STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

At Charleston

EXECUTIVE ORDER NO. 41-20

By the Governor

WHEREAS, a State of Emergency was declared on the Sixteenth Day of March, Two Thousand Twenty for all counties in West Virginia (the "State of Emergency Declaration"), to allow agencies to coordinate and create necessary measures to prepare for and respond to the outbreak of respiratory disease caused by a novel coronavirus now known as COVID-19; and

WHEREAS, Chapter 15, Article 5, Section 6 of the Code of West Virginia authorizes the Governor to, among other things, control ingress and egress to and from a disaster area or an area where large-scale threat exists, the movement of persons within the area, and the occupancy of premises therein, and to perform and exercise other functions, powers, and duties that are necessary to promote and secure the safety and protection of the civilian population; and

WHEREAS, Executive Order 9-20 required all businesses and operations in West Virginia, except Essential Businesses and Operations as defined therein, to cease all activities within the state except for such minimum basic operations as are necessary to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or related functions, and the minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences, and provided exceptions for businesses such as home-based businesses and certain small businesses while requiring proper social distancing and hygiene practices be maintained at such businesses; and

WHEREAS, since the issuance of Executive Order 9-20 and other executive orders ordering closed or otherwise limiting occupancy of certain establishments and facilities in this state, implementation of successful public health measures has resulted in revised projections of rates of infection and COVID-19 related deaths in West Virginia, as well as ever-strengthening

supply chains for personal protective equipment and other medical equipment and supplies, resulting in greater preparedness and response capacity throughout the state; and

WHEREAS, on April 27, 2020, I, Governor Jim Justice, announced the state's reopening plan, West Virginia Strong: *The Comeback* (the "Comeback Plan"), to phase in the reopening of businesses in the state of West Virginia on a week by week basis to most effectively monitor and respond to the public health effects of this phased reopening, to be based upon certain metrics and conditions to safely reopen segments of West Virginia's economy and get our citizens back to work, while ensuring the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population who are at most risk from the COVID-19 virus; and

WHEREAS, Executive Order 28-20 and Executive Order 30-20 allowed for the resumption of all medical procedures throughout the state while requiring that hospitals and ambulatory surgical centers around the state limit procedures to only more urgent procedures to ensure adequate response capacity and preserve necessary personal protective equipment and other resources at such facilities in the event of any surge of COVID-19; and

WHEREAS, under the Comeback Plan, Executive Order 32-20, Executive Order 36-20, Executive Order 37-20, Executive Order 39-20, and Executive Order 40-20 have been issued to transition the State to a safer-at-home policy and to allow certain types of businesses to begin to reopen or expand their operations, provided that certain safety measures are in place; and

WHEREAS, reopening additional segments of the state's economy in accordance with the Comeback Plan, utilizing a phased approach to reopen sectors of the economy week by week, while continuing to prioritize and provide for the health and protection of all West Virginians, and especially the state's significant elder and vulnerable population, is in the public interest; and

WHEREAS, West Virginia's public health experts have advised that allowing for the reopening and/or expansion of certain types of businesses and activities in this state, including spas and massage businesses, swimming pools, places of indoor amusement (e.g., bowling alleys, pool halls, and ice and roller rinks), and limited video lottery retailers, is appropriate at this time; and

NOW, THEREFORE, I, JIM JUSTICE, pursuant to the authority vested in me pursuant to the provisions of Chapter 15, Article 5, Section 6 and Chapter 15, Article 5, Section 1 of the Code of West Virginia, hereby **DECLARE** and **ORDER**, effective as of 12:01 AM, Eastern Standard Time, on the Thirtieth day of May, Two Thousand Twenty, unless rescinded, amended, or otherwise postponed by subsequent executive order prior to the effective date of this Order, as follows:

1. The following provisions of Executive Order 9-20, as previously amended by Executive Orders 32-20, 36-20, 37-20, 39-20, and 40-20 are hereby further amended and supplemented as follows:

    a. Section 3 is hereby amended and supplemented by the addition of the following subsections to include spas and massage businesses, swimming pools, places of indoor amusement, and limited video lottery retailers as essential businesses:

    "ff. **Spas and Massage Businesses**. Spas, massage businesses, and similar businesses and facilities may resume operations, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance for such facilities, *A Guide to Safely Reopening Spas*, is available at governor.wv.gov."

    "gg. **Pools**. Swimming pools, adventure lakes, and similar places or facilities may resume operations, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance for such zoos, *A Guide to Safely Reopening Pools*, is available at governor.wv.gov."

    "hh. **Indoor Amusement**. Places of indoor amusement, including by way of example only bowling alleys, pool halls, and ice and roller rinks, may resume operations, but must ensure that proper social distancing and hygiene practices are maintained. Additional guidance for such facilities, *A Guide to Safely Reopening Bowling Alleys and Other Indoor Recreation Facilities*, is available at governor.wv.gov."

    "ii. **Limited Video Lottery Retailers**. Limited video lottery retailers and facilities that offer such services may resume operations, but must ensure that proper social distancing and hygiene practices are maintained.

Additional guidance for such facilities, *A Guide to Safely Reopening Limited Video Lottery Retailers*, is available at governor.wv.gov."

b. Section 4, as amended, is hereby deleted in its entirety and replaced with the following to allow for museums, zoos, and bars to resume operations, provided that certain safeguards are in place:

"4. **Prohibited activities.** Locations with amusement rides, carnivals, fairs, bingo halls, movie and other theaters (except for drive-in movie theaters which ensure that proper social distancing and hygiene practices are maintained, and operated in accordance with the *Guidance for West Virginia Drive-In Movie Theaters*, available at governor.wv.gov), concert and music halls, adult entertainment venues, racetracks (except where racetracks offer spectator-less horse races, beginning no sooner than May 14, 2020, which shall not allow any in-person spectators but which horse races may be simulcast, provided that such horse racing shall be conducted in accordance with guidance and best practices developed, published, and disseminated by the applicable track operators and horsemen's associations, including ensuring all staff and employees maintain proper social distancing and hygiene practices; and except for outdoor motorsport or powersport racetracks or venues, which shall not allow any in-person spectators but which may allow for operation in accordance with the guidance, *A Guide to Safely Reopening Outdoor Motorsport and Powersport Racing*, available at governor.wv.gov), and other similar businesses shall be closed; provided, however, that the following specific outdoor recreational businesses and activities may resume operations as follows:

a. The Hatfield McCoy Trail System may reopen in accordance with the guidance, *A Guide to Safely Opening & Operating the Hatfield McCoy Trail System*, available at governor.wv.gov;

b. Outdoor recreation outfitters may reopen in accordance with the guidance, *A Guide to Safely Reopening Outdoor Recreation Outfitters*, available at governor.wv.gov;

c. Whitewater rafting businesses may resume operations in accordance with the guidance, *A Guide to Safely Reopening Whitewater Rafting*, available at governor.wv.gov; and

d. Ziplining businesses may resume operations in accordance with the guidance, *A Guide to Safely Reopening Zipline Outfitters*, available at governor.wv.gov."

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.

DONE at the Capitol in the City of Charleston, State of West Virginia, this Twenty-ninth day of May, in the year of our Lord, Two Thousand Twenty in the One Hundred Fifty-seventh year of the State.

GOVERNOR

By the Governor

SECRETARY OF STATE