State of North Carolina

ROY COOPER

GOVERNOR

March 20, 2020

EXECUTIVE ORDER NO. 119

FACILITATING CRITICAL MOTOR VEHICLE OPERATIONS AND DELEGATING AUTHORITY TO THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO WAIVE REGULATIONS IN ORDER TO EXPAND ACCESS TO CHILD CARE AND SUPPORT LOCAL HEALTH DEPARTMENTS

WHEREAS, the undersigned issued Executive Order No. 116 on March 10, 2020 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, the World Health Organization declared COVID-19 a global pandemic on March 11, 2020; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121-5207 (the "Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, *et seq*. and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5), declared that the COVID-19 pandemic in the United States constitutes a national emergency beginning March 1, 2020; and

WHEREAS, on March 14, 2020, the undersigned issued Executive Order No. 117 which prohibited mass gatherings to no more than one hundred (100) people in the State of North Carolina and closed K-12 public schools to limit the spread of COVID-19; and

WHEREAS, on March 17, 2020, the undersigned issued Executive Order No. 118 which limited operations of restaurants and bars and broadened unemployment insurance benefits in response to COVID-19; and

WHEREAS, the North Carolina Department of Health and Human Services ("NCDHHS") confirmed the number of cases of COVID-19 in North Carolina continues to rise and has lab documentation of community spread; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the Governor to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, as a result of Executive Order No. 117 providers of health care, emergency medical services, law enforcement, and many other services may be in need of child care for their school-aged children due to the closure of schools; and

WHEREAS, as a result of the COVID-19 pandemic, providers of health care, emergency medical services, law enforcement, and other services may be in need of child care for children ages 0-5 in the event their child care providers cease service; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(3) the undersigned, is authorized and empowered to delegate any authority vested in the Governor under this Article and to provide for the subdelegation of any such authority; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(5) the undersigned, with the concurrence of the Council of State, may perform and exercise other such functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, to expand capacity for child care services, it will be necessary to suspend certain State child care regulations; and

WHEREAS, to support local health departments on the front lines of responding to the COVID-19 pandemic, it will be necessary to waive certain local health department regulations; and

WHEREAS, it is necessary to protect the public health, welfare and safety to waive and suspend the effects of certain regulations regarding child care and local health departments; and

WHEREAS, the Division of Motor Vehicles operates 115 offices across the state with the primary purpose of examining applicants and issuing driver licenses to the general public and that these "Driver License Offices" serve thousands of residents on a daily basis; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available State resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services; and

WHEREAS, further action is necessary to protect the health and safety of the residents of North Carolina, slow the spread of the COVID-19 pandemic, treat those affected by COVID-19 and avoid strain on our health care system; and

WHEREAS, the undersigned has sought and obtained concurrence from the Council of State consistent with the Governor's emergency powers authority in N.C. Gen. Stat. § 166A-19.30.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**

Section 1. Delegation of Authority

With the concurrence of the Council of State, N.C. Gen. Stat. § 166A-19.30(b)(4) provides authority for the undersigned to waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering.

Pursuant to N.C. Gen. Stat. § 166A-19.10(b)(3), which allows the undersigned to delegate any authority vested in the Governor under this Article and to provide for the subdelegation of any such authority, I hereby delegate my authority to waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4) as follows:

1. The Secretary of NCDHHS may, upon finding that the waiver will provide necessary relief to child care facilities and families responding to the COVID-19 pandemic and will not endanger the public health, welfare, or safety, waive the effect and enforcement of any or all of the provisions within the following regulations:

    i. Chapter 09 of Title 10A of the North Carolina Administration Code – Child Care Rules.
    ii. Chapter 10 of Title 10A of the North Carolina Administrative Code – Subsidized Child Care.

2. The Secretary of NCDHHS may, upon finding that the waiver will provide necessary relief to local health departments responding to the COVID-19 pandemic and will not endanger public health, waive local health department mandated services requirements under 10A NCAC 46 Section .0200 and extend the time period for public health nurses to complete training sponsored by NCDHHS under 10A NCAC 46 .0301(2)(b).

3. Upon subdelegation of authority from the Secretary of NCDHHS, the Local Health Department Accreditation Board may, upon finding that the waiver will provide necessary relief to local health departments responding to the COVID-19 pandemic and will not endanger public health, waive the accreditation scheduling requirements of 10A NCAC 48A .0205 and grant an extension of accreditation of no more than twelve (12) months.

While this Executive Order is in effect, upon a finding by the Secretary or Local Health Department Accreditation Board that such requirement is necessary, the Secretary or Local Health Department Accreditation Board may exercise this delegated or subdelegated authority as appropriate. Actions taken consistent with the delegation or subdelegation of the authority granted in this Section shall be reported to the Office of the Governor.

Section 2. Access to Child Care for Essential Personnel

North Carolina has a critical need to support first responders, hospital staff, front-line healthcare providers, nursing and adult group home staff, child care program staff, food service staff, emergency management workers, public safety officers and others working to keep communities safe and healthy during the COVID-19 pandemic, as well as care for their children and those children who are homeless or in unstable or unsafe living arrangements. Recognizing that childcare is an essential service for these priority groups during this time, I hereby encourage communities across the State in counties, cities and municipalities to support the continued operation of child care facilities for children of all ages.

Section 3. Motor Vehicles

Pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), I hereby order the Commissioner of the Division of Motor Vehicles ("DMV") take the following actions to protect the general public and limit the spread of COVID-19:

a. Limit services at all Driver License Offices to appointment only.

b. Encourage all customers to limit appointments to those services unavailable online.

c. Close to the public all Driver License Offices that are of insufficient size to maintain social distancing, that are insufficiently staffed to operate on an appointment-only basis, or that are otherwise unable to maintain normal operations due to the COVID-19 pandemic.

d. To the extent practicable, expand service hours at those Driver License Offices that remain in operation during this State of Emergency.

e. Discontinue mobile services through the duration of the State of Emergency.

f. Postpone all DMV-related hearings not required by statute to be held within a set number of days for a period of sixty days.

g. Suspend all road tests for applicants seeking learner's permits, provisional driver licenses, or unrestricted Class C licenses until such a time as it is determined that such tests can be conducted with minimal risk of transmission of COVID-19. DMV, to the extent practicable, shall continue to conduct road tests for Class A and Class B licenses and for those applicants who must complete a road test due to a medical restriction.

Section 4. Waiver of Certain Registration Requirements

In addition to the previous relief provided in Executive Order No. 116 to vehicles throughout the Emergency Area involved in transporting medical supplies and other equipment in support of the Plan or other efforts to the public health threat posed by COVID-19, and pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4) with the concurrence of the Council of State, I hereby waive the enforcement of the registration requirements of N.C. Gen. Stat. § 20-86.1 and any related regulations in Chapter 3 of Title 19A of the North Carolina Administrative Code, including but not limited to 19A NCAC 03E .0400 to the extent it requires vehicles' immediate compliance with the International Registration Plan for the duration of the State of Emergency declared in Executive Order No. 116.

Section 5. Waiver of Certain CDL Renewal Requirements for School Bus Operators

To ensure the continued operation of school and activity buses and the transport of medical supplies, essentials in commerce, transporting essential fuels, food, water, and other supplies and equipment in support of the Plan and other efforts to address the public health threat posed by COVID-19, the Division of Motor Vehicles and the Department of Public Safety ("DPS"), to the maximum extent permitted under state and federal law, to interpret flexibly, or waive enforcement of N.C. Gen. Stat. § 20-7(f) as it pertains to the renewal of commercial driver's licenses for school bus drivers and activity bus drivers who hold a commercial driver license with both "S" (school bus) and "P" (passenger) endorsements and who are assisting or seeking to assist with emergency-related activities.

Section 6. Amending Sections 5 and 6 of Executive Order No. 116

Executive Order No. 116 Sections 5 and 6, are amended as follows:

Section 5. Maximum Hours of Service

In order to ensure adequacy and location of supplies and resources to respond to COVID-19, DPS, in conjunction with the North Carolina Department of Transportation (""DOT"), shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381, if the driver is transporting medical supplies, essential fuels, food, water, and other supplies and equipment in support of the Plan or other efforts to address the public health threat posed by COVID-19, through the duration of the State of Emergency or until further notice.

Section 6. Height and Weight Restrictions

DPS, in conjunction with DOT, shall waive certain size and weight restrictions and penalties arising under N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119, certain registration requirements and penalties arising under N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles throughout the Emergency Area involved in transporting medical supplies, transporting essential fuels, food, water, supplies and other equipment in support of the Plan or other efforts to address the public health threat posed by COVID-19. Furthermore, pursuant to N.C. Gen. Stat.§ 20-118.1, DPS shall temporarily suspend weighing vehicles throughout the Emergency Area used to transport medical supplies, essential fuels, food, water, supplies and other equipment in support of the Plan or other efforts to address the public health threat posed by COVID-19. Furthermore, pursuant to N.C. Gen. Stat. § 20-118.1, DPS shall temporarily suspend weighing vehicles used to transport livestock, poultry, or crops to include timber ready to

be harvested and feed to livestock and poultry in the Emergency Area.

Section 7. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the state of emergency would prevent or impede this; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 8. Effective Date

This Executive Order is effective immediately and shall remain in effect for a period of thirty (30) days or until rescinded or superseded by another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order. Any orders issued by the Secretary of Health and Human Services and the Local Health Department Accreditation Board consistent with the authority delegated or subdelegated in this Executive Order shall remain in effect until the date such waiver ends, unless the authority is explicitly rescinded or superseded by another applicable Executive Order, regardless of whether this Order remains in effect or State of Emergency is lifted.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 20th day of March in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State