

SPRING 2024

KENTUCKY

RESTAURANT JOURNAL

The Official Publication of the Kentucky Restaurant Association

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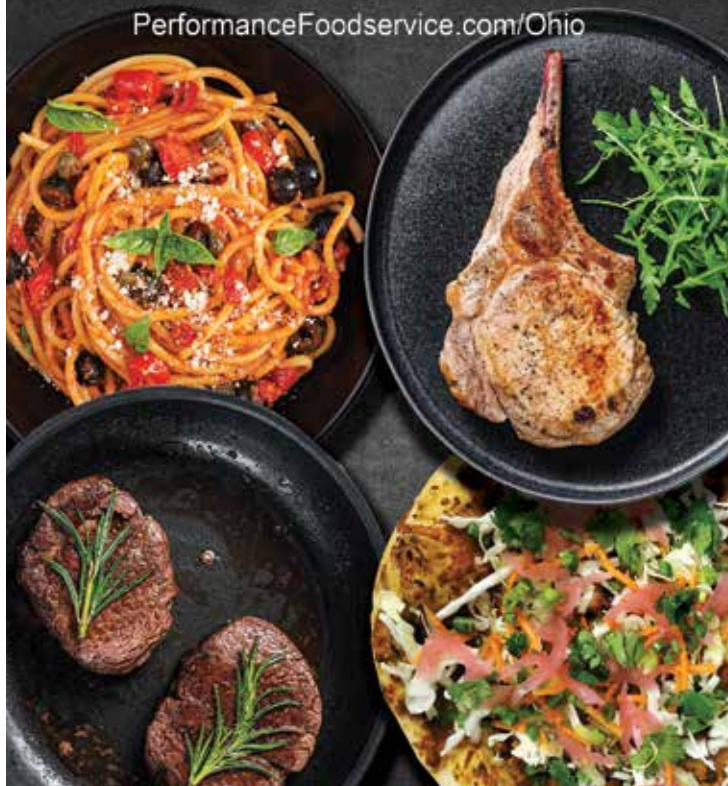
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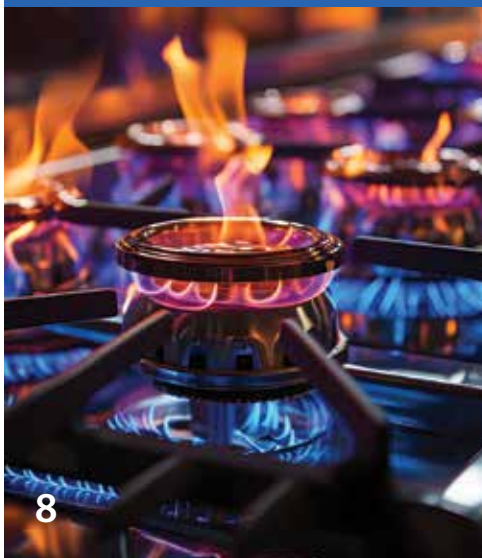
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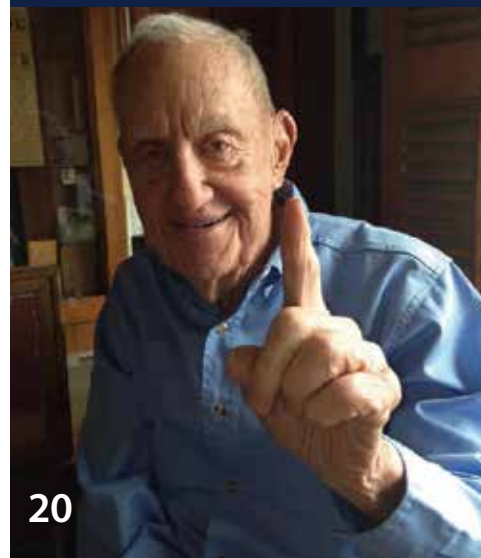
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CHEFS THAT SIZZLE



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Do you know a chef in your area who is creating a buzz with innovative cuisine, exceptional presentation or fresh new ideas?

KRA wants to tell the state about them in a quarterly feature in the Kentucky Restaurant Journal. Submit your favorite chef du jour to stacy@kyra.org. Please include restaurant and contact information. Selected submissions will be featured in the magazine as Chefs That Sizzle.

SAVE THE DATES

Chefs for Hope April 11
Sporting Clays Tournament June 10
Golftoberfest October 7
Expo event November 21
Restaurateur's Gala January 2025



Chefs That Sizzle

A WORD FROM OUR PRESIDENT

2024 is a momentous year! We have the 150th running of the Kentucky Derby on May 4. 50th Taste of Louisville on October 16. Kern's Kitchen Derby Pie turns 70 this year! As I was thinking about these special occasions, it occurred to me that KRA is 60 years old in 2024. A group of restaurateurs, including Colonel Harland Sanders, Ed Hasenaur and Fred Kunz Sr. founded the Kentucky Restaurant Association.

It's fitting that this issue of our publication is centered around events! In January we held the Restaurateur's Gala and honored many deserving nominees. Our Northern Kentucky Chapter held its Mardi Gras for Homeless Children on Fat Tuesday, February 13 – WOW! That is one fun evening, and raised thousands of dollars for several homeless children's charities. On March 1-2 we held our Kentucky ProStart Invitational (KPSI) and saw many talented culinary and management students compete for the honor of representing Kentucky at the National ProStart Invitational (NPSI) at the end of April. We'll feed our state legislators and their staff at our annual "Taste of the Commonwealth" lunch at the capitol on March 12. Our Sporting Clays tournament – June 10 - will be here before we know it, then the Louisville Chapter's Firecracker Scramble (June 24) and Taste of Louisville (October 16) and Golftoberfest on October 7.

We're re-formatting our November Expo event, so stay tuned for details in upcoming issues. Throughout the year our Chapters will hold meetings and social events, so if you have a suggestion or would like to hold please let us know.

We're in the thick of our legislative session in Frankfort. With all you have going on running your businesses, I know it is hard to respond when I ask you to get in touch with a legislator about an issue, but it truly is important and makes a difference when they hear from business owners.

Here's my membership plug – if you're reading this you are interested in Kentucky's restaurant industry. If you're not a KRA member you're not taking part in your professional association, the way to network and learn from others, save some money (hello insurance and training discounts – and more) and be a good restaurant citizen. Oh, the dues are a few hundred dollars – and they're mostly tax deductible. Please consider joining, and thank you if you are a member. I just celebrated my 29th work anniversary with KRA – guess it's a career at this point – and I absolutely love representing all of the restaurants from every corner of Kentucky. Please let me know how I and KRA can serve you better.

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Calendar of Events

MARCH

- 1-2 Kentucky ProStart Invitational competition
Gordon Food Service, Shepherdsville
- 5 Louisville Chapter Board meeting
- 10 Daylight Savings Time begins
- 12 ServSafe Louisville
- 12 Taste of the Commonwealth, Kentucky Capitol
- 17 St. Patrick's Day
- 26 ServSafe Louisville
- 29 Good Friday
- 31 Easter

APRIL

- 8 ServSafe Louisville
- 8 KRA Board of Directors meeting
- 11 Chefs for Hope
- 15 Tax Day
- 26-28 National ProStart Invitational, Baltimore
- 27 ServSafe Louisville

MAY

- 3 Kentucky Oaks, Churchill Downs
- 4 150th Kentucky Derby, Churchill Downs
- 5 Cinco de Mayo
- 7 ServSafe Louisville
- 12 Mother's Day
- 18-21 National Restaurant Association Show
- 20 ServSafe Louisville
- 27 Memorial Day



KRA members receive a discount on registrations.

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FRONT BURNER

by STACY ROOF

2024 LEGISLATIVE SESSION BEGINS

The 2024 session of the General Assembly began on Jan. 2, 2024. A flurry of legislation was introduced in the initial days, likely due to the elimination of the pre-filed bill process. The priorities of the Kentucky House appear to be a constitutional amendment on charter schools and private school vouchers, establishing a regulatory framework for autonomous vehicles, addressing violent crime, diversity equity & inclusion in post-secondary education, and of course the budget. In the Senate, top priorities for the chamber seems to be focused on education at all levels. That doesn't mean that there isn't legislation moving that will impact the restaurant industry.

ELECTIONS: The filing deadline for legislators to file for reelection was January 5, 2024, and once again there are several legislative retirements, including surprising retirements.

Senate Majority Floor Leader Damon Thayer (R-Georgetown) announced the end of more than 20 years of service in the Kentucky Senate. Thayer was a champion of the restaurant industry, especially during the COVID-19 pandemic assisting in passing legislation such as cocktails to go, Restaurant Revitalization Fund tax treatment and other bills aimed at boosting the industry. In the House, House Economic Development Committee Chair Russell Webber (R-Shepherdsville) announced his retirement, in order to take a position within the state Treasurer's office. Another surprise in the House was that Rep. Brandon Reed (R-Hodgenville) announced that he would be leaving the legislature to serve in the newly elected Agricultural Commissioner's office and serve over the Office of Agricultural Policy.

There are others who will not seek reelection and for advocates within the restaurant community, it means they will need to remain vigilant

in developing relationships with legislators, especially those who will be newly elected come November 2024.

VINTAGE SPIRITS: The General Assembly created the ability for restaurants to purchase vintage spirits from private sellers, at no more than 24 bottles in a 12-month period from one seller and the regulations included reporting requirements for the purchaser. It isn't hard to notice the bourbon craze that is fueling tourism in the state, leading to concerns that the vintage spirits process needed additional regulations as new reports discussed some getting violations from Department of Alcoholic Beverage Control (ABC) for purchasing ineligible bottles and not filing the appropriate reports.

That led some in the industry to want to see additional regulations and enter HB 493, a measure that KRA worked with House Licensing & Occupations Committee Chair

Matt Koch (R-Paris) to draft a bill that provided such additional regulation, but left the vintage spirits process open for restaurants to get access to rare and unique bourbon products. House Bill 493 will require a restaurant purchasing vintage spirits from a private seller to get a license, at a cost of \$300 annually. The restaurant is required to report the name and contact information of sellers to the ABC. The limit of 24 bottles in a 12-month period from a seller would remain. If the seller is found to have violated the selling of more than 24 bottles in a 12-month period, they could be subject to a Class A misdemeanor for the first offense and a Class D felony for the second and subsequent offense. A vintage spirits licensee could lose their vintage spirits license if they violate any provisions. KRA worked with Koch, the distillers and other interested in the alcohol industry to reach this compromise.

DRAG SHOWS AND ADULT-ORIENTED BUSINESSES

ONCE AGAIN TARGETED IN LEGISLATION: Two bills, SB 147 and HB 402, would define adult-oriented businesses as businesses that have adult nudity, including sexually explicit drag shows, and prohibit them from being located within 933 feet of an educational setting, a childcare facility, or a recreational area. If a business that is not regularly operating as an adult-oriented business engages in an activity that would make it one it could not be located within 933 feet of the previously mentioned locations. The significance of 933 feet is that it is the average size of a city block. Sen. Lindsey Tichenor (R-Smithfield) is the primary sponsor of SB 147, which appears to be the legislation that is moving.

STATE BUDGET: Gov. Beshear proposed his version of the state budget that was met with skepticism

amongst House members. The House quickly began working on their version of the budget and has already passed the budget to the other chamber. The House didn't spend all the projected revenues, and there remains a question as to whether the chambers will agree on another reduction in the personal income tax. The Senate is now formulating their version of the budget. There still remain big questions as to what the budget priorities are for the House and Senate.

LOCAL GOVERNMENT

ISSUES: Lexington-Fayette Urban County Government Council is continuing to evaluate its new proposed comprehensive plan that would prohibit drive-thrus at restaurants in certain zones within the city. Currently the city has the option to decide whether to allow for drive thrus, but the proposed comprehensive plan would eliminate menu boards and drive-up ordering except at one window. Customers would order at that one window and then pick up food at the same location. The comprehensive plan is aimed at encouraging more walkable communities, with less reliance on cars. If you have concerns about the proposed comprehensive plan it is imperative that you reach out to the Lexington Fayette Urban County Council.

LABOR ISSUES:

UNEMPLOYMENT ISSUES: The Senate is set to pass **SB 140** which would remove the waiver application deadline for unemployment insurance overpayment from 30 days to one year on claims filed between January 27, 2020, and December 31, 2020. The state would not be able to seek repayment of any overpayment of UI funds for one year after notifying a claimant they were overpaid.

CHILD LABOR LAWS: The House Economic Development and Workforce Committee passed **HB 255** that would ensure Kentucky's Department of Workplace Standards could not file regulations on child labor that would be more stringent than federal regs. The House is scheduled to vote on the bill this week.

"(This) will expand opportunities for 16 and 17-year-olds to gain valuable experience in the workplace, which will set them up for success in adulthood," primary sponsor Rep. Phil Pratt (R-Georgetown) said, "which is the same approach that exists in federal law."

Pratt said HB 255 would lift some restrictions on work hours for 16 and 17-year-olds, but would still prohibit them from working certain jobs with a few exceptions, in alignment with Occupational Safety and Health Administration (OSHA) law. The prohibited occupations for teens include manufacturing jobs other than clerical work, coal mining, forest firefighting, logging, roofing, work in alcohol distilleries and bottling plants, and most jobs that require operating heavy machinery like a forklift.

Exceptions would be allowed for teens who are enrolled in an apprenticeship or a student-learning program and there are exceptions for agriculture. The bill also keeps restrictions on work hours for those under the age of 16 except for work-study programs, a high-school graduate or supporting a child.

TASTE OF THE COMMONWEALTH

Come join us for Taste of the Commonwealth on March 12 at the Legislative Research Commission Annex 702 Capital Avenue room 113. Serve legislators and staff and get the opportunity to discuss legislative issues that are important to restaurants.



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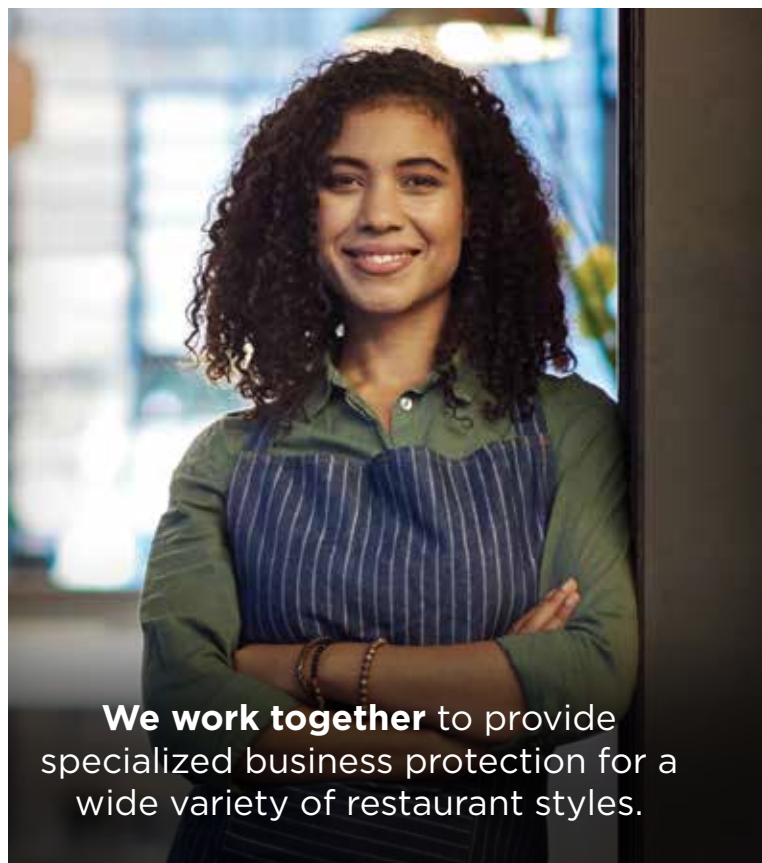
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Sporting Clays Tournament

June 10, 2024



Jefferson Gun Club – Brooks, Kentucky

Registration Form

Contact Information (Required):

Company: _____

Contact: _____ Title: _____

Address: _____

Phone: _____ Fax: _____ Email: _____

☐ I am registering a team for the KRA Sporting Clays Tournament. My team members are listed below.
Team fee \$500.00*

☐ I am registering myself for the KRA Sporting Clays Tournament and need to be placed with a team for play. **Individual fee \$125***

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June 10, 2024

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The Kentucky Restaurant Association presents the

2024 Restaurateur's Gala **January 29, 2024**

Culinary Student of the Year

Lania Fant – South Central Kentucky Community & Technical College - Winner
Aidan Trent – Sullivan University **Tyler Hart** – Sullivan University
Anthony Michelloti – Sullivan University Lexington **Chris Pappalardo** –
Rachel Abisag Rodriguez - South Central Kentucky Community & Technical College
Madison Williams - Sullivan University

Chapter Member of the Year

Tom Enyeart - Louisville

Felicia Corbett Front of House Employee of the Year Winner

Jessica Coy – Brasserie Provence

Back of House Employee of the Year Winner

Phil Vogt – River House Restaurant

Employee of the Year

Kate Jones – Naïve Kitchen & Bar **Jack Molidor** – Louisville Marriott Downtown
Samantha Sutton – Homewood Suites Louisville Downtown

Manager of the Year

Chef Allen "Smooth" Hubbard – Martini Italian Bistro - Winner **Engelica Culatta** – Craft Culture Concepts
Amanda Griffith – Ramsey's Diners **Stephanie Haley** – Arcadia Communities
Darryl LaPradd – Bristol Bar & Grille **Daniel Rees** – Captain's Quarters Riverside Grille
Miles South – Black Rabbit/Fox Den/Lou Lou/Osteria **Santana Thompson** – Khalil's
Jenna Zolari – Nostalgic Restaurant & Cocktail House

Supplier of the Year

Naked Greens – Robert Ball – Winner
Gordon Food Service – Tom Enyeart **US Foods** – Kimberlie Thompson

Restaurateur of the Year

Judy Palombino – Boombozz Craft Pizza + Taphouse/Manny & Merle's - Winner
Rocco Cadolini – ROC Restaurant **Christy "Mammy" Clark** – Mammy's Kitchen & Bar
Catherine MacDowall – Naïve & Nostalgic

Congratulations to all the Nominees!



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by RICH CLEAVES, KENTUCKY PROSTART COORDINATOR

This is a busy time of year for the Kentucky ProStart program. By the time you are reading this article the Kentucky ProStart Invitational (KPSI) will have been held at the Gordon Food Service Distribution Center in Shepherdsville, Kentucky on March 2nd. ProStart students from high schools around Kentucky showed off their culinary and hospitality management skills to a panel of industry judges for the right to compete in the ProStart National competition being held in Baltimore on April 26-28. Watching these students compete is always inspiring, and our hats off to the educators and the students who work so hard in planning and executing their presentations.

The next big ProStart event is our Chefs for Hope dinner taking place at Louisville's Savor at River House on April 11th. Chef Josh Moore from Volare Restaurant in Louisville leads a star-studded group of chefs who prepare a wonderful 5 course dinner. Chef Moore is joined by Chef John Varanese from Varanese and River House restaurants, Chef Josh Hillyard of Chef & Jeff, Chef David Danielson from Dant Crossing, Chef Ming Pu from Brooklyn and the Butcher, Chef Henry Wesley at LeMoo, and Chef Jay Bellucci from Noosh Nosh. Assisting the chefs we have many Kentucky ProStart culinary students. It is a great learning experience for the students, and a wonderful teaching opportunity for the chefs. Please consider joining us April 11th at Savor for a culinary night to remember. Tickets can be purchased on the Kentucky Restaurant Association website.

I also want to acknowledge some of the organizations who have supported our Kentucky ProStart program: the Dine Company, C Worth Super Store, Sullivan University, Bluegrass Hospitality Group, Ecolab, Kentucky Livestock Coalition, Louisville Tourism, Against the Grain, Texas Roadhouse, and Gordon Food Service. Thanks to all of you!





&



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Chefs for Hope



CHEFS FOR HOPE

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Thursday, April 11, 2024

Savor at River House

3015 River Road, Louisville, Kentucky

**You're invited to a culinary night to remember!
Some of the area's top chefs come together to benefit
Kentucky ProStart, a high school program training
tomorrow's hospitality industry professionals.**

Participating Chefs*:

Lead Chef Josh Moore – Volare • John Varanese – Varanese, River House
Josh Hillyard – Chef & Jeff • David Danielson – Log Still Distillery
Ming Pu – Brooklyn and The Butcher • Henry Wesley – Le Moo
Jay Belucci - Vincenzo's

6:30 pm

Cocktails & Hors D'oeuvres

7:00 pm

6 Course Fine Dining Experience

Tickets: \$150/person

\$1000/table of 8

**Visit kyra.org/ProStart for
details and tickets**

*Participating Chefs subject to change



HOW (AND WHY) TO ADD A CATERING LINE OF REVENUE

by ANNE SHADLE
OWNER OF LEFT BRAIN SOLUTIONS
& CO-OWNER OF MAYAN CAFE

Running a restaurant is hard primarily because the profit margin is so small. 4% is industry average. Sit with that for a second – 4%. If you have a bad few months (ahem, winter) it can be nearly impossible to come back from by the end of the year. If you have an employee stealing from you or if you don't realize that your meat purveyor increased their prices or if you give too many raises to your cooks in an effort to keep them happy – any or all of these things could mean that you don't make any profit in a year.

A solid strategy to combat these low profit margins is to add an additional line of revenue that shares the same inventory as your restaurant. Catering is a great option. By adding

this additional line of revenue that also shares operating expenses and thus has a higher profit margin, this can help balance out the lower margins of the restaurant's operations. Here are some things to consider as you get started.

1. MENU PREP: Go through your current menu and identify hot dishes that hold well on a chafer. Buffet style service is typically the first step into catering so planning for this type of setup is best. Identify ingredients you consistently use on your restaurant menu that you could use in other ways on a catering menu. Come up with chips & dip style appetizers as well as other small bites appetizers that can be served

room temp. Keep in mind that sharing food inventory across these two lines of revenue is what makes the whole operation more profitable. Make a catering menu that has 5-10 appetizers, 3-4 salads, 4-5 lunch options, 5-6 proteins, 4-5 sides and a couple dessert options.

2. TEST ALL YOUR DISHES: Make all of the items you put on your menu and test them out as they would be served. Leave hot dishes on a chafer (you can buy disposable chafers at Restaurant Depot or Webrestaurant.com for not too much) for 1-2 hours and see how they taste after. Leave room temp dishes out for an hour and then try them. Make sure the

dishes you're hoping to serve can stand up over the time that is always involved with catering. PRO TIP: braised meats are your friend. Any dish that you aren't proud of, change or remove.

3. REFERRAL SOURCE

IDENTIFICATION: Think through your current customers and network of vendors, colleagues and friends and identify anyone who works in a corporate setting. This is the best place to start looking for customers. Reach out to these folks and ask if you can bring them a sample box of your new catered menu options. If they are willing to meet, invest in making some marketing materials you can leave with these folks. Your food is your best advertisement, so make sure the dishes you're bringing are memorable. Follow up afterwards and send them your menu with prices.

4. LOOK UP EVENT VENUES:

There are some event venues that don't have exclusive caterer lists. Look up venues in your area and see who has an open caterer's policy. Reach out to event teams at these places, asking to bring samples by as well. If you can get any of these people excited about your food and brand, they will recommend you to their clients who are booking events. Identify other event venues that have closed caterer lists and see if you have any contacts at these locations. Once you have a few events under your belt, reach out to ask what they require to join their list. Be sure to share what differentiates you from the other caterer's on their list.

These are just a few of the initial

steps to starting an events-based line of revenue. My suggestion is that you, the owner of the restaurant, would need to have enough time available to be the one to execute this new line of revenue at the beginning. It won't be consistent enough initially to pay someone else to do it and you need to master all aspects of the operation before passing it off to someone else. Just a quick point of reference, when our catering shifted from \$150,000/year to \$350,000 the next year, we added 2 full time staff members to relieve myself from the planning side of catering and my business partner from prepping and cooking everything.

Catering can be a very strategic addition to a restaurant operation if it's done well. I'm happy to help anyone looking to start or grow their catering operations!

In 2007, I opened Mayan Café with my business partner, Chef Bruce Ucán. Over these 17 years, I have learned countless lessons about how to run our business sustainably and enjoyably. After working with over 400 small business owners as a business coach with the Kentucky Small Business Development Center, I decided to start my own consulting firm. With my clients now, we do a deep dive into their financial management habits, HR practices and marketing strategies with the goal of increasing efficiency and profitability. If you're interested to learn how to run your business smarter, please reach out to me.

anne@leftbrainsolutions.io





Chefs That Sizzle

Owensboro, KY - In 1963, Tom and Nancy Miller opened a pay-to-fish lake on family property that once was home to his father's coal mines. As more and more fishermen visited, he added a small menu with plates and sandwiches to sell at the bait shop. As the Windy Hollow Lakes crowd added a large campground, swimming lake and more fishing lakes. They also added a new restaurant on the banks of the pay lake.

Windy Hollow Restaurant was located 10 miles outside of Owensboro, Ky. It was home to great food and great fishing! Tom's twin brother, Hal Miller, joined him at Windy Hollow in 1964. Hal and his wife Deanna opened the original Windy Hollow Country Store in the old TP Miller Coal Company Store where the Miller Family worked and lived in the 1920's. Hal later added a stock car racetrack, a dragstrip, and moved the store in the family's old tobacco barn where he was able to open a large museum. The barn was also a movie set in 1972 during the filming of "The Marshal of Windy Hollow". It was also home to the Windy Hollow Jamboree from 1972 to 1985.

Getting Hal to join him at Windy Hollow was important to Tom because as twins, like many others, they did everything together! They were drafted for World War 2 when they had just 2-3 weeks remaining of high school. They asked if they could finish high school and then go. They were told that they could, but they would be separated. The only way to stay together in the service was to

enlist before their draft date so they dropped out of high school to join the Army's 297th Engineers Combat Battalion. They were in the same unit but separate companies. During their time in the war, they landed on Utah Beach on D-Day, built bridges across Europe and was at the Battle of the Bulge and helped liberate the concentration camp, Nordhausen.

In 1972, the 100-seat restaurant burned down. Immediately, Tom started rebuilding. He was able to build and open it in just 3 months. Sadly, in 1974, Tom was diagnosed with leukemia so Hal offered to buy the restaurant and lakes so he could focus on his health. Unfortunately, Tom passed away a few months later at age 51. Hal and Deanna

had to quickly learn how to operate the recreation area. Neither thought they would ever be operating the lake or restaurant, but they learned quickly! Over the years, the restaurant grew to be as much as a museum as it was a restaurant. Hal was a collector of many things including old cowboy memorabilia, WWII memorabilia, primitives and local history items. Growing up in the 1920s and 1930s, they learned about hard work but also watched the country change and grow. He was now able to collect items that he grew up with that were considered antiques.

Hal expanded the restaurant to seat 240 people. Starting in 1996, after a few cooks retired, Hal decided to try opening on

SANDWICHES	MENU	ICE CREAM
Hamburger.....35¢		Vanilla.....(dish) 20¢
Cheeseburger.....40¢	FISH DINNER	Chocolate.....(dish) 20¢
Hot Dogs.....25¢	\$1.25	DRINKS
Ham.....35¢	SHRIMP DINNER	Coffee.....10¢
Ham & Cheese.....40¢	\$1.25	Milk.....10¢
Cheese.....35¢	CHICKEN DINNER	Iced Tea.....10¢
SALADS	\$1.25	Orange.....10¢
Cole Slaw.....30¢		Sprite.....10¢
Lettuce & Tomato.....30¢	Served with... Hush Puppies -	Coca-Cola.....10¢
Cottage Cheese & Peas.....30¢	French Fries - Cole Slaw	

Sunday only. Sundays featured our Country Ham Breakfast Buffet. Then in 2006, the unthinkable happened. The restaurant burned down again. It was again a total loss. But this World War 2 veteran, at age 83, couldn't be stopped. He and Deanna re-opened in a new location in less than 90 days! Hal worked every week and loved being there on Sunday to chat with folks that have become like family over the years.

Hal passed away at age 90 in 2014 and Deanna passed in 2020 but the restaurant is still in the family. It is now operated by Hal and Deanna's youngest daughter, Evelyn "Rooster" Miller. There is now a second restaurant, Windy Hollow Biscuit House in Owensboro that is operated by Evelyn and her daughter, Hallie McCarty. Windy Hollow was visited by American Pickers in 2016 and is featured on the "Slim Pickings" episode in season 15. The cast and crew enjoyed the homemade donuts and other breakfast favorites at the restaurant before heading over to the old museum to start their day of picking.

Windy Hollow Restaurant is still open only on Sundays with the Country Ham Breakfast Buffet. The all-day breakfast buffet has been a staple at Windy Hollow since the 1970's. Since then, only a few items have changed or been added! When the restaurant was open on weekend nights, leftovers would be added so they wouldn't go to waste! That is how we added fried chicken and banana pudding to the buffet!

The last item added was our baked garlic cheese grits, added in 2013. It was a family favorite of ours for Christmas, so we wanted to share them with everyone. Evelyn said, "My mother fixed cheese grits with Kraft garlic roll and challenged me to come up with something similar."

The Sunday buffet is available at both locations and includes customer favorites such as thick-cut bacon, Clifty Farms Country Ham, hand-breaded fried chicken and tenders, sausage, fresh-cut fried potatoes, fresh-cracked scrambled eggs, garlic cheese grits, homemade donuts, and banana pudding.

~Evelyn Miller, Windy Hollow Restaurant, Owensboro, KY

Windy Hollow Restaurant

8260 State Route 81
Owensboro KY 42301
270-785-4088

Windy Hollow Biscuit House

630 Emory Drive
Owensboro KY 42301
270-231-7222

www.visitwindyhollow.com



Baked Garlic Cheese Grits

Ingredients

- 1 C quick grits
- ½ C heavy cream (milk or half-and-half can be used)
- 1 ¾ C shredded cheddar cheese, mild or sharp
- 1 clove finely minced garlic
- ½ tsp garlic salt, or to taste Pepper, if desired

Directions

- Heat oven to 350°.
- Cook grits per package directions.
- When grits are done, remove from heat and stir in butter, heavy cream, cheese, garlic, salt and pepper.
- Pour into greased 8x8-inch baking dish and bake 45–60 minutes, until golden or to desired firmness. Serves 4–6.
- Note: Deanna Miller served this as a casserole that set up firm. These are served thinner at the restaurant. If you prefer thinner, add 1/2 cup more water when cooking grits.



JUMP ON IN:

FIVE STEPS TO SET UP A LAWFUL TIP POOL IN KENTUCKY

by EMILY LITZINGER,
FISHER PHILLIPS

Tipping is everywhere: the coffee shop, the florist, and even the dry cleaner! This booming tip culture has led many employers that may not have traditionally established a tip pool to consider using one to ease the impact of ever-increasing labor costs. How can you stay compliant with wage and hour laws while setting up a new system? This list provides helpful guidance for employers in Kentucky on how to establish a lawful tip pool.

STEP 1: DETERMINE IF THE TIP POOL IS VOLUNTARY OR MANDATORY

Historically, Kentucky was one of the outlier states that prohibited mandatory tip pools. But in 2022, the Kentucky Legislature loosened up the law, allowing employers to mandate tip pools with a few restrictions.

Now, employers in the state have the option of mandating a tip pool or establishing a voluntary one. As a practical matter, a voluntary tip pool may cause an administrative nightmare because you'd have to keep track of which workers are participating and which are not. So, the first step in establishing a tip pool is to determine whether it makes more sense for your business to require it or make it optional.

STEP 2: DECIDE WHETHER TO USE THE TIP CREDIT

After you've decided if the tip pool is required, you must next decide how you are going to pay employees. Are they "tipped employees" that work in an occupation in which they "customarily and regularly receive more than \$30 a month in tips"? If so, you may take a tip credit for these

employees – which allows you to pay them less than the minimum wage (but no less than \$2.13 an hour), so long as they make up the difference in tips and certain other criteria are met. For more on that topic, check out this article.

If you decide to take the tip credit, this will impact who can participate in the tip pool. For example, if you take a tip credit for tipped employees, you cannot allow those tipped employees to participate in a mixed pool with non-tipped employees (such as back-of-house employees, like cooks and dishwashers).

On the flip side, you have more flexibility to pool tips when you pay at least the standard minimum wage. The U.S. Department of Labor (USDOL) states that "[a]n employer

that pays its tipped employees the full minimum wage and does not take a tip credit may impose a tip-pooling arrangement that includes dishwashers, cooks, or other employees in the establishment who are not employed in an occupation in which employees customarily and regularly receive tips.” Put simply: no mixed pools when you take a tip credit.

STEP 3: ESTABLISH ELIGIBLE PARTICIPANTS

You now must consider the appropriate participants in the tip pool. As outlined above, if you are taking the tip credit, the pool must be limited to “tipped employees” such as servers and bartenders. If not — and the minimum wage is paid to participants — other workers can participate in the tip pool.

CAUTION – This does not mean owners, managers, or supervisors can participate in the tip pool. Federal and Kentucky law specifically prohibit them from participating or otherwise keeping employees’ tips regardless of whether the tip credit is taken.

While managers and supervisors may contribute tips to a pool, they cannot receive distributions from the tip pool. Managers and supervisors are, however, permitted to keep tips they receive directly from customers for services they “directly” and “solely” provide. For example, if the manager receives a tip for serving a customer along with an employee, they did not “solely” provide the service. As another word of caution, a recent Dallas-area restaurant chain found themselves on the receiving end of an FLSA violation by allowing hourly managers to participate in their tip pool. The price tag for this mistake? The restaurant owed about

\$867,500 in unpaid tips and overtime premiums.

Keeping this prohibition in mind, you should ensure employees are properly excluded from the tip pool if they would be considered managers. Although the USDOL uses the “duties test” in the FLSA’s executive exemption to determine who is a manager or supervisor, the tip-sharing rules do not require an employee be paid on a salary basis to be considered a manager. This means that assistant managers, team leaders, and shift runners could still be considered managers even without receiving a salary. Instead, “manager” can include an employee who has such duties as: interviewing, selecting, and training employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; disciplining employees; and planning the work.

STEP 4: MAKE A PLAN FOR DISTRIBUTIONS

Now that you’ve decided who will participate in the tip pool, consider how you will distribute these tips. Take a close look at your service model and where the tips are coming from. Do you run a full-service restaurant? Do you have a counter service model? Does one category of workers have more exposure to tipping patrons? These answers will impact the most effective way to distribute the tips.

If you have one set of workers that tends to get most of the tips, consider a tip-share program that allocates certain percentages to support workers, including server supports and runners. However, if you run a counter service model where the interaction is fairly consistent for all workers, consider distributing a pro

rata share based on workers hours for the week. For example, Employee A worked 40 hours and Employee B worked 10. Employee A is going to get a larger share of the tip pool fund at the end of the week than Employee B because they worked more hours.

STEP 5: PUT IT IN WRITING

You’ve made the hard decisions, and now you need to put it in writing. While written tip pooling agreements are not required under the law in Kentucky, we strongly recommend them. You will need to include the participants, method of distribution, whether it is mandatory or voluntary, and how to address concerns about the calculations. It’s always a good idea to have employees acknowledge receipt so if there is ever any confusion in the future, you have a signed document. We encourage you to work with your employment counsel to draft and/or review your tip pooling agreement.

CONCLUSION

If your business utilizes a tip pool or takes a tip credit, you should review your practices for compliance with evolving federal and state wage and hour laws. Fisher Phillips has created the Tip Credit Toolkit with documents aimed at helping you ensure (and demonstrate) federal compliance. Fisher Phillips will continue to monitor these rules and provide updates as appropriate. Make sure you are subscribed to Fisher Phillips’ Insight System to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, the author of this Insight, any attorney in our Louisville office, or any member of our Hospitality Industry Team.



Questions & Answers

Q: I hear about scam calls and try to educate my staff but it's hard to stress how vigilant we need to be every day. How can we communicate the importance to all staff members?

A: You are right to be concerned – we urge you to remind all staff at least weekly that if they answer the phone they should be on guard, and always get an owner or manager involved if a request is different. A member wrote about a call his Assistant Manager took claiming to be from the US Marshall's office about counterfeit cash they had in their safe, and they needed serial numbers for their investigation. Scammers get more and more creative. One member said they told a probable scammer “you are on a recorded line” and the scammer hung up after cussing. Andy Bennett with AssuredPartners says the scarier part is there is no insurance coverage for a business if there was identify theft that occurred in this situation or money that was fraudulently transferred. Crime and Cyber policies specifically do not cover phone scams such as this.

Q: How long should a restaurant keep credit card receipts? I'm getting conflicting answers.

A: Five years is the answer. We have a chart that lists hold times for all documents if you would like a copy, just let us know.

Q: Can my restaurant have servers tip pool at lunch but not at dinner, or vice versa?

A: Yes you can. For more tip pool information: <https://www.fisherphillips.com/en/news-insights/five-steps-lawful-tip-pool-kentucky.html>

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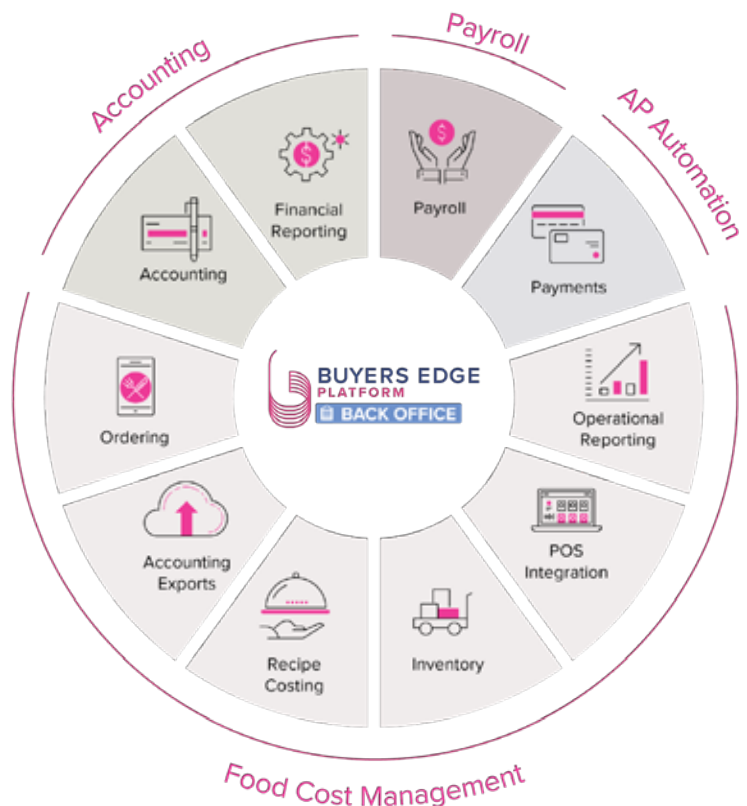
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- Family and Medical Leave Act: must be posted by private sector employers who employ 50 or more employees in 20 or more work weeks, and by all government agencies.

Individual notices may be printed from the US Department of Labor website at www.dol.gov or an all-in-one poster containing these six federal notices may be obtained from the KRA office. Kentucky state law requires all employers post the following notices as well:

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