



INSTITUTE FOR JUSTICE

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**Via Email and USPS**

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*Re: Texas' restriction on food trucks operating at rest stops during COVID-19*

To Chairman Bugg, Commissioner New, Commissioner Ryan, and Commissioner Vaughn:

Hello, my name is Jessica Gandy and I am an attorney with the Institute for Justice, a nationwide public-interest law firm. As you may know, the Federal Highway Administration (FHWA) has declared that it will not take any actions against states that allow commercial food trucks to operate at rest stops and provide meals for interstate



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commercial truck drivers.<sup>1</sup> Despite that declaration, the Institute for Justice has learned that Texas continues to prohibit food trucks from operating at rest stops during the COVID-19 pandemic. It is now more important than ever that truck drivers are supported so that they can safely continue their essential work. We request that you waive restrictions for food truck businesses at rest stops now.

Throughout its nearly 30-year history, the Institute for Justice has worked to remove and reduce arbitrary and anticompetitive regulations for small businesses. For example, IJ has defeated state-sanctioned monopolies for casket sales, taxi cabs, healthcare providers, food trucks and more. IJ has successfully brought challenges to protect food truck businesses from anticompetitive regulations across Texas – including businesses in [El Paso](#) and [San Antonio](#). These victories opened up marketplaces, encouraged new businesses and jobs, and gave consumers greater options than those monopolies ever provided.

America's truckers are a critically important consumer group and they need your help. As the COVID-19 pandemic has demonstrated, Texans and all Americans heavily rely on commercial truck drivers. They transport essential goods like medical devices, groceries and PPEs across the country to where they are most needed. These drivers often work 70 hours work weeks and are on the road for over 300 days a year. Their health and safety are imperative to successfully combating COVID-19.

Texas can promote truck driver health and safety by giving them healthy food options. A poor diet can lead to driver fatigue,<sup>2</sup> which both decreases productivity and increases the chance for accidents. Because numerous restaurants have closed pursuant to Governor Abbott's stay-at-home order, truck drivers now rely on finding a meal at one of Texas' 80<sup>3</sup> rest stops. But these rest stops' vending machines and other limited food options do not provide enough sustenance for drivers. Food trucks can provide these essential workers with a more nutritious and hot meal. That's why numerous states have allowed food trucks to operate at rest stops during the COVID-19 pandemic, including Arizona, Arkansas, California, Connecticut, Florida, Idaho, Indiana, New Mexico, Ohio, and West Virginia.

Currently, Texas<sup>4</sup> law prohibits food truck drivers from operating at rest stops out of fear of losing federal highway funding. **But now, the FHWA has announced that**

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<sup>1</sup> <https://www.fhwa.dot.gov/media/noe.cfm>

<sup>2</sup> <https://www.fmcsa.dot.gov/safety/driver-safety/cmV-driving-tips-driver-fatigue>

<sup>3</sup> Safety Rest Area List; <https://www.txdot.gov/inside-txdot/division/maintenance/sra-locations.html>

<sup>4</sup> 43 TAC § 22.14(b)(1); 43 TAC §23.49



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**states may open their rest stops to food truck operators without the threat of losing federal aid. Therefore, it is now under your power to waive these restrictions and allow food trucks to operate at rest stops.** Doing so would provide long-haul truckers with the food options that they so desperately need to stay healthy and perform their essential services safely.

This pandemic has upended much of American life. It is critical that government at all levels work to reduce barriers on our road to recovery. To that end, the Institute for Justice thanks you for considering this proposal, one of several it has put forward as part of IJ's response to COVID-19. You can find more information about that at <https://ij.org/COVID-19>. If you have any questions, please reach out at 703-682-9320 ext. 345 or [jgandy@ij.org](mailto:jgandy@ij.org).

Sincerely,

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