



March 5, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, D.C.

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, D.C.

Dear Speaker Pelosi and Leader McCarthy:

The National Restaurant Association submits this letter in opposition to the “Protecting the Right to Organize (PRO) Act” (H.R. 842, S.420). This extreme legislation poses a significant threat to the restaurant industry, particularly among small and locally owned restaurants across the country seeking to recover from the ongoing pandemic. The PRO Act would not only disrupt the workplace by upending well-established labor laws, it would compromise our economic recovery by jeopardizing investments made by the federal government on COVID relief programs, essentially setting fire to billions in taxpayer dollars.

The PRO Act would resurrect failed and rejected policies of the past. Among its many damaging provisions, the PRO Act starts by attacking workers’ fundamental right to privacy. Since the earliest days of the National Labor Relations Act (NLRA), employees have had the right to vote privately on whether they would like to be a part of a union, overseen by the National Labor Relations Board (NLRB) for more than 70 years. The PRO Act would replace it with a card check process that would require employees to cast their votes in front of union organizers and co-workers. This would unfairly subject people to intimidation and harassment, and goes against the foundation of our democratic process. Workers deserve the right to make their own decisions, free of peer pressure or fear of retaliation from supervisors.

The PRO Act also limits opportunities for the growing number of self-employed individuals working in the gig economy. It would make California’s “ABC” test the new standard for determining whether a worker is an employee or an independent contractor. However, the “ABC” test is not as easy as “123” since employers may only be able to meet one or two of the criteria resulting in a damaging effect on the overall business and its employees.

For many workers, it would strip away their freedom to determine what work they do, set their own hours, and establish how they perform their work. For restaurants, this would be especially harmful, since flexibility is a hallmark of our industry. Consumers would also suffer because it would mean less access to on-demand dining services.

The PRO Act is not only harmful to employees, it also would hurt job creators—businesses both small and large. The legislation would codify the Obama Administration’s efforts that muddled and expanded the definition of “joint employer” for two separate companies. Until the 2015 rule change, restaurant brands and local franchisee owners worked in unison to create millions of jobs and grow our nation’s economy. The expanded joint employer standard threatens the business models that have led to that progress and growth. It also deters businesses from imposing quality and conduct standards on franchises, contractors and vendors, as well as offering education and training opportunities – which ultimately hurts employees and customers.

The bill goes on to strip away employees' Right-to-Work protections, forcing workers to fund union activity they do not support; violate employees' rights to privacy by mandating employers turn over sensitive employee records and personal information without employee prior approval; disregard employers' due process rights allowing their right to legal counsel on complex labor issues; and permit secondary boycotts that would allow unions to target neutral third parties and cause them economic harm even if those entities have no underlying labor dispute with the union. All of these things would tear apart our economy and would be extremely damaging to the cornerstones of communities – America's restaurants.

We encourage federal lawmakers to vote no on this flawed legislation for the reasons outlined above. Thank you for the opportunity to share our views in opposition to the PRO Act.

Sincerely,

Shannon Meade
Vice President, Public Policy and Legal Advocacy

cc: Members of the U.S. House of Representatives