GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GARLIN GILCHRIST II
LT. GOVERNOR

SECRETARY OF SENATE
2020 MAY 26 AM9:22

EXECUTIVE ORDER

No. 2020-101

Extending the expiration date for watercraft registration

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. There is currently no approved vaccine or antiviral treatment for this disease.

On March 10, 2020, the Department of Health and Human Services identified the first two presumptive-positive cases of COVID-19 in Michigan. On that same day, I issued Executive Order 2020-4. This order declared a state of emergency across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, 1976 PA 390, as amended (EMA), MCL 30.401 et seq., and the Emergency Powers of the Governor Act of 1945, 1945 PA 302, as amended (EPGA), MCL 10.31 et seq.

Since then, the virus spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID-19 pandemic, I issued Executive Order 2020-33. This order expanded on Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the State of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945. And on April 30, 2020, finding that COVID-19 had created emergency and disaster conditions across the State of Michigan, I issued Executive Order 2020-67 to continue the emergency declaration under the Emergency Powers of the Governor Act, as well as Executive Order 2020-68 to issue new emergency and disaster declarations under the Emergency Management Act.

Those executive orders have been challenged in *Michigan House of Representatives and Michigan Senate v Whitmer*. On May 21, 2020, the Court of Claims ruled that Executive Order 2020-67 is a valid exercise of authority under the Emergency Powers of the Governor Act but that Executive Order 2020-68 is not a valid exercise of authority under the Emergency Management Act. Both of those rulings are likely to be appealed.

On May 22, 2020, I issued Executive Order 2020-99, again finding that the COVID-19 pandemic constitutes a disaster and emergency throughout the State of Michigan. That order constituted a state of emergency declaration under the Emergency Powers of the Governor Act of 1945. And, to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature has declined to grant an extension request, that order also constituted a state of emergency and state of disaster declaration under that act.

The Emergency Powers of the Governor Act provides a sufficient legal basis for issuing this executive order. In relevant part, it provides that, after declaring a state of emergency, "the governor may promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation within the affected area under control." MCL 10.31(1).

Nevertheless, subject to the ongoing litigation and the possibility that current rulings may be overturned or otherwise altered on appeal, I also invoke Emergency Management Act as a basis for executive action to combat the spread of COVID-19 and mitigate the effects of this emergency on the people of Michigan, with the intent to preserve the rights and protections provided by the EMA. The EMA vests the governor with broad powers and duties to "cop[e] with dangers to this state or the people of this state presented by a disaster or emergency," which the governor may implement through "executive orders, proclamations, and directives having the force and effect of law." MCL 30.403(1)–(2). This executive order falls within the scope of those powers and duties, and to the extent the governor may declare a state of emergency and a state of disaster under the Emergency Management Act when emergency and disaster conditions exist yet the legislature has not granted an extension request, they too provide a sufficient legal basis for this order.

Every spring and summer, Michiganders renew their watercraft registrations so they can take to the water and enjoy the natural beauty of this state. Strict compliance with the watercraft registration requirements of state law would inevitably result in crowds flocking to the branch offices of the Secretary of State, increasing in-person interactions and putting people at risk. In order to reduce in-person work and minimize the risk of transmission, I find it reasonable and necessary to extend the validity of expiring registrations and suspend penalties for operating watercraft with expired decals.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Individuals must, to the best of their ability, complete watercraft registration renewals online at www.michigan.gov/sos/ during any state of emergency or state of disaster arising out of the COVID-19 pandemic.

2. Strict compliance with section 80124(16) of the Natural Resources and Environmental Protection Act, MCL 324.80124(16) is temporarily suspended to the extent necessary to extend until July 31, 2020 the validity of any watercraft decal that expired or is set to expire between February 1, 2020 and June 30, 2020.

3. Until July 31, 2020, operating a watercraft with a decal that expired after September 30, 2019 does not constitute a violation of the Natural Resources and Environmental Protection Act. Law enforcement officials must not issue any ticket

for the sole reason that a watercraft decal expired after September 30, 2019 . The Department of State must not assess a late fee for the renewal of a watercraft registration decal that expired after September 30, 2019, provided renewal occurs by July 31, 2020.

4. Strict compliance with section 80122(1) of the Natural Resources and Environmental Protection Act, MCL 324.80122(1), is temporarily suspended to allow a vessel to operate on the waters of this state on or before July 31, 2020 without displaying an identifying number and decal, provided the operator of the vessel possesses a proof of purchase or equivalent evidence that the vessel was acquired after January 1, 2020.

5. Until July 31, 2020, operating a watercraft that was purchased after January 1, 2020 without a decal does not constitute a violation of the Natural Resources and Environmental Protection Act. Law enforcement officials must not issue any ticket for the sole reason that a watercraft is operated without a decal, provided the operator possesses a proof of purchase or equivalent evidence that the vessel was acquired after January 1, 2020.

6. This order is effective immediately.

Given under my hand and the Great Seal of the State of Michigan.

Date: May 22, 2020

Time: 5:54 pm

GRETCHEN WHITMER
GOVERNOR

By the Governor:

SECRETARY OF STATE