STATE OF INDIANA

EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER 20-11

FOR: **RELATING TO CARRYOUT CONSUMPTION OF ALCOHOL**

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS:

WHEREAS, on March 6, 2020, I issued Executive Order 20-02, which declared that a public health emergency exists in our State as result of the coronavirus disease 2019 ("COVID-19"), and, since that time, the virus has spread to numerous counties in Indiana and caused several deaths, with these numbers expected to increase in the days ahead;

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 to be a global pandemic, and, several days later, on March 13, 2020, the President of the United States declared a national emergency with respect to this virus;

WHEREAS, despite significant steps being taken in our State, this virus remains a serious threat to the health, safety, and welfare of all residents of Indiana, and further efforts are needed to address, control, and reduce the evolving threat posed by COVID-19;

WHEREAS, on March 16, 2020, I issued Executive Order 20-04 which, among other things, ordered that restaurants, bars, nightclubs, and other establishments ("dining entities") that provide in-dining services close to in-person patrons through March 31, 2020, but authorized these entities to provide drive-thru, take-out and delivery services;

WHEREAS, many dining entities hold permits issued by the Indiana Alcohol and Tobacco Commission (ATC) that allow for on-premises consumption only, but not for carryout consumption off-premises ("on-premises permits");

WHEREAS, other dining entities hold permits that allow for carryout consumption off-premises ("carryout permits"), but eligibility for such a permit depends on the number of alcoholic beverages sold on-premises;

WHEREAS, closure of in-person services at dining entities effectively prohibits the sale of alcohol by holders of on-premises permits, resulting in financial hardships; and skews the eligibility calculation for holders of carryout permits, resulting in difficulty meeting the eligibility requirements;

WHEREAS, as Governor, I have broad authority and powers under Indiana law to declare and respond to public health emergencies on behalf of our State, including but not limited to: (a) making, amending, and rescinding the necessary orders, rules, and regulations to carry out Indiana's Emergency Management and Disaster Law, Ind. Code Ch. 10-14-3, and (b) suspending the provisions of any regulatory statute prescribing the procedures for conduct of state business, including the orders, rules, or regulations of any state agency if strict compliance with any of these provisions would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, in light of the above, it is necessary and proper to take action(s) to protect the health and well-being of all Hoosiers in connection with the continuing and evolving threat posed to public health by COVID-19;

NOW, THEREFORE, I, Eric J. Holcomb, by virtue of the authority vested in me as Governor by the Indiana Constitution and the laws of the State of Indiana, do hereby:

1. Suspend the provisions of Ind. Code §§ 7.1-3-1-25, 7.1-3-20-11.5, -16, -16.8, -24.4, & -25, to the extent they require alcoholic beverages to be consumed on-premises and §7.1-5-3-4(b) to the extent it prohibits the fill, refill and carryout of alcoholic beverages in bottles or containers—thereby allowing holders of on-premises permits to sell alcoholic beverages for carryout consumption and permit the filling of a container by the holder of a beer retailer's permit, under the same terms and conditions as those dining entities holding retail permits that allow carryout or establishments permitted carryout under Ind. Code § 7.1-5-3-4(a)(2); and

2. Order the ATC to exclude any sales made during the duration of this public health emergency from the calculation of gross retail income from the sale of alcoholic beverages required by Ind. Code § 7.1-3-20-9.5 for purposes of determining eligibility for a carryout permit.

This Executive Order is a supplement to, and deemed to be part of, Executive Orders 20-02 & 20-04, and shall expire on March 31, 2020, unless further extended.

IT IS SO ORDERED.

SEAL OF THE STATE OF INDIANA 1816

Connie Lawson

ATTEST: Connie Lawson
Secretary of State

IN TESTIMONY WHEREOF, I, Eric J. Holcomb, have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana, on this 23rd day of March, 2020.

Eric J. Holcomb
Governor of Indiana