State of North Carolina

ROY COOPER

GOVERNOR

May 18, 2020

EXECUTIVE ORDER NO. 140

EXTENDING CERTAIN TRANSPORTATION-RELATED PROVISIONS IN PREVIOUS EXECUTIVE ORDERS

WHEREAS, on March 10, 2020, the undersigned issued Executive Order No. 116 which declared a State of Emergency to coordinate the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina ("Declaration of a State of Emergency"); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; 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 (the "Stafford Act"); and

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

WHEREAS, on March 25, 2020, the President of the United States, pursuant to Section 401 of the Stafford Act, approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

WHEREAS, in responding to the COVID-19 pandemic, and for the purposes of protecting the health, safety and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-25, 129-131, 133-136, and 138-139; and

WHEREAS, more than nineteen thousand people in North Carolina have had laboratory-confirmed cases of COVID-19, and hundreds of people in North Carolina have died from the disease; and

WHEREAS, hospital administrators and health care providers have expressed concerns that unless the spread of COVID-19 is limited, existing health care facilities may be insufficient to care for those who become sick; and

WHEREAS, slowing the community spread of COVID-19 is critical to ensuring that our healthcare facilities remain able to accommodate those who require intensive medical intervention; and

WHEREAS, Executive Order No. 116, issued on March 10, 2020, included certain suspensions of Federal Motor Carrier Safety Regulations; and

WHEREAS, 49 C.F.R. § 390.23(a)(1)(ii)(B) allows for the undersigned to extend the suspension of the regulations in 49 C.F.R. Parts 300-399, the Federal Motor Carrier Safety Regulations, for an additional thirty (30) day period if the undersigned determines that an emergency condition continues to exist; and

WHEREAS, the undersigned has determined that the Executive Order needs to remain in place to allow for the continued expedited movement of vehicles in the state; and

WHEREAS, Executive Order No. 119, issued on March 20, 2020, the undersigned facilitated critical motor vehicle operations; and

WHEREAS, Executive Order No. 133, issued on April 17, 2020, extended the transportation related provisions in Executive Order Nos. 116 and 119; and

WHEREAS, the provisions concerning the Division of Motor Vehicles ("DMV") in Executive Order No. 119 are set to expire unless the undersigned takes further action; and

WHEREAS, the undersigned has determined that these DMV-related provisions should be extended; and

WHEREAS, on May 13, 2020, the Federal Motor Carrier Safety Administration issued the Extension of Expanded Emergency Declaration No. 2020-0002 to provide regulatory relief for commercial motor vehicle operations that provide direct assistance in support of emergency relief efforts related to COVID-19; and

WHEREAS, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate any Gubernatorial vested authority under the Emergency Management Act and to provide for the subdelegation of any authority.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

Section 1. Extensions and technical amendments

For the reasons and pursuant to the authority set forth above and set forth in the relevant Executive Orders referenced below, the undersigned orders as follows:

A. **Executive Order Nos. 116 and 119**.

1. Sections 3 to 6 of Executive Order No. 119 (which were extended by Executive Order No. 133) are hereby extended through the end of the calendar day on June 19, 2020.

2. Sections 5 and 6 of Executive Order No. 116 (which were rewritten by Section 6 of Executive Order No. 119 and amended by Executive Order No. 133) and Sections 7 and 8 of Executive Order No. 116, which interpret and implement those sections, are also hereby extended through the end of the calendar day on June 19, 2020. Nothing in this Executive Order modifies the effectiveness of any provisions of Executive Order No. 116 other than Sections 5 through 8.

3. This Executive Order does not amend the sixty (60) day postponement of DMV-related hearings established in Section 3.f of Executive Order No. 119.

4. The first sentence of Section 8 of Executive Order No. 119 is amended to read:

> "This Executive Order is effective immediately and shall remain in effect until the end of the calendar day on June 19, 2020, or until rescinded or superseded by another applicable Executive Order; provided, however, that expiration of this Executive Order will not invalidate postponements of DMV-related hearings that occurred under Section 3.f of this Executive Order."

B. **Miscellaneous provisions**. For avoidance of doubt:

1. Future Executive Orders may extend the term of the restrictions, delegations, and requirements listed above.

2. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

Section 2. Distribution

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

Section 3. Effective Date

This Executive Order is effective immediately. This Executive Order shall remain in effect until June 19, 2020 unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of a State of Emergency will automatically rescind this Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 18th day of May in the year of our Lord two thousand and twenty.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State