



NEW YORK STATE SENATOR

Patrick M. Gallivan

Senator Gallivan says Court Ruling is a Win for Restaurants & Allows Legislature to Reassert Itself in Pandemic Response

JIM RANNEY February 28, 2021

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Senator Patrick M. Gallivan (R-C-I, Elma) is applauding Saturday's ruling by State Supreme Court Justice Timothy Walker allowing dozens of bars and restaurants to stay open past the state's pandemic-related 11 p.m. curfew. Senator Gallivan joined more than 90 bars and restaurants as plaintiffs in the lawsuit. The preliminary injunction takes effect immediately.

The lawsuit also challenged the governor's use of executive orders, claiming directives such as the restaurant curfew, expire after 30 days. Senator Gallivan says the ruling helps restore the balance of power related to the state's COVID-19 policies.

"The power of the executive branch to issue such directives is not unlimited," Senator Gallivan said. "The ruling allows the legislature to reassert itself in the decision-making process and restores our system of checks and balances in relation to the state's pandemic response."

The judge pointed to a "lack of scientific evidence" showing that bar and restaurant patrons are at an elevated risk of contracting or spreading COVID-19 at any time, let alone 10 p.m. or 11 p.m. He indicated the plaintiffs demonstrated that the executive order was arbitrary and capricious.

"Bars and restaurants have worked hard to control the spread of the virus by mandating masks, limiting capacity and exercising practical health and safety procedures. The curfew was unwarranted and unfair to these businesses fighting to survive financially."

In Saturday's ruling, Judge Walker also questioned how the state could justify the restaurant curfew after allowing thousands of fans to attend a Buffalo Bills playoff game.

The Judge's decision can be found at the top of this article.