



March 31, 2022

Stephanie Pollack
Deputy Administrator
Federal Highway Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Deputy Administrator Pollack:

Our associations represent hundreds of thousands of mostly small businesses, as well as American cities and localities and blind business owners that manage vending machines at Interstate Highway System (IHS) rest areas. The private sector's ability to operate in a competitive and robust marketplace ensures its ability to provide jobs, generate critical tax revenues and further enhance investments in alternative transportation energy. Our associations are concerned that the Federal Highway Administration (FHWA) continues to encourage inventive methods to circumvent the longstanding statutory ban on privatizing and commercializing IHS rest areas.

For example, FHWA announced on April 3, 2020, a non-enforcement directive¹ so that, under described circumstances, states could allow food trucks to operate at rest areas within the IHS right-of-way. Issued in the early days of the pandemic, the non-enforcement directive's purported intent was to ensure our nation's truck drivers had access to places to rest and buy food as they delivered essential goods and supplies since some off-highway businesses temporarily were forced to close. Although the non-enforcement directive was not formally withdrawn, FHWA assured our associations in July 2020 that the flexibility to enforce the rest area commercialization ban for food trucks was no longer needed since off-highway businesses were able to resume their operations.

It is unfortunate then that some states have resumed allowing food trucks to operate at IHS rest areas believing that they are protected by this COVID-19 non-enforcement notice. Like many across the nation, America's cities, restaurants, hotels, travel plazas, fuel retailers, convenience stores and blind business owners have been economically harmed by the COVID-19 pandemic. Not only does FHWA's non-enforcement directive result in foodservice transactions being redirected to food trucks from nearby blind-owned rest area vending machines or struggling off-

¹ Federal Highway Association, Notice of Enforcement Discretion (April 3, 2020) available at <https://www.fhwa.dot.gov/media/noe.cfm>.

highway businesses, it encourages states to explore other outside-of-the-box approaches to undermine the rest area commercialization ban.

When Congress created the IHS in 1956, Congress and community leaders feared that local businesses, jobs, and tax bases would shrink as motorists and truck drivers bypassed their cities and towns. For this and other reasons, Congress prohibited new IHS rest areas from offering commercial services, such as food and convenience items and automotive services. Since then, businesses have clustered near the Interstates at the interchanges to successfully provide these services to interstate travelers. Given how many businesses are located off of IHS exits, it is one of the most competitive business environments in the country. Congress has repeatedly and consistently upheld the ban on offering commercial services on the Interstate right-of-way, including in the recently enacted Infrastructure Investment and Jobs Act. Exceptions to the rest area commercialization ban – regardless of how seemingly targeted they might appear – threaten the competitive and robust marketplace that has been established along the Interstate System and the livelihood of blind business owners across the country.

Our associations urge FHWA to immediately revert to enforcing the long-standing ban on commercializing IHS rest areas. Thank you for your support and your attention to this important matter.

Sincerely,

NATSO, Representing America's Travel Centers and Truckstops
Energy Marketers of America
National Automatic Merchandising Association
National Association of Blind Merchants
National Association of Convenience Stores
National Franchisee Association
National League of Cities
National Restaurant Association
National Retail Federation
SIGMA: America's Leading Fuel Marketers