

**A RESOLUTION TO BE SUBMITTED BY  
LEGISLATOR LORIGO**

**Re: Calling for County Attorney to Sue NYS to Prohibit Imposition of New Regulations Targeted at Bars and Restaurants**

**WHEREAS**, Section 29-a of Article 2-B of NYS's Executive Law grants the Governor certain authority to address disaster scenarios that occur in New York State; and

**WHEREAS**, the first COVID-19 case in New York State was confirmed on March 1<sup>st</sup> of this year. The rapid spread of the disease led the governor to issue dozens of Executive Orders effectively shutting down the entire state and putting severe restrictions on the movement of residents in order to buy time for hospitals to prepare for the overwhelming number of sick residents; and

**WHEREAS**, by May of this year, the Governor had acted unilaterally to change more than 262 laws and regulations, and in the time since he has not returned any of his emergency-granted authority back to the people of New York; and

**WHEREAS**, the Governor's most recent order mandates that bars, restaurants, breweries, and wineries may only sell alcohol if a customer is also ordering food items. It also mandates that all bar service is to be reserved for seated patrons who are socially distanced by six feet or separated by physical barriers; and

**WHEREAS**, these restrictions will force the closure of many smaller establishments and those that do not sell "food items," defined by the New York State Liquor Authority as soups and sandwiches, not pretzels and chips. Many of these establishments do not have the equipment to provide prepared food items to patrons, nor do they have the seating capacity to allow that many people to be seated; and

**WHEREAS**, the frequent changes and constant arbitrary updates to the Governor's Executive Orders and New York's laws create confusion, leave restaurants out of the discussion, force them to interpret the Orders without guidance, and expose many of them to the whims of local county health departments; and

**WHEREAS**, as the pandemic stretches on, the ability of these small business to remain open and in operation under these regulations becomes more difficult; and

**WHEREAS**, in addition to the scores of small business owners losing their livelihood, these frequent, arbitrary, and spontaneous Executive Orders also force thousands of hard-working New Yorkers into unemployment; and

**WHEREAS**, Governor Cuomo's continued usurpation of legislative powers is far in excess of what is allowed by law or warranted by the situation in New York and his actions need to be properly reviewed and discussed in a more democratic process.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Erie County Legislature expresses its opposition to the latest Executive Order that further limits maximum seating capacity, restricts the ability of even cohabitating groups to congregate together, and arbitrarily requires anyone looking to purchase alcohol at a bars, restaurant, breweries, and wineries to simultaneously purchase food; and, be it further

**RESOLVED**, that this honorable body further urges the New York State Legislature to properly act as a check on the Governor's use of Executive Authority as authorized by §24(8) of New York's Executive Law; and, be it further

**RESOLVED**, that the Erie County Legislature hereby directs the Erie County Attorney's Office to file suit on behalf of the residents of Erie County challenging the Governor's Executive Orders as being in excess of authority granted under §24(8) of New York's Executive Law and that his latest order that requires the sale of food at the point of sale of on premises alcohol consumption is not reasonable related to halting the spread of the Coronavirus; and, be it further

**RESOLVED**, that certified copies of this Resolution be sent to the Erie County Attorney's Office, the Western New York Delegation to the New York State Senate and Assembly, Governor Andrew Cuomo, and any other party deemed necessary and proper.

Fiscal Impact: None for resolution