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CHARLES D. BAKER
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FURTHER REVISED ORDER REGULATING GATHERINGS IN THE COMMONWEALTH

COVID-19 Order No. 63

Superseding and Rescinding Order No. 57

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus ("COVID-19");

WHEREAS, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

WHEREAS, the Federal Centers for Disease Control ("CDC") have determined that COVID-19 is spread mainly by person-to-person contact and that the best means of slowing the spread of the virus is through practicing social distancing and by minimizing personal contact with large groups and environments where the virus may be transmitted;

WHEREAS, the CDC has issued guidance strongly discouraging large gatherings and community events and explaining that such gatherings are among the primary means of spreading COVID-19 and introducing the virus to new communities;

WHEREAS, that CDC guidance states that, while virtual-only activities are the safest, the risks associated with in-person events can be reduced if they are held outdoors, remain small, and participants maintain 6 feet of distance and wear face coverings;

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WHEREAS, since March 13, 2020, I have issued a series of executive orders setting limitations on the numbers of persons who may congregate at in-person gatherings and events in the Commonwealth and have adjusted those limitations periodically according to the public health data available at the time;

WHEREAS, acting pursuant to authority granted by executive order, the Department of Public Health, the Department of Labor Standards, the Executive Office of Energy and Environmental Affairs, and the Massachusetts Gaming Commission (each a "Regulating Agency") have each issued sector-specific COVID-19 safety rules that set capacity limitations and other standards for the safe operation of enterprises permitted to open their premises to the public under Phase I, II, or III of the Commonwealth's Re-Opening Plan;

WHEREAS, the CDC, the Department of Public Health, and other public health authorities continue to improve their understanding of how COVID-19 is spread, where the risk of spread is greatest, and how best to mitigate the risk of transmission, all of which permit periodic adjustments to safety measures;

WHEREAS, due to significant increases in confirmed cases and hospitalizations in November and December, I issued COVID-19 Order No 59, which temporarily reduced capacity and gathering limitations below the limits applicable under a previously-issued Order;

WHEREAS, the public health data has recently improved, as illustrated by the fact that the 7-day average of COVID-19 confirmed cases was at 2,913 on January 31, as compared to 6,237 on January 8, and that the 7-day average of hospitalizations for COVID-19 was 1,824 on January 31 as compared to 2,347 on January 7;

WHEREAS, despite these improvements, the number of patients requiring treatment for COVID-19 continues to put pressure on hospital capacity, with all regions in Massachusetts currently at the Tier 3 designation of the Department of Public Health's Resurgence Planning and Response Framework, indicating ongoing capacity constraints that warrant continuing protective measures to moderate case growth and preserve hospital capacity; and

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting a state of emergency, including but not limited to authority over assemblages in order to protect the health and safety of persons, transportation and travel by any means or mode, and policing, protection, and preservation of public and private property;

NOW, THEREFORE, I hereby Order the following:

1. **Entities Subject to Sector-Specific Rules**: With the exception of events and gatherings subject to the Indoor and Outdoor Events Guidance issued by the Department of Labor Standards, a Phase I, II, or III enterprise shall not be subject to the limitations in Section 3 of this Order if the enterprise is operating in compliance with applicable sector-specific COVID-19 safety rules and any applicable capacity limitations issued by a Regulating Agency under the authority of an executive order.

   All indoor and outdoor events shall be required to comply with both the limitations and requirements in Section 3 of this Order and the sector-specific safety rules for Indoor and Outdoor Events, except if the gathering or event is exempt pursuant to Section 2.

2. **Gatherings for Political Expression and Religious Activities**: Gatherings for religious activities shall not be subject to the limitations in Section 3; provided, however, that such gatherings shall follow the COVID-19 safety rules and capacity limitations set forth in the Places of Worship sector-specific rules issued by the Department of Labor Standards. Outdoor gatherings for the purpose of political expression shall also not be subject to the limitations of Section 3. Indoor gatherings for the purposes of political expression shall follow the indoor capacity limitations of Section 3.

3. **Otherwise Applicable Indoor and Outdoor Gathering Limits and Requirements**: The following limitations apply to indoor and outdoor gatherings not exempted by Sections 1 or 2 of this Order, including, without limitation, all social, community, civic, public, and leisure events, as well as conferences, conventions, fundraisers, and other similar events or assemblies. These limitations apply to both gatherings held at private residences and gatherings held at event venues and in public settings.

   Members of the same household, when assembled together with no other non-household members present, do not constitute a gathering and shall not be subject to the capacity limitations in this Section. Workers and staff present to provide services to participants shall not count towards the capacity limitations in this Section.

   a. *Gathering Limits*:

      1. Indoor gatherings are limited to a maximum of 10 people.

      2. Outdoor gatherings are limited to a maximum of 25 people.

   These limits may be adjusted from time to time based on developments in the public health data. Such adjustments may be published as appendices to this Order.

b. *Required Social Distancing*: In addition to the capacity restrictions specified above, all participants in indoor and outdoor gatherings, including gatherings at private residences, must maintain at least 6 feet of physical distance from every other participant in the gathering, except where participants are members of the same household. A gathering shall violate this provision where, no matter the number of participants present, conditions or activities at the gathering are such that it is not reasonably possible for all participants to maintain this degree of separation.

4. **Face Coverings**: All persons over the age of 5 must wear masks or cloth face coverings over their mouth and nose when in a public location, as specified in the Revised Order Requiring Face Coverings in Public Places (COVID-19 Order No. 55). This rule applies to all gatherings held in places open to the public, including any event venue, club, park or other venue or space, public or private, that is used for gatherings except as provided in Section 2 of COVID-19 Order No. 55.

Rescinded 4/30/21 by COVID-19 Order No. 67

~~Masks or face coverings are encouraged at all indoor and outdoor gatherings at private homes, but are only required when such gatherings include more than 10 people and where attendees include non-household members.~~

5. **Contact Tracing**: If a host or event venue is notified that an event attendee or event worker has tested positive for COVID-19, the event host or event venue must immediately notify the Local Board of Health in the city or town where the event took place. Hosts and event venues must assist the Department of Public Health and Local Boards of Health with contact tracing and case investigations, including, upon request, providing lists of attendees at social gatherings and their contact information. Event hosts and venues who fail to timely report positive cases or cooperate with contact tracing and case investigations may be subject to the penalties listed in Section 7.

6. **Legal Exceptions**: This Order shall not apply to any of the following businesses, organizations, workplaces, or facilities:
    a. Any municipal legislative body, the General Court, or the Judiciary
    b. Federal governmental entities
    c. Any health care facility or licensed health care provider
    d. Any of the following workplaces or facilities with specialized functions and populations:
        - Polling places
        - Public and private elementary and secondary (K-12) schools
        - Residential and day schools for special needs students
        - Licensed, approved, or exempt child care programs and emergency residential programs operating under emergency authorization

- Facilities operated by the Department of Correction or any Sheriff
- Facilities operated, contracted, or licensed by the Department of Youth Services, Department of Mental Health, Department of Public Health, or the Department of Developmental Services
- Facilities and programs that provide safe spaces for the unstably housed such as homeless and domestic violence shelters
- Any other facility or workplace that the Commissioner of Public Health may exempt in writing from the terms of this Order

7. **Enforcement**: The Department of Public Health, Local Boards of Health and their authorized agents pursuant to G.L. c. 111, § 30, and State and municipal police are authorized to enforce this Order. Violation of the terms of this Order may result in a civil fine of up to $500 per violation as provided in St. 1950, c. 639, § 8, to be assessed on any person, organization, or business responsible for organizing, hosting, or allowing a gathering conducted in violation of the Order, or, in the alternative, against the owner, lessee, or other person who has legal control of the property where the gathering occurs. Each person over the permissible gathering limitation in Section 3 and each individual instance of non-compliance with the requirements of this Order may be treated as a separate violation. Any fine shall be administered in the manner provided for the non-criminal disposition of violations of municipal by-law, ordinance, rule, or regulation pursuant to G. L. c. 40, § 21D. This Order may also be enforced by injunction. A motion for an injunction to enforce this Order may be filed in the district court or any other court of competent jurisdiction for the municipality in which the violation has been charged.

   The Alcoholic Beverages Control Commission or a local licensing authority may, after notice to the licensee and a reasonable opportunity to be heard, suspend, revoke, or cancel a license for the sale or service of alcoholic beverages or take other appropriate enforcement action upon satisfactory proof that the licensee has violated or permitted a violation of this Order.

8. **Effective Date**: This Order shall be effective at 5:01 am on February 8, 2021 and shall remain in effect until rescinded or until the state of emergency is ended, whichever occurs first.

The Further Revised Order Regulating Gatherings in the Commonwealth (COVID-19 Order No. 57) is hereby rescinded effective 5:01 am on February 8, 2021.

If any provision of this Order or the application thereof to any person, entity, or circumstance is determined to be invalid by a court of competent jurisdiction, such determination shall not affect or impair the validity of the other provisions of this Order or its application to other persons, entities, and circumstances.

Given in Boston at 12:15 AM/PM this 4th day of February, two thousand and twenty-one

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts