



April 3, 2020

The President
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

The Honorable Nancy Pelosi
Speaker of the House
H-232, The Capitol
Washington, D.C. 20515

The Honorable Mitch McConnell
Senate Majority Leader
S-230, The Capitol
Washington D.C. 20510

Dear Mr. President, Speaker Pelosi, and Majority Leader McConnell:

On behalf of the National Grocers Association (NGA), we applaud Congress and the Administration for their recent actions to protect the American people by moving quickly to address the Coronavirus (COVID-19) outbreak. As challenges continue to grow in the food retail sector, we have identified additional actions that the federal government can take to support independent grocers and their customers during this crisis, and to help strengthen the food supply chain.

NGA represents independently owned grocery retailers and their wholesalers across the nation and in every community. Together our members employ nearly a million Americans on a full-time or part-time basis and provide grocery and pharmacy services to millions of Americans every day. Our members are serving on the front lines of responding to the

coronavirus public health crisis by providing food and medicine to Americans in this time of need.

We have identified the following actions that either the Administration or Congress can take to ensure the resilience of the food and pharmacy supply chain and support our members, their employees, and the communities they serve during this crisis.

Congress should authorize the Secretary of Transportation to temporarily waive federally-mandated maximum vehicle weight limits until President Trump's National Emergency Declaration is lifted. While many states have already waived or temporarily increased their maximum weight loads for transportation and deliveries of essential goods and services, this additional action would provide a consistent standard to interstate food deliveries.

The federal government should promote the temporary suspension of all local delivery time restrictions and noise ordinances for efforts in response to COVID-19. Independent grocery wholesalers and distributors are hard at work helping retail stores replenish their food supplies and make sure that Americans can access the food and other essential products during this crisis. While delivery of essential goods and services has been stressed, this action would allow goods to be provided to retail locations without concerns for noise or time restrictions.

The DOL should classify food supply workers as "emergency responders" for purposes of the FFCRA paid leave mandate and Congress should fund free childcare for frontline workers. The Families First Coronavirus Response Act (FFCRA) gives the Department of Labor (DOL) discretion to exclude certain emergency responders and healthcare workers from the paid leave mandate on businesses with 500 or fewer employees. As grocers deal with workforce challenges, the broad leave justifications are leaving retailers and wholesalers short-handed during a time of unprecedented demand. NGA is asking the DOL to classify food supply workers as emergency responders. We are also requesting that Congress provide additional resources to help states extend free childcare to frontline workers.

Congress should provide financial aid to critical infrastructure workers. Essential critical infrastructure workers are fighting a war against the coronavirus at great personal cost, and these workers should be recognized and supported by the federal government. Whether by exempting frontline workers from federal taxes and requiring immediate adjustments to their tax withholds, or by providing direct payments, the federal government should stand by these workers as they serve as the nation's lifeline during this difficult time.

Direct the USDA to issue a national waiver to allow substitutions and suspend fines and penalties for out of stock products and compliance buys for products in the

Special Supplemental Nutrition Program for Women, Infants, and Children

(WIC). While states have been working on an ad-hoc basis to provide flexibility to retailers who have seen customer demand empty their stock of certain WIC items, a national waiver is needed so that states can include product substitutions uniformly and grocers can help provide the best items available during this crisis.

The Administration should promote a temporary moratorium on state beverage container deposit and collection laws to free up essential resources at retail. Many of our members are required by state laws to act as a redemption center for state beverage container collection and redemption. During this crisis, the grocery industry needs all available personnel working to provide food goods to their communities.

Congress should provide essential critical infrastructure businesses liability protection. Grocery stores are facing a flood of demand letters and threats of legal action from individuals alleging they were exposed to COVID-19 on store premises. Federal and state governments have designated grocery stores as essential businesses that should stay open during the crisis, so food retailers should be protected from liability for continuing to serve their communities.

Congress and the Administration should expand access to Personal Protective Equipment (PPE) to frontline grocery workers. NGA requests the federal government prioritize the grocery industry in its efforts to expand supplies and access to PPE. Although stores have gone to great lengths to protect their customers and employees, we need additional access to PPE supplies to help further protect grocery workers, especially store associates in direct contact with the public.

Congress or the Administration should prohibit retroactive Direct and Indirect Remuneration (DIR) Fees and instruct the Department of Health and Human Services to establish standardized pharmacy quality measures. For many years, the economic constraints on community and independent pharmacies have been dire. DIR fees have increased exponentially per annum and threaten the closure of thousands of grocery store pharmacies across the country. Pharmacies simply cannot continue to operate with fees and penalties imposed on them by Pharmacy Benefit Managers (PBMs) that are not only retroactive but are impossible to budget for. Grocery store pharmacies need relief so they can continue to serve their Medicare Part D patients.

Congress should address the multiemployer pension crisis and Pension Benefit Guaranty Corporation solvency. The independent grocery industry, and the food service industry at large, have thousands of employers and employees invested in multiemployer pension plans that are either in critical or declining status, or are at risk of financial collapse. While it is encouraging that both chambers of Congress have put forth legislation to address this looming crisis, bipartisan consensus is needed to both fundamentally reform

the rules and regulations governing multiemployer plans, while also providing financial help to both employers and employees who are invested. In addition, Congress needs to provide support to the PBGC as its multiemployer program is projected to be insolvent by fiscal year 2025. Congress must act to ensure the stability of multiemployer pensions and provide employers who continue to make their obligations to their plans are free from the growing liability of orphaned beneficiaries.

USDA should communicate commodity price fluctuations to consumers and state attorneys general. NGA members are experiencing price spikes in certain commodities, including staples such as fresh eggs, that are driving up costs for consumers at a time when families are facing significant financial pressures. Grocers are facing backlash from consumers and some states are citing retailers for price gouging when retailers are just passing costs on to consumers. NGA is requesting that USDA use its reliable and trusted voice in the food marketplace to help educate and inform consumers and state and local governments about commodity price increases. Additionally, we're asking the Department to use its investigative tools to monitor and mitigate price spikes in the marketplace for agricultural commodities.

Thank you for your continued leadership through this public health crisis. Please do not hesitate to contact me or NGA's Senior Vice President of Government Relations & Counsel, Chris Jones, at cjones@nationalgrocers.org as you work to meet the needs of the American people during this challenging time. Independent grocery stands ready to continue to feed America and work with the Administration and Congress to ensure the resilience of the food and pharmacy supply chain.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Ferrara". The signature is fluid and cursive, with a long horizontal stroke at the end.

Greg Ferrara
President and CEO
National Grocers Association

cc:

The Honorable Mike Pence
Vice President of the United States

The Honorable Steven Mnuchin
Secretary of the Treasury

The Honorable Elaine Chao
Secretary of Transportation

The Honorable Sonny Perdue
Secretary of Agriculture

The Honorable Eugene Scalia
Secretary of Labor

The Honorable Charles Schumer
Senate Minority Leader

The Honorable Kevin McCarthy
House Minority Leader

