State of South Carolina

Executive Department

FILED

MAR 28 2020

Mark Hammond
SECRETARY OF STATE

Office of the Governor

EXECUTIVE ORDER NO. 2020-15

WHEREAS, the State of South Carolina has taken, and must continue to take, all necessary and appropriate actions in confronting the unprecedented and evolving public health threat presented by the 2019 Novel Coronavirus ("COVID-19"); and

WHEREAS, to this end, the undersigned has, *inter alia*, convened the Public Health Emergency Plan Committee ("PHEPC"); activated the South Carolina Emergency Operations Plan ("Plan"); regularly conferred with state and federal agencies, officials, and experts, to include the South Carolina Department of Health and Environmental Control ("DHEC"), and the South Carolina Emergency Management Division ("EMD"); and requested that the General Assembly take action to make $45 million from the 2019–2020 Contingency Reserve Fund immediately available to DHEC in coordinating the State's public health response to COVID-19; and

WHEREAS, in addition to the foregoing, on March 11, 2020, the undersigned issued Executive Order No. 2020-07, suspending certain transportation-related rules and regulations, pursuant to 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws, as amended, for commercial vehicles and operators of commercial vehicles providing direct assistance to supplement state and local efforts and capabilities to protect public health and safety in connection with COVID-19; and

WHEREAS, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that COVID-19 posed an actual or imminent public health emergency for the State of South Carolina; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak 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 ("Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States also declared that the COVID-19 pandemic in the United States constitutes a national emergency, 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), retroactive to March 1, 2020; and

WHEREAS, in proactively preparing for and promptly responding to the aforementioned emergency, the undersigned initiated and implemented various measures to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina; and

WHEREAS, on March 15, 2020, the undersigned issued Executive Order No. 2020-09, directing, *inter alia*, the closure of all public schools in the State of South Carolina for students and non-essential employees beginning Monday, March 16, 2020, and through Tuesday, March 31, 2020, and the postponement or rescheduling of any election scheduled to be held in this State on or before May 1, 2020, as well as urging that indoor and outdoor public gatherings be cancelled, postponed, or rescheduled, to the extent possible, or limited so as not to exceed one hundred (100) people; and

WHEREAS, on March 17, 2020, based on updated information and recommendations from the Centers for Disease Control and Prevention ("CDC"), the President of the United States, and the White House Coronavirus Task Force, the undersigned issued Executive Order No. 2020-10, directing additional emergency measures in response to the threat posed by COVID-19, to include temporarily prohibiting restaurants from providing certain food services for on-premises consumption and prohibiting events at government facilities that would convene fifty (50) or more people in a single room, area, or other confined indoor or outdoor space; and

WHEREAS, in addition to the foregoing directives, Executive Order No. 2020-10 also "authorize[d] and direct[ed] any agency within the undersigned's Cabinet or any other department within the Executive Branch, as defined by section 1-30-10 of the South Carolina Code of Laws, as amended, through its respective director or secretary, to waive or 'suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency,' in accordance with section 25-1-440 of the South Carolina Code of Laws and other applicable law"; and

WHEREAS, on March 19, 2020, the undersigned issued Executive Order No. 2020-11, initiating further emergency measures and suspending certain regulations to ensure the proper function and continuity of state government operations and the uninterrupted performance and provision of emergency, essential, or otherwise mission-critical state government services, while simultaneously undertaking additional measures to safeguard the health and safety of state employees, mitigate significant economic impacts and burdens on affected individuals and employers, and provide regulatory relief to expedite emergency response initiatives and enhance the availability of critical healthcare services; and

WHEREAS, on March 21, 2020, the undersigned issued Executive Order No. 2020-12, initiating additional actions to provide regulatory relief to facilitate "social distancing" practices and to mitigate the significant economic impacts of COVID-19 on individuals and businesses throughout the State, particularly restaurants and other food-service establishments; and

WHEREAS, on March 23, 2020, the undersigned issued Executive Order No. 2020-13, authorizing and directing law enforcement officers of the State, or any political subdivision thereof, to, *inter alia*, prohibit or disperse any congregation or gathering of people, unless authorized or in their homes, in groups of three (3) or more people, if any such law enforcement official determines, in their discretion, that any such congregation or gathering of people poses, or could pose, a threat to public health; and

WHEREAS, on March 24, 2020, the undersigned requested that the President of the United States declare that a major disaster exists in the State of South Carolina pursuant to Section 401 of the Stafford Act; and

WHEREAS, on March 27, 2020, the President of the United States granted the undersigned's request and declared that a major disaster exists in the State of South Carolina and ordered federal assistance to supplement state, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic, with an effective date retroactive to January 20, 2020, and continuing; and

WHEREAS, on March 27, 2020, the undersigned issued Executive Order No. 2020-14, directing that individuals who enter the State of South Carolina from an area with substantial community spread of COVID-19 shall be required to isolate or self-quarantine for a period of fourteen (14) days from the time of entry into the State of South Carolina or the duration of the individual's presence in South Carolina, whichever period is shorter; and

WHEREAS, based on recent developments, to include the continued spread of COVID-19, the resulting strain on healthcare resources, and the significant economic consequences for individuals and businesses in this State, after consulting with numerous state and federal agencies, officials, and experts, the undersigned has determined that it is necessary and prudent to declare that a separate and distinct emergency exists due to the evolving nature and scope of the public health threat or other risks posed by COVID-19 and the actual, ongoing, and anticipated impacts associated with the same; and

WHEREAS, section 1-3-420 of the South Carolina Code of Laws, as amended, provides that "[t]he Governor, when in his opinion the facts warrant, shall, by proclamation, declare that, because of . . . a public health emergency . . . a danger exists to the person or property of any citizen and that the peace and tranquility of the State, or any political subdivision thereof, or any particular area of the State designated by him, is threatened, and because thereof an emergency, with reference to such threats and danger, exists"; and

WHEREAS, as the elected Chief Executive of the State, the undersigned is authorized pursuant to section 25-1-440 of the South Carolina Code of Laws, as amended, to "declare a state

of emergency for all or part of the State if he finds a disaster or a public health emergency . . . has occurred, or that the threat thereof is imminent and extraordinary measures are considered necessary to cope with the existing or anticipated situation"; and

WHEREAS, in accordance with section 44-4-130 of the South Carolina Code of Laws, as amended, a "public health emergency" exists when there is an "occurrence or imminent risk of a qualifying health condition," which includes "an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness"; and

WHEREAS, section 1-3-430 of the South Carolina Code of Laws, as amended, provides that when a state of emergency has been declared, the undersigned "may further, cope with such threats and danger, order and direct any person or group of persons to do any act which would in his opinion prevent or minimize danger to life, limb or property, or prevent a breach of the peace; and he may order any person or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of the State or any section or community thereof, and he shall have full power by use of all appropriate available means to enforce such order or proclamation"; and

WHEREAS, pursuant to section 1-3-460 of the South Carolina Code of Laws, as amended, the foregoing and other emergency authority is "supplemental to and in aid of powers now vested in the Governor under the Constitution, statutory laws[,] and police powers of the State"; and

WHEREAS, in accordance with section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is "responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility," to include issuing, amending, and rescinding "emergency proclamations and regulations," which shall "have the force and effect of law as long as the emergency exists"; and

WHEREAS, pursuant to section 25-1-440 of the South Carolina Code of Laws, when an emergency has been declared, the undersigned is further authorized to "suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency"; and

WHEREAS, in addition to the foregoing, section 25-1-440 of the South Carolina Code of Laws, authorizes the undersigned, during a declared emergency, to "transfer the direction, personnel, or functions of state departments, agencies, and commissions, or units thereof, for purposes of facilitating or performing emergency services as necessary or desirable," and to "compel performance by elected and appointed state, county, and municipal officials and employees of the emergency duties and functions assigned them in the State Emergency Plan or by Executive Order"; and

WHEREAS, the undersigned is further authorized, pursuant to section 25-1-440 of the South Carolina Code of Laws, to "direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery; to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress at an emergency area, the movement of persons within the area, and the occupancy of premises therein"; and

WHEREAS, in the context of a public health emergency, section 25-1-440 of the South Carolina Code of Laws, also "authorizes the deployment and use of any resources and personnel including, but not limited to, local officers and employees qualified as first responders, to which the plans apply and the use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available pursuant to this act"; and

WHEREAS, in accordance with section 16-7-10(A) of the South Carolina Code of Laws, as amended, "[i]n any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: violate a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation; congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer"; and

WHEREAS, it is axiomatic that "[t]he health, welfare, and safety of the lives and property of the people are beyond question matters of public concern, and reasonable regulations and laws designed to preserve and protect the same are clearly contained in the police power inherent in the sovereign," 1980 S.C. Op. Att'y Gen. 142 (Sept. 5, 1980); and

WHEREAS, in issuing Executive Order No. 2020-08 and declaring an initial State of Emergency in connection with COVID-19, the undersigned's determination was made in accordance with section 44-4-130 of the South Carolina Code of Laws, as amended, and based on the "imminent risk of a qualifying health condition," which includes "an illness or health condition that may be caused by . . . epidemic or pandemic disease, or a novel infectious agent . . . that poses a substantial risk of a significant number of human fatalities [or] widespread illness"; and

WHEREAS, the public health threat posed by COVID-19 has since transitioned to a new and distinct stage, evolving from one that presented the "imminent risk of a qualifying health condition," to one that involves an actual and widespread "occurrence" of a "qualifying health condition," with confirmed cases of COVID-19 in over eighty-five percent (85%) of South Carolina's forty-six (46) counties; and

WHEREAS, the evolution of COVID-19 from an "imminent risk of a qualifying health condition," to an actual "occurrence" of a "qualifying health condition" or "pandemic" presents a unique and distinct public health emergency for the State of South Carolina, which must be dealt with on its own accord; and

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of the undersigned's responsibility to provide for and ensure the health, safety, security, and

welfare of the people of the State of South Carolina, the undersigned has determined that the occurrence of COVID-19 throughout significant portions of the State poses an actual, ongoing, and evolving public health threat to the State of South Carolina, which now represents a new and distinct emergency and requires additional proactive action by the State of South Carolina and the implementation and enforcement of further extraordinary measures to slow the spread of COVID-19, minimize the strain on healthcare providers, and otherwise respond to and mitigate the evolving public health threat posed by this emergency.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby declare that a State of Emergency exists in South Carolina. Accordingly, for the foregoing reasons and in accordance with the cited authorities and other applicable law, I further order and direct as follows:

Section 1. Emergency Measures

To prepare for and respond to the actual, ongoing, and evolving public health threat posed by COVID-19 and to mitigate the potential impacts associated with the same, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must take additional proactive action and implement further extraordinary measures to prepare for and respond to the actual, ongoing, and evolving public health threat posed by COVID-19, minimize the resulting strain on healthcare providers, and otherwise respond to and mitigate the significant impacts associated with the same.

B. I hereby memorialize and confirm my prior activation of the Plan and direct that the Plan be further placed into effect and that all prudent preparations be taken at the individual, local, and state levels to proactively prepare for and promptly respond to the threat posed by COVID-19. I further direct the continued utilization of all available resources of state government as reasonably necessary to address the current State of Emergency.

C. I hereby direct DHEC to utilize and exercise any and all emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, deemed necessary to promptly and effectively address the current public health emergency. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to "use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment." I further direct DHEC to restrict visitation to nursing homes and assisted living facilities, with the exception of end-of-life situations, as DHEC deems necessary and appropriate.

D. I hereby authorize and direct state correctional institutions and local detention facilities to suspend visitation processes and procedures, as necessary, during this State of Emergency.

E. I hereby place specified units and/or personnel of the South Carolina National Guard on State Active Duty, pursuant to section 25-1-1840 of the South Carolina Code of Laws,

as amended, and direct the Adjutant General to issue the requisite supplemental orders as he deems necessary and appropriate. I further order the activation of South Carolina National Guard personnel and the utilization of appropriate equipment at the discretion of the Adjutant General, and in coordination with the Director of EMD, to take necessary and prudent actions to assist the people of this State. I authorize Dual Status Command, as necessary, to allow the Adjutant General or his designee to serve as commander over both federal (Title 10) and state forces (National Guard in Title 32 and/or State Active Duty status).

F. I hereby order that all licensing and registration requirements regarding private security personnel or companies who are contracted with South Carolina security companies in protecting property and restoring essential services in South Carolina shall be suspended, and I direct the South Carolina Law Enforcement Division ("SLED") to initiate an emergency registration process for those personnel or companies for a period specified, and in a manner deemed appropriate, by the Chief of SLED.

G. I hereby declare that the prohibitions against price gouging pursuant to section 39-5-145 of the South Carolina Code of Laws, as amended, are in effect and shall remain in effect for the duration of this State of Emergency.

H. I hereby declare that the provisions of the following Orders shall remain in full force and effect in accordance with their respective terms for the duration of the State of Emergency declared herein, unless otherwise modified, amended, or rescinded below or by subsequent Order: Executive Order Nos. 2020-07, 2020-09, 2020-10, 2020-11, 2020-12, 2020-13, and 2020-14.

Section 2. School Closures

To provide for and protect the health, safety, and welfare of the people of this State and to minimize and control the spread of COVID-19, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. Upon consultation with the Superintendent of Education, who has recommended and advised that, at this time, students, parents, and families should plan for South Carolina's schools to remain closed through the month of April, I have determined that extending the closure of public schools to students and non-essential employees is a necessary and appropriate action to protect the health, safety, and welfare of the people of this State and to minimize and control the spread of COVID-19.

B. I hereby direct the continued closure of all public schools in the State of South Carolina for students and non-essential employees for the duration of the State of Emergency, unless such directive is otherwise, modified, amended, extended, or rescinded. This Section applies to all students and employees of public schools, to include charter schools, in the State of South Carolina, with the exception of those emergency or other critical personnel designated as essential, or whose presence is otherwise deemed necessary, by the appropriate school district officials. I further authorize the requisite school district officials to make any necessary and appropriate decisions or arrangements to account for local needs and other unique circumstances,

to include establishing or maintaining means to deliver virtual instruction and remote learning and assisting with or facilitating the distribution of food and the delivery of nutritional services.

C. I hereby authorize all state-supported colleges, universities, and technical colleges in the State of South Carolina, as necessary and appropriate and in accordance with and to the extent allowed by state and federal law, to complete the spring 2020 academic semester by delivering virtual and remote learning, by housing only out-of-state or displaced students, and by restricting on-campus services and activities to emergency or other critical personnel designated as essential, or whose presence is otherwise deemed necessary, by the appropriate college or university officials. I further authorize the requisite college, university, and technical college officials to continue to make any necessary and appropriate decisions or arrangements to account for specific needs and other unique circumstances or to deal with students, employees, or other critical personnel designated as essential, or whose presence is otherwise deemed necessary, by the appropriate college, university, or technical college officials.

Section 3. Protection of First Responders

To ensure the uninterrupted performance and provision of emergency services and to maintain peace and good order during the State of Emergency, while simultaneously undertaking additional proactive measures to safeguard the health and safety of law enforcement authorities and other first responders, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must promptly undertake and implement additional proactive measures to safeguard the health and safety of law enforcement authorities and other first responders who risk potential exposure to COVID-19 while providing emergency and other essential services during the State of Emergency.

B. I hereby authorize and direct any and all 911 operators or other emergency dispatchers to ask any individual placing a call for service whether such individual or any member of their household has tested positive for COVID-19 or is exhibiting symptoms consistent with the same.

C. I hereby authorize and instruct DHEC, upon consultation with SLED, to provide any necessary and appropriate supplemental guidance regarding the interpretation, application, or enforcement of this Section.

Section 4. Transportation Waivers

To expedite the State of South Carolina's continued preparation for and response to the ongoing emergency conditions related to COVID-19 and to facilitate the prompt transportation and delivery of any critical resources, supplies, and personnel identified and deemed necessary in connection with the same, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. I hereby amend Executive Order No. 2020-07, as modified by Executive Order No. 2020-08, pursuant to 49 C.F.R. § 390.23 and section 56-5-70 of the South Carolina Code of Laws, to extend the provisions thereof to commercial vehicles and operators of commercial vehicles operating in accordance with the provisions of the Federal Motor Carrier Safety Administration's Expanded Emergency Declaration Under 49 C.F.R. § 390.23 No. 2020-002 (Relating to COVID-19), responding to the declared emergency in the State of South Carolina, or otherwise assisting with the public health threat posed by COVID-19, as well as to commercial vehicles and operators of commercial vehicles transporting essential goods and products, such as food, water, medicine, medical supplies and equipment, fuels and petroleum products (to include fuel oil, diesel oil, gasoline, kerosene, propane, and liquid petroleum), livestock, poultry, feed for livestock and poultry, and crops and other agricultural products ready to be harvested (to include timber and wood chips).

Section 5. Enforcement

A. I hereby authorize any and all law enforcement officers of the State, or any political subdivision thereof, to do whatever may be deemed necessary to maintain peace and good order during the State of Emergency and to enforce the provisions of this Order and any prior or future Orders issued by the undersigned in connection with the present State of Emergency.

B. Pursuant to section 16-7-10(A) of the South Carolina Code of Laws, any individual who "refuse[s] to disperse upon order of a law enforcement officer," "wilfully fail[s] or refuse[s] to comply with any lawful order or direction of any law enforcement officer," or otherwise violates any provision of any Order issued by the undersigned in connection with the State of Emergency "is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days."

C. In accordance with section 1-3-440(4) of the South Carolina Code of Laws, I further authorize, order, and direct any State, county, or city official to enforce the provisions of this Order and any prior or future Orders issued in connection with the present State of Emergency, as necessary and appropriate, in the courts of the State by injunction, mandamus, or other appropriate legal action.

D. In addition to the foregoing, I further authorize, order, and direct DHEC to exercise and utilize any and all necessary and appropriate emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, to implement and enforce the provisions of this Order. In accordance with section 44-4-500 of the South Carolina Code of Laws, as amended, DHEC shall continue to "use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment."

Section 6. General Provisions

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other

entities, or any officers, employees, or agents thereof, or any other person. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

B. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

C. This Order is effective immediately and shall remain in effect for a period of fifteen (15) days unless otherwise modified, amended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 28th DAY OF MARCH, 2020.

HENRY MCMASTER
Governor

ATTEST:

MARK HAMMOND
Secretary of State