



INSTITUTE FOR JUSTICE

May 13, 2020

Via Email and USPS

Commissioner Clay Bright
Department of Transportation
James K. Polk Building
505 Deaderick Street-Suite 700
Nashville, Tennessee 37243-1402
Clay.bright@tn.gov

Re: Tennessee's restriction on food trucks operating at rest stops during COVID-19

Dear Commissioner Bright:

On April 3rd, the Federal Highway Administration (FHWA) announced it will not take actions against states that allow commercial food trucks to operate at rest stops and provide meals for interstate commercial truck drivers.¹ We write on behalf of the Institute for Justice (IJ) to request that you continue your commitment to truck drivers by allowing food trucks to serve these essential workers at rest areas across Tennessee.

Throughout its nearly 30-year history of public interest advocacy, IJ has worked to remove and reduce arbitrary and anticompetitive regulations for small businesses. For example, IJ has defeated state-sanctioned monopolies for taxi cabs, healthcare providers, food trucks and more. In Tennessee, IJ successfully challenged its durational residency requirement for retail liquor stores² and the funeral director's license requirement for casket sales.³ These victories opened marketplaces, encouraged new businesses and jobs, and gave consumers greater options.

America's truckers are a critically important to the livelihood of all Americans and they need your help. As the COVID-19 pandemic has demonstrated, Tennesseans 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.

¹ Notice of Enforcement Discretion, <https://www.fhwa.dot.gov/media/noe.cfm>

² *Tennessee Wine and Spirits Retailer Assn. v. Thomas* 139 S. Ct. 2449; <https://ij.org/case/tennessee-wine-and-spirits-retailers-association-v-thomas/>

³ *Craigsmiles v. Giles* 312 F.3d 220; <https://ij.org/case/craigsmiles-v-giles/>

Commissioner Clay Bright

May 13, 2020

Page 2 of 2

Tennessee can promote truck drivers' health and safety by allowing healthy food options. A poor diet can lead to driver fatigue,⁴ which both decreases productivity and increases the chance for accidents. Even though Governor Lee did not extend his stay-at home order, it will still be very difficult for truck drivers to find suitable hot meals during the state's re-opening as restaurants may remain closed. Vending machines and other limited food options at Tennessee's 19 rest stops⁵ do not provide enough sustenance for drivers who are working tirelessly to deliver goods to consumers across the country.

Food trucks can provide these essential workers with a more nutritious and hot meal. That is 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. Food truck businesses in Tennessee are ready and willing to serve these truck drivers at the state's rest areas.

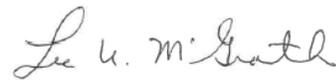
As the FHWA announced that states may open their rest stops to food truck operators without the threat of losing federal aid, you may exercise your power⁶ to allow food trucks to operate at rest stops. Doing so would provide long-haul truckers with the food options that they so desperately need to stay healthy and perform their essential services safely. Your action will generate goodwill that will benefit your Department. Truck drivers and consumers will recognize you for your thoughtfulness and leadership in a time of crisis.

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, we thank you for considering this proposal, one of several put forward as part of IJ's response to COVID-19. You may find more about IJ's response at <https://ij.org/COVID-19>. Please do not hesitate to contact us should you have any questions. Thank you again.

Sincerely,



Jessica Gandy
Legislative Counsel
(703) 682-9320
jgandy@ij.org



Lee U. McGrath
Senior Legislative Counsel
(612) 435-3451
lmcgrath@ij.org

⁴ CMV Driving Tips – Driver Fatigue, <https://www.fmcsa.dot.gov/safety/driver-safety/cmv-driving-tips-driver-fatigue>

⁵ Welcome Center & Rest Areas, <https://www.tn.gov/tdot/maintenance/welcome-center---rest-areas.html>

⁶ T.C.A. §4-3-2303(9)