State of Delaware

Executive Department
Dover

SECOND MODIFICATION OF THE DECLARATION OF A STATE OF EMERGENCY FOR THE STATE OF DELAWARE DUE TO A PUBLIC HEALTH THREAT

WHEREAS, the Centers for Disease Control and Prevention has determined that a novel coronavirus ("COVID-19") presents a serious public health threat; and

WHEREAS, on March 12, 2020 at 3:00 p.m. E.D.T., I issued a State of Emergency due to the public health threat of COVID-19, which became effective as of 8:00 a.m. E.D.T. on March 13, 2020; and

WHEREAS, on March 16, 2020 at 2:00 p.m. E.D.T., I issued the First Amended Modification to the State of Emergency declaration to advise that the Centers for Disease Control and Prevention (CDC) issued new guidance for large events and mass gatherings, recommending that organizers halt gatherings of 50 people or more for the next eight weeks due to the public health threat of COVID-19, including conferences, social events, concerts and other types of assemblies; and

WHEREAS, events of any size should be continued only if they can be carried out with adherence to guidelines for protecting vulnerable populations, including proper hand hygiene and adequate social distancing; and

WHEREAS, as of Friday, March 13, 2020 at 8:00 a.m. E.S.T., the Department of Health & Social Services' Division of Public Health (DPH) and Delaware Emergency Management Agency (DEMA) were authorized to cancel gatherings should it be deemed necessary for public health reasons, and such cancellation shall not constitute a taking and shall not entitle the owner or organizer to just compensation; and

WHEREAS, in the interests of protecting the citizens of this state from this public health threat, by law the Governor is authorized to issue a proclamation to suspend the provisions of any regulatory statute prescribing the procedures for conducting state business where strict compliance with the statute may hinder necessary action in coping with the emergency.

NOW THEREFORE, I, JOHN C. CARNEY, pursuant to Title 20, Chapter 31 of the Delaware Code, do hereby declare that the State of Emergency that I issued on March 12, 2020 at 3:00 p.m. E.D.T. and the First Amended Modification of the State of Emergency I issued on March 16, 2020 at 2:00 p.m. E.D.T., shall remain in effect until further notice, with the following modifications:

1. Effective March 16, 2020 at 8:00 p.m. E.D.T., organizers and sponsors of public gatherings of 50 or more people shall cancel the gatherings immediately and not reschedule them until after May 15, 2020, or the public health threat of COVID-19 has been eliminated.
2. Effective March 16, 2020 at 8:00 p.m. E.D.T., all restaurants, bars and taverns shall only provide food and beverage service through take-out, drive through, hotel room service and off premises delivery. No indoor or outdoor seating for food or beverage service, including

the use of outdoor patios, is permitted. This restriction shall not apply to food service provided within hospitals to hospital staff/employees, patients and patient visitors.

3. Effective March 16, 2020 at 8:00 p.m. E.D.T., all casinos operating in the state shall cease gaming operations.
4. Effective March 19, 2020 at 8:00 a.m. E.D.T., owners and operators of bowling alleys, concert events, movie theaters, sports facilities, fitness centers, and health spas shall cease operations.
5. Owners and operators of places that will continue to be open to the public are strongly encouraged to ensure that no more than 50 people are present in the space at the same time and provide the precautions recommended by the CDC on COVID-19, including hand hygiene and social distancing. This does not include private businesses.
6. No senior center, nursing home/retirement facility, assisted-living facility etc. shall knowingly permit a gathering of more than 10 persons that includes any person aged 60 or over or any person with an underlying health condition that puts any person in attendance at increased risk if exposed to COVID-19. Individuals who are at higher risk for severe illness, including those age 60 or older with underlying health conditions, are strongly encouraged to avoid gatherings of more than 10 persons unless the CDC COVID-19 guidelines can be followed, including at senior centers, nursing home/retirement facilities and assisted living facilities.
7. DEMA and DPH are authorized to cancel gatherings should it be deemed necessary for public health reasons.
8. The Delaware Secretary of Labor is authorized to develop emergency rules, amending the Delaware Unemployment Insurance Code, effective Monday, March 16, 2020, such emergency rules to remain in effect until the State of Emergency declaration has been rescinded. These rules should enhance the flexibility of the unemployment insurance program in response to COVID-19, and alleviate some of the burden of temporary layoffs, isolation,

and quarantine by ensuring unemployment benefits are available to individuals whose employment has been impacted directly by COVID-19.

9. Effective March 18, 2020 at 8:00 p.m. E.D.T., all Title 24 statutory requirements that patients present in-person before telemedicine services may be provided are suspended. Further, requirements that the patient must be present in Delaware at the time the telemedicine services are provided are suspended, so long as the patient is a Delaware resident. Any out of state healthcare provider who would be permitted to provide telemedicine services in Delaware if they were licensed under Title 24 may provide telemedicine services to a Delaware resident if they hold an active license in another jurisdiction. The Delaware Board of Medical Licensure and Discipline's Regulation 19 regarding restrictions on the use of telemedicine is suspended.
10. Effective March 18, 2020 at 8:00 p.m. E.D.T., notwithstanding paragraph 2 above or any statute or regulation to the contrary, while the State of Emergency is in effect, any restaurant, brewpub, tavern or taproom with a valid on-premise license to sell alcoholic beverages may sell alcoholic beverages as part of transactions for take-out food or drive through food service, as long as the cost for alcohol does not exceed 40% of the establishment's total sales transaction; this temporary authorization will cease immediately when the State of Emergency is rescinded. All other rules and regulations regarding the takeout of alcoholic beverages shall apply, including that the container must be securely closed. In addition, upon the rescission of this State of Emergency, any on-premise license to sell alcoholic beverages that was temporarily suspended by order of the Delaware Office of Alcoholic Beverage Control Commissioner pursuant to this State of Emergency will be reactivated immediately without further requirement.
11. Any entity that remains open is strongly encouraged to have hand sanitizers or hand washing stations available for its employees and patrons.

12. This Declaration of a State of Emergency has the force and effect of law. Any failure to comply with the provisions contained in a Declaration of a State of Emergency constitutes a criminal offense. 20 Del. C. §§ 3115 (b); 3116(9); 3122; 3125. State and local law enforcement agencies are authorized to enforce the provisions of any Declaration of a State of Emergency.

APPROVED this 18th day of March 2020 at 2:00 p.m.

John C. Carney

Governor