

SEVEN MYTHS AND REALITIES ABOUT FOOD TRUCKS: WHY THE FACTS SUPPORT FOOD-TRUCK FREEDOM



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SEVEN MYTHS AND REALITIES ABOUT FOOD TRUCKS: WHY THE FACTS SUPPORT FOOD-TRUCK FREEDOM

By Bert Gall and Lancée Kurcab¹

Food trucks continue to grow in popularity throughout the country. But as the Institute for Justice detailed in a recent report, some cities have responded by enacting and enforcing laws that do not advance public health and safety, and serve no other purpose than to “protect” restaurants from competition from food trucks.² Arguing in favor of these laws—such as those that bar food trucks from operating in popular commercial areas or that prohibit food trucks from parking within several hundred feet of any restaurant—their proponents rely upon several myths.

Below, we list the seven most prevalent of these myths and, using facts and real-world examples, debunk them.

MYTH #1: The presence of food trucks is harmful to a city’s restaurant industry.

REALITY: The presence of food trucks does not hurt a city’s restaurant industry, but instead helps it.

Claims that food trucks spell doom for local restaurants are not only unsupported,³ but are also contradicted by the experiences of Los Angeles and Austin, which have enthusiastically welcomed mobile-food entrepreneurs. For example, the continued growth of the food-truck industry in Los Angeles—the birthplace of the modern food truck—in no way diminished L.A.’s vibrant restaurant scene. In fact, customers in a recent *Zagat* survey reported that they think the restaurant scene has continued to improve.⁴ In Austin, local restaurateurs and economists generally agree that the city’s robust mobile-food scene has boosted the restaurant industry as a whole.⁵ Citing Los Angeles and Austin as positive examples, a group of restaurateurs in Pittsburgh have joined together to ask their city to get rid of restrictive regulations that have stifled the growth of the food-truck industry there because they have recognized that the “cities with the most vibrant food-truck scenes also have booming restaurant industries.”⁶

Indeed, food trucks all over the country are helping to bolster the local restaurant industry in (at least) three specific ways:

1. ***Food trucks’ presence increases the number of customers available to restaurants.***

Austin’s food trucks and food trailers are a rising tide lifting all boats in the local restaurant industry; one way they have done so is by attracting more people—both new residents and tourists—into the city.⁷ In Houston, restaurants have experienced increased business generated by food trucks parking nearby and drawing more people to the restaurants’ neighborhoods. It is for this reason that restaurant owners have asked the Houston City Council to ease existing laws that make it difficult for food trucks to operate.⁸ And in Las Vegas, George Harris, the owner of *Mundo*, an award-winning upscale restaurant in Las

Vegas, has observed that food trucks help his business by bringing new customers to the neighborhood.⁹

Furthermore, historical evidence suggests that banning food trucks from an area in which they currently operate will harm nearby restaurants by decreasing the number of potential customers. For example, when street vendors were banned from New York's Lower East Side and Chicago's Maxwell Street Market, brick-and-mortar businesses complained that they suffered lower revenues as a result.¹⁰

Simply put, food trucks draw people out of their offices and homes and into the community, opening their eyes to *all* of the meal options their neighborhood has to offer.

2. ***Food trucks provide restaurants with a great way to market and expand their business.*** All over the country, restaurant owners are launching their own food trucks. For example, the owners of Curried, an Indian restaurant in Chicago, started a food truck with the same name in order to better market the restaurant. Mission accomplished: "We've definitely seen an increase in business at the restaurant," says Scott Gregerson, Curried's managing partner.¹¹ Jose Hernandez, general manager at POPS Cheesestakes in Las Vegas, says that the business at the restaurant's physical location has been boosted by the restaurant's food truck: "The truck has been great advertising."¹² Brian Pekarick and Rick Stern, co-owners of Spoon and BRGR restaurants in Pittsburgh, just launched a BRGR truck for the same reason. "As brand recognition, it's a great advertising piece," they explained. "And we expect that it will drive customers to our restaurants."¹³ Similarly, Paul Lee, owner of The Winchester restaurant in Grand Rapids, Mich., explained that he opened the What the Truck food truck to serve "as an extension of [T]he Winchester. It allows for us to reach a greater audience and provide something unique to the city."¹⁴
3. ***Food trucks often serve as incubators for new restaurants.*** Several restaurants got their start as food trucks: Many chefs with a great concept, but without enough capital to start their own restaurant, launched food trucks to bring their cuisine to customers. Finding success in the food-truck arena, these chefs then accumulated enough capital to launch their own restaurants. For example, the New York Food Truck Association has 42 members, and 40 percent of them—including Mexicue, Souvlaki GR and Schnitzel & Things—now also have brick-and-mortar establishments.¹⁵

These entrepreneurs are not an anomaly. Hundreds of other food-truck owners, including those profiled on the next page, have also opened new restaurants. Without the availability of the food-truck business model, these chefs might not have been able to open their restaurants.

In sum, food trucks provide a boost to a city's restaurant industry.

Examples of Food-Truck Entrepreneurs Opening Brick-and-Mortar Establishments

Austin: In 2006, Michael Rypka opened a small food trailer on South First Street in Austin called Torchy's Tacos. The trailer became so successful that he was able to expand: Torchy's Tacos now has eleven brick-and-mortar restaurants, not just in Austin, but also Dallas and Houston. Michael now employs about 450 people.¹⁶

Boston: Ayr Muir graduated from MIT, earned his MBA from Harvard and began his career working at McKinsey & Company. But in 2008, he left the corporate world to follow his dream of becoming an entrepreneur and launched Clover Lab Food Truck. His locally sourced vegetarian fare has been such a huge hit with customers that Ayr has now been able to launch a total of six trucks and two restaurants in the Boston area.¹⁷ He now employs over 140 people.¹⁸

Chicago: In 1963, Dick Portillo opened a six-by-12-foot hot dog trailer on North Avenue in Villa Park. Years later, Portillo's is a national brand—indeed, a brand that is nearly synonymous with the iconic Chicago hot dog—with 47 locations in Illinois, Indiana and California. Portillo Restaurant Group is now the largest privately owned restaurant company in the Midwest, with over 4,000 employees.¹⁹

Cleveland: Chris Hodgson was inspired to bring affordable gourmet food to Cleveland when he visited taco trucks in New York City. His first food truck, Dim and Den Sum, was so successful that he launched a second truck—Hodge Podge—which received nationwide fame when it finished second in the Food Network's hit show, *The Great Food Truck Race*. Chris partnered with a restaurateur to open Hodges restaurant in downtown Cleveland, and it now employs about 50 people.²⁰

Seattle: In 2007, Chef Josh Henderson started serving classic American food, but with a gourmet twist, out of an Airstream trailer called Skillet. Skillet quickly became popular, in large part because of the delicious bacon jam in its gourmet burgers. In 2011, Josh opened up the Skillet Diner in the Capitol Hill neighborhood, and his business now includes catering and selling its bacon jam through retailers all over the country. He now employs almost 100 people.²¹

Washington, D.C.: Mike Lenard brought Korean fusion-style tacos to the nation's capital in August 2010 when he opened Takorean using a remodeled 1985 Ford step-van. Mike has now opened a permanent location at D.C.'s Union Market, serving up the same menu that made his truck so successful. Takorean was honored to be named one of Washingtonian Magazine's best food trucks in summer 2012, and the magazine recently billed the new Union Market location as one of 11 new restaurants its readers should visit.²² Mike currently employs nine people, and has imminent plans to hire five more employees if his sales continue their upward trend.²³

MYTH #2: Trucks have an “unfair” advantage over restaurants because of their mobility.

REALITY: It is true that food trucks’ mobility allows them to serve customers in different parts of a city, but any advantage that this provides is offset by the many disadvantages of being a mobile operation.

These disadvantages include:

- Food trucks do not have a fixed location, which is a source of business goodwill and stability for restaurants.²⁴ After all, it is easier to build a customer base when the customer can always be sure where the business is located. But food trucks have no guarantee that they will be able to find a parking location that is both available and convenient for their customers.²⁵
- Food trucks—unlike restaurants, which can offer climate-controlled dining rooms to their customers—are completely at the mercy of the weather. If it is raining, snowing or extremely hot, people will be far less inclined to stand in line at a food truck. Instead, they will go to a place where they can eat inside.²⁶ Many trucks even take a hiatus during the winter because of the weather.²⁷ Ice and snow present dangerous conditions, and spending hours each day in freezing temperatures can significantly affect their most valuable asset—their truck.²⁸
- Food trucks cannot offer seating and table service for their customers.
- Food trucks have extremely small kitchens that can hold far less inventory than restaurant kitchens; this means that food trucks can sell less food and must have a smaller menu. Additionally, preparing food in a small, cramped food-truck kitchen is more difficult than preparing food in a larger restaurant kitchen.²⁹
- Food trucks cannot serve as many customers during the day as can an average restaurant. For example, once a food truck finds a parking space, it can take 30 minutes for set-up, and a similar amount of time to clean and pack up after the meal service is over.³⁰ This means that a truck that parks in a space with a two-hour parking limit only has around an hour to serve customers. That’s less than half the time that a restaurant can generally allot to lunch service, and less than a quarter of the time that a restaurant can generally allot to dinner service.³¹
- Food trucks, unlike restaurants, can, and often do, break down. Until repairs are made, the truck cannot serve customers, employees miss out on their shifts and the food in the commissary refrigerator may spoil.³²
- A liquor license is a big moneymaker for restaurants,³³ but food trucks are usually unable to obtain that license under local and state laws because they do not meet the requirement of having a fixed location.³⁴

In a free-market system, there really are no “unfair” advantages between business models because all are free to be used by anyone. Even if a food truck’s mobility could create an “unfair” advantage over restaurants, the many disadvantages described above swamp that one small advantage.

MYTH #3: Trucks have an “unfair” advantage over restaurants because they are not subject to the same set of costs.

REALITY: Restaurants generally do have higher costs than food trucks (e.g., buying or leasing restaurant space), but their return for paying all of those costs is getting the benefit of a fixed location and thus avoiding the many disadvantages that food trucks have.

Furthermore, food trucks are in fact subject to many of the same costs that restaurants face. For example, food-truck owners must purchase liability insurance and pay license and permit fees.³⁵ Like other small business owners, truck owners must pay sales taxes, income taxes and payroll taxes.³⁶ They must spend money to pay and train new employees, to purchase inventory and to market their business.³⁷ Restaurants must either pay property taxes or rent, and the same is true for food trucks: Most cities require that food trucks associate with a commissary in which they can park and clean their truck, store their inventory and partially prepare their food.³⁸ This means that food-truck owners must (in addition to paying taxes on their vehicle) either pay property taxes or rent on the commissary space.

There are other costs that food trucks have to pay that restaurants do not. For example, food-truck owners must spend money to purchase their trucks. A brand-new truck can cost anywhere from \$75,000 to \$300,000; a used truck can cost between \$15,000 and \$99,000.³⁹ Owners must spend additional funds to outfit their trucks and maintain them. Truck owners must also pay for the costs of fuel (between \$250 and \$500 a month),⁴⁰ propane, parking, rental fees or building costs for a commissary or commercial kitchen,⁴¹ as well as fees required to park in food-truck lots and to participate in festivals and other community events.⁴² Finally, trucks that operate within more than one jurisdiction must pay for permits and fees within each of those jurisdictions.⁴³

In short, food trucks forgo the higher costs of operating a restaurant by forgoing all of the advantages that owning a restaurant provides. Food trucks are nonetheless subject to a whole host of costs, some of which restaurants do not have to pay.

MYTH #4: Food trucks have an “unfair” advantage over restaurants because operating a food truck is easy.

REALITY: Just like running a restaurant, running a food truck is extremely hard work.

Ignoring all of the disadvantages and costs of the food-truck business model, many people still believe that, in the real world, running a food truck—unlike running a restaurant—is an easy way to make a lot of money. Try telling that to Miley Holmes, who runs the Easy Slider food truck in Dallas.

She explains that “[t]he biggest misconception about this business is that it’s a way to get rich quick. Margins are tight, space is limited, and the market is unpredictable. So the reality is that you are never going to make a fortune from running a food truck.” Holmes describes workdays that begin at 9 a.m. and stretch to 3 a.m.: “People forget that we’ve been prepping for hours before our doors open,” Holmes said, “and we spend hours cleaning after we’re closed. And we do it all two or three times a day, sometimes 14 or 15 days in a row!” Furthermore, “[t]here is no such thing as time off, just time off the truck. We’re constantly emailing, making phone calls or sourcing product.”⁴⁴

Holmes’ 18-hour workdays are not atypical. Even for operators who do a single meal service per day, the typical workday can range between 17 to 20 hours.⁴⁵ And make no mistake, the work is hard. Indeed, many people who experience running both restaurants and food trucks believe that running the latter is at least as difficult—or more difficult—than running the former:

- Celebrity Chef Ludo Lefevre has been a successful chef at some of Los Angeles’ best restaurants and in 2010 he opened his critically acclaimed LudoTruck, which serves “impossibly juicy... fried chicken [that] is pretty close to the godhead,” according to one famous critic.⁴⁶ Ludo is undoubtedly well-positioned to compare the difficulty of running a restaurant with that of running a food truck. As he points out, much of the work is the same: “People don’t realize [that a food truck] is like a restaurant. You need to rent a commissary kitchen, hire a staff, and prep the staff. It’s the same headache of a restaurant. It’s not easy.” And he notes at least one way in which running a food truck is more difficult: “At the restaurant, you have a big walk-in; you can always go and get some more vegetables.” But with a food truck, “Sometimes our commissary kitchen is far away, and sometimes we’re going to run out of food. There’s nothing we can do.”⁴⁷
- Luke Holden started his Luke’s Lobsters restaurant in New York City in 2009, and he opened three more brick-and-mortar locations before launching his food truck, Mobile Nauti, which topped Zagat’s ratings of New York’s food trucks for two consecutive years. For Holden, it’s clear that his food truck is “more difficult to manage” than his restaurants. He says that his truck “has been more of an outreach tool than a cash-flow tool. There are a lot of inherent struggles that come with operating a truck. You can’t determine what the weather will do or parking issues. It’s a difficult business to build stability in, and if you can’t build stability in, it’s harder to staff.”⁴⁸
- David Schillace owns New York’s Mexicue restaurant, with two brick-and-mortar locations and a food truck. Based on his experience, “Hands down, bricks-and-mortar is easier.” He explains, “Running three or four trucks, then working sixteen hours a day, is a nightmare. And it’s still not going to make you rich.” He notes that finances are a lot less predictable and stable with food trucks because people tend to order more food at a restaurant than at a food truck.⁴⁹

In sum, running a food truck is hardly an easy job. Indeed, given all of the difficulties encountered by food-truck owners, it isn’t surprising that many of them want to transition from the food-truck business model to the more stable restaurant business model, where issues such as the weather and inventory limitations are no longer constant obstacles.⁵⁰

MYTH #5: Food trucks are unsanitary “roach coaches.”

REALITY: According to the available evidence, food trucks are generally just as clean and sanitary as restaurants.

Just like restaurants, food trucks are subjected to health inspections on a regular basis. It is often the case that food-truck operators are inspected more frequently than their brick-and-mortar counterparts.⁵¹ Indeed, for a forthcoming report, the Institute for Justice reviewed health department sanitation grades in Los Angeles from May 2009 through May 2012 and found that, on average, the food trucks in that city are just as clean and sanitary as restaurants.

MYTH #6: Food trucks cause harmful sidewalk congestion.

REALITY: No evidence supports the assertion that food trucks cause harmful sidewalk congestion.

Although critics of food trucks complain that they cause harmful sidewalk congestion, there is no evidence to support that claim. To test it, the Institute for Justice collected original data in Washington, D.C. Researchers measured foot traffic and congestion in locations where food trucks were present on several different days, in different locations, and during the busy hours surrounding lunch. They found that the presence of a food truck did not drastically increase foot traffic on the sidewalk. In fact, the average time it took a pedestrian to travel the block varied by only one second when a food truck was added.⁵²

Furthermore, the researchers documented a phenomenon that is common to anyone who has seen a food truck in action: Customers spontaneously form a single-file line alongside the edge of a sidewalk so that other pedestrians have plenty of room to pass by. Because it is in the interest of the food trucks to maintain positive relationships with neighboring businesses and the community, food-truck owners and operators encourage their customers to keep their lines orderly. The Food Truck Association of Metropolitan Washington has formalized this practice by adopting a code of conduct in which they have pledged to “mak[e] regular announcements reminding customers in line to keep the sidewalk and any building entrances clear so as not to impede public access.”⁵³ And, of course, cities can pass a law, like Los Angeles has done, that instructs food trucks not to operate in a manner “which will interfere with or obstruct the free passage of pedestrians or vehicles along any such street, sidewalk or parkway.”⁵⁴

MYTH #7: Food trucks create a special trash problem because their customers are especially prone to littering.

REALITY: Food-truck customers are not especially prone to littering, and food-truck operators act responsibly to ensure that trash is properly disposed.

Food trucks' customers—just like the customers of fast-food restaurants and people who eat their packed lunch outdoors—have the potential to generate litter after consuming their food, but there is no evidence that food-truck customers are more likely to litter.⁵⁵ Food trucks are generally required by municipal laws to carry a trash receptacle for their customers' use or to pick up any litter near the truck.⁵⁶ Moreover, food-truck operators often go beyond the requirements of the law to ensure that they leave the areas in which they operate cleaner than how they found them.⁵⁷

Conclusion

Food trucks do not have an “unfair” advantage over restaurants. The restaurant business model is more favorable than the food-truck business model in several ways, and food trucks actually help the local restaurant industry. There is no basis for the argument that restaurants need government intervention to “protect” them from food trucks. (And, as several federal courts have recognized, regulation for the sake of mere economic protectionism is constitutionally impermissible.⁵⁸) Nor is there any basis for the notions that food trucks pose some special threat to public health and safety.

Instead of creating public policy based on these myths, elected officials should allow food trucks to operate freely within their cities, subject only to reasonable health and safety regulations. Doing so is good for the local entrepreneurs, the local economy and the local community.

For guidance in creating a good legal framework for food trucks, see the Institute for Justice's most recent legislative report, *Food Truck Freedom: How to Build Better Food Truck Laws in Your City*.

For more on the benefits provided by food trucks and other street vendors, check out the Institute's 2011 report, *Streets of Dreams: How Cities Can Create Economic Opportunity by Knocking Down Protectionist Barriers to Street Vending*.

Both of these reports are available at www.ij.org/vending.

Endnotes

¹ Bert Gall is a senior attorney at the Institute for Justice. He directs IJ's National Street Vending Initiative, a nationwide effort to vindicate the right of street vendors to earn an honest living by fighting unconstitutional vending restrictions in courts of law and court of public opinion. Lancée Kurcab serves as the Institute for Justice's outreach coordinator. Through her outreach efforts and grassroots organizing, she helps entrepreneurs fight for their right to earn an honest living free from protectionist regulation.

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³⁵ Gall and Frommer, 2012.

³⁶ A helpful collection of links to state government websites detailing the tax obligations of small businesses can be found on the website of the U.S. Small business administration at <http://www.sba.gov/content/learn-about-your-state-and-local-tax-obligations>. Information on the federal tax obligations of employers can be found in the IRS Employer's Tax Guide at <http://www.irs.gov/uac/Publication-15-%28Circular-E%29,-Employer%27s-Tax-Guide>.

³⁷ Myrick, 2012.

³⁸ Gall and Frommer, 2012, p. 26.

³⁹ Myrick, 2012, p. 32–33.

⁴⁰ Myrick, 2012, p. 217.

⁴¹ Weber, 2012, p. 100.

⁴² According to Matthew Geller, CEO of the Southern California Mobile Food Vendor's Association, "Most events charge 10% which drastically eats into [food trucks'] margins. Lots can cost \$25 to \$200 just for the privilege of serving hungry customers." Interview with Matthew Geller, November 8, 2012.

⁴³ According to Matthew Geller, CEO of the Southern California Mobile Food Vendor's Association, "Many food trucks have multiple business licenses and health permits. In cities like Los Angeles, many of the trucks must obtain multiple city permits in order to serve the demand around Los Angeles County. Most trucks in the area have eight business licenses with an average cost of \$250. Many trucks also serve multiple counties. Each county

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⁴⁸ Zionts, S. (2012, March 1). Food Trucks’ Rocky Roads to Success. *Fox Business*, Retrieved October 26, 2012 from <http://smallbusiness.foxbusiness.com/entrepreneurs/2012/03/01/food-trucks-rocky-roads-to-success/>.

⁴⁹ Clark, 2012.

⁵⁰ Moore, G. (2012, August 17). Free lunch in the Financial District? Not at these food trucks. *Boston Business Journal*, Retrieved October 26, 2012 from http://www.bizjournals.com/boston/blog/bottom_line/2012/08/food-truck-regulations.html?page=all.

⁵¹ Norman, Frommer, Gall and Knepper, 2011, p. 32; Armour, S. (2012, May 9). Gourmet Food Trucks Fight Inspectors’ Perceptions. *Bloomberg Businessweek*, Retrieved October 26, 2012 from <http://www.businessweek.com/news/2012-05-09/gourmet-food-trucks-fight-inspectors-perceptions#p1>; (2012, July 19). Food Trucks Inspected for Safety,” *WBNS-10TV*, Retrieved October 26, 2012 from <http://www.10tv.com/content/stories/2012/07/19/columbus-food-trucks-inspected-for-safety.html>.

⁵² Norman, Frommer, Gall and Knepper, 2011, p. 32.

⁵³ Food Truck Association of Metropolitan Washington/D.C. Food Truck Association, Food Truck Code of Conduct, Retrieved October 18, 2012 from http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&ved=0CB4QFjAA&url=http%3A%2F%2Fwww.dcfoodtrucks.org%2Fdl%2FDCFDA_Application.pdf&ei=1FmBUJ7iG6fC0QGOqoCQBA&usg=AFQjCNFLCcfig82QmZe_kfmpbbZU_U7qQ&sig2=nS0R5aCeFNXFRaRwVMhmVA.

⁵⁴ See L.A. City Code § 56.08(c).

⁵⁵ Hermosillo, J. (2012). Loncheras: A look at the stationary food trucks of Los Angeles. Masters Thesis, Los Angeles: University of California. P. 8. Although police and city officials complained that loncheras increased litter, this is “contradicted by the reputation many seem to enjoy among their neighbors for maintaining their areas clean.”

⁵⁶ Gall and Frommer, 2012, p. 21.

⁵⁷ The Southern California Mobile Food Vendor’s Association takes it upon itself to pay for street cleanup after First Fridays and other community events in which food trucks participate. Interview with Attorney Jeffrey D. Dermer,

counsel for the Southern California Mobile Food Vendor’s Association, November 6, 2012. The Food Truck Association of Metropolitan Washington requires members to “keep the area around [their] vehicle clean and remove all trash at the end of [their] service period, leaving the location cleaner than when [they] arrived.” Food Truck Association of Metropolitan Washington/D.C. Food Truck Association, Food Truck Code of Conduct, Retrieved October 18, 2012 from http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&ved=0CB4QFjAA&url=http%3A%2F%2Fwww.dcfoodtrucks.org%2Fd%2FDCFTA_Application.pdf&ei=1FmBUJ7iG6fC0QGOqoCQBA&usg=AFQjCNFLCcfiq82QmZe_kfmpbbZU_U7qQ&sig2=nS0R5aCeFNXFRaRwVMhmVA.

⁵⁸ See, e.g., *Merrifield v. Lockyer*, 547 F.3d 978, 991 (9th Cir. 2008) (striking down regulatory regime because it “was designed to favor economically certain constituents at the expense of others similarly situated, such as Merrifield”); *Craigmiles v. Giles*, 312 F.3d 220, 229 (6th Cir. 2002) (invalidating a rule permitting only funeral directors to sell caskets because it was a “naked attempt to raise a fortress protecting the monopoly rents that funeral directors extract from consumers”); see also *St. Joseph Abbey v. Castille*, –F.3d–, No. 11-30756, 2012 U.S. App. LEXIS 22060, at *4 (5th Cir. Oct. 23, 2012) ([N]either precedent nor broader principles suggest that mere economic protectionism of a pet industry is a legitimate government purpose....”)