for Lift of 11 P.M. Curfew for Bars and Restaurants

ROBERT G. ORTT March 26, 2021

| ISSUE: **BAR AND RESTAURANT REOPENING**



Today, Senate Republican Leader Robert Ortt was joined by State Senators Ed Rath, George Borrello, and State Assemblymen Angelo Morinello and Mike Norris to discuss a newly introduced resolution (J541) to rescind Governor Cuomo's arbitrary 11 p.m. curfew for bars and restaurants. The event was held at Soliday's Restaurant in Niagara Falls – just one of the many restaurants that the arbitrary mandates of Gov. Cuomo have severely impacted.

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 New York State. Earlier this year, he extended the curfew to 11 p.m. Just last week, he lifted it all together for gyms, fitness centers, casinos, movie theaters, bowling alleys, and billiard halls beginning April 5. However, he left the 11 p.m. curfew in place for bars and restaurants. Western New York's positivity rate currently sits below 3 percent.

"Earlier this month, we heard the Democrat Majorities claim that they had revoked the Governor's emergency powers and had taken back authority from him. Clearly, that was all theatrics, or else this egregious, non-scientific mandate would no longer be in place. These arbitrary rules remain in effect at the whim of one man, our embattled Governor, and they continue to harm our small businesses. The longer Democrats in the State Legislative Majorities refuse to act in bringing our commonsense proposals to the floor, the longer these bars and restaurants will be forced to suffer. The prolonged inaction by Democrats is killing our state's restaurant industry," said Senate Minority Leader Rob Ortt.

"The Governor's use and abuse of his emergency powers has resulted in countless Executive Orders that not only defy sound science, but common sense. There is no better example of this than the 11 p.m. curfew, whose underlying premise is that at 11:01 p.m., the coronavirus becomes more transmissible and only in certain places, like restaurants. While senseless, this edict and others like it, have been far from harmless. They have pushed many restaurants and bars to the financial brink with overly harsh restrictions that have made it difficult, and even impossible, to sustain their operations and keep employees on the payroll. At their core, these mandates are more about the Governor continuing to flex his authority than about controlling the virus. It's time for Senate Democrats to heed our calls to rescind the 11 p.m. curfew and as well as the Governor's ability to unilaterally make these decisions," said

Senator George Borrello.

“The Senate Majority continues to play games with our State’s reopening, causing unnecessary confusion and burdens for our local restaurants and small businesses. While they say they have revoked the Governor’s emergency powers, it has become clear that that is far from the truth. The arbitrary rules and centralization of power continues. Now they refuse to bring our resolutions, which would help our struggling communities, to the floor. I stand with my colleagues and ask that the burdensome regulations stop and we shift our focus to helping our businesses safely reopen,” said Senator Ed Rath.

“The pandemic is not over and we know this. However, as the availability of the vaccine increases, and our research and understanding of the virus improves, we should be doing everything to reopen closed industries and help revitalize the businesses and people, that are struggling. We have been told that science will guide the reopening of businesses in this state, but this apparently does not apply to restaurants and bars. Forcing customers to order food with a beverage order and restaurants to close their doors by 11 is not science-based policy and is exacerbating the already bleak situation for restaurant and bar owners,” said Assemblyman Angelo Morinello.

“Restaurants and taverns have been crushed during this pandemic due to no fault of their own. One minute they are open, then following a Governor Cuomo press conference, they are instantly shut down or told they must sell food with a beer. These arbitrary decisions with no little rhyme or reason have caused significant and long-lasting hardship and even many permanent closures as a result. It’s long past time that these burdensome restrictions be lifted and that’s why I join Leader Ortt and my colleagues in urging the downstate driven majorities to enact resolutions repealing them immediately,” said Assemblyman Mike Norris.

Legislative Republicans have been leading the charge to repeal the Governor's emergency powers since last May. On March 5, the Majorities put forward a Democrat-negotiated bill with the Governor's office 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. 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 remain in effect. 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 Senate floor on March 5.

Since the beginning of the 2021-2022 Legislative Session, the Senate Republican Conference has introduced an amendment to fully rescind the Governor's emergency powers 33 times. Each time, Senate Democrats have unanimously voted against this amendment.

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