EXECUTIVE ORDER NO. 158

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-157 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) closed all recreational and

entertainment businesses, and limited all restaurants, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, to offering food delivery and/or take-out services only; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State began to take steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan ("Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, this Plan and the subsequent steps the State has taken to allow various industries to reopen their brick-and-mortar premises to the public all reflect the recognition by public health experts that indoor environments present significantly increased risks of transmission as compared to outdoor environments, meaning that the State has been more willing to allow businesses to reopen outdoor areas to the public, and meaning that the State has also imposed stricter social distancing limits on indoor premises when businesses are permitted to reopen them to the public; and

WHEREAS, consistent with this Plan, I issued Executive Order No. 150 (2020), which permitted restaurants, bars, and other food or beverage establishments to provide in-person dining outdoors, again with social distancing requirements, but did not allow for food or beverage consumption at indoor premises; and

WHEREAS, even as the State began to permit businesses to reopen additional indoor premises to the public, the State required all individuals to wear masks inside those premises, because masks have been demonstrated to significantly reduce the risk of COVID-19 transmission from person-to-person contact, and therefore are particularly necessary in high-risk indoor environments; and

WHEREAS, as the State has consistently recognized, indoor activities that cannot be done with a face covering on, such as eating or drinking indoors, thus pose a particularly high risk of transmission; and

WHEREAS, while personal care services that require the removal of a face covering can resume on Thursday, July 2, 2020, those services only involve the client interacting with one other person for a discrete period of time in a controlled environment, where the person performing the services is required to wear heavily protective equipment such as a face shield; and

WHEREAS, because of the enormous progress we have made in our fight against the COVID-19 pandemic in New Jersey, on Monday, June 22, 2020, I announced that indoor dining would be able to resume under strict limits as of Thursday, July 2, 2020, and that decision was formalized in Executive Order No. 157 (2020); and

WHEREAS, I have routinely made these announcements one to two weeks in advance of their effective dates in order to give businesses adequate time to prepare, but I have always stated that

the implementation is subject to modifications based on the data, the facts that we are observing in real-time, and the ongoing input of the Commissioner of DOH; and

WHEREAS, in the seven days since June 22, 2020, we have seen alarming spikes in COVID-19 cases across the nation, particularly in states that reopened at a faster rate, and that did not follow the same gradual and methodical reopening plan as New Jersey; and

WHEREAS, the Governors and/or Health Commissioners in a number of the states that have been hardest hit by the spikes in COVID-19 cases, including Florida and Texas, have attributed the rise in cases to activities in indoor food and beverage establishments, and a number of independent public health experts have reached the same conclusion; and

WHEREAS, because the State has previously recognized the benefits of addressing the spread of COVID-19 on a regional basis, it is also notable that both the Governor of New York and the Mayor of New York City have indicated that they may pause the resumption of indoor dining based on what they have seen in other states; and

WHEREAS, given these spikes in COVID-19 cases that have been attributed to indoor food and beverage establishments, and given the well-established risks that such establishments present given the lack of mask usage indoors, it is necessary to temporarily pause the resumption of indoor dining in New Jersey, while we continue to learn more about what has prompted the spikes in other states and examine whether there are additional protocols that could be instituted to reduce the risks associated with indoor dining; and

WHEREAS, this means that the consumption of food or beverages will not be allowed in the indoor premises of any business open to the public, including casinos; and

WHEREAS, smoking on the premises of any indoor business that is now permitted to reopen to the public, even while permitted in the indoor areas of casinos under State law, cannot be allowed to take place at this time because it would entail individuals removing their masks indoors; and

WHEREAS, other indoor recreational and entertainment businesses that are scheduled to reopen on Thursday, July 2, 2020, can still reopen because face coverings will be required for all individuals on the premises except for children under two years of age and except where doing so would inhibit an individual's health; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Paragraph 5 of Executive Order No. 157 (2020), which allowed "food or beverage establishments" to offer in-person service at indoor areas effective at 6:00 a.m. on Thursday, July 2, 2020, is hereby rescinded.

2. Any retail, recreational, and entertainment business that is authorized to open its indoor premises to the public may only do so where it prohibits the consumption of food or beverages and smoking in those indoor premises.

3. Smoking in the indoor areas of any retail, recreational, and/or entertainment business, including casinos, is prohibited, even when otherwise permitted by State law.

4. Any individual who consumes food or beverages or engages in smoking in the indoor premises of any retail, recreational, or entertainment business that are open to the public is in violation of this Order. Nothing in this Order shall prevent a person from engaging in conduct necessary for their health or safety, such as a person briefly removing their mask to drink water. Nothing in this Order shall prevent a business's employee from consuming food or beverages in any area of the business that is not open to the public, such as an employee break room.

5. Paragraph 4(f) of Executive Order No. 157 (2020) is hereby rescinded, and the prohibition on smoking in any outdoor areas designated for the consumption of food and/or beverages shall continue beyond 6:00 a.m. on Thursday, July 2, 2020. This required prohibition shall automatically sunset once in-person service is allowed at indoor areas of food or beverage establishments.

6. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

7. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every

political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

8. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

9. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

10. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

GIVEN, under my hand and seal this 29th day of June, Two Thousand and Twenty, and of the Independence of the United States, the Two Hundred and Forty-Fourth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor