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CHARLES D. BAKER
GOVERNOR

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PHASE III, STEP 2 ORDER REGULATING GATHERINGS IN THE COMMONWEALTH

COVID-19 Order No. 52

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus ("COVID-19");

WHEREAS, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

WHEREAS, the Federal Centers for Disease Control and Prevention ("CDC") have advised that COVID-19 is spread mainly by person-to-person contact and that the best means of slowing the spread of the virus is through practicing social distancing and by minimizing personal contact with large groups and with environments where this potentially deadly virus may be transmitted including, in particular, spaces that present enhanced risks because of the large number of persons present or passing through the area who may spread the virus through respiratory activity or surface contacts;

WHEREAS, the CDC has issued guidance for large gatherings and community events recognizing that gatherings can significantly contribute to the spread of COVID-19 and introduce the virus to new communities;

WHEREAS, that CDC guidance states that, while virtual-only activities are the safest, the risks associated with in-person events can be reduced if they are held outdoors, remain small, and participants maintain 6 feet of distance and wear face coverings;

WHEREAS, on March 23, 2020, in order to restrict all non-essential person-to-person contact, non-essential movement outside the home, and reduce opportunities for spreading the

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COVID-19 virus within the Commonwealth, I issued COVID-19 Order No. 13, which temporarily closed the brick-and-mortar premises of businesses and organizations that do not provide COVID-19 Essential Services and prohibited gatherings of more than 10 people;

WHEREAS, in response to gradual improvements in the public health data, on May 18, 2020, June 6, 2020, and July 2, 2020, I issued COVID-19 Orders No. 33, 37, and 43, respectively, which designated certain businesses and other organizations as Phase I, II, III, or IV enterprises and initiated a progressive, phased plan for re-opening workplaces and other facilities across the Commonwealth;

WHEREAS, again in response to sustained improvements in the public health data at the time, on July 2, 2020, I issued COVID-19 Order No. 44, which rescinded the 10 person limitation on gatherings and set a maximum gatherings limitation of 25 persons for indoor gatherings and 100 persons for outdoor gatherings, subject to certain exceptions and sector-specific allowances;

WHEREAS, due to reports of non-compliance with the gatherings limitations, on August 7, 2020, I issued COVID-19 Order No. 46, which reduced the limitation on outdoor gatherings to 50 persons and instituted a requirement that attendees at gatherings with more than 10 people wear face coverings;

WHEREAS, the CDC, the Department of Public Health, and other public health authorities continue to improve their understanding of how COVID-19 is spread, where the risk of spread is greatest, and how best to mitigate the risk of transmission, which permits periodic adjustments to safety measures;

WHEREAS, as stated in COVID-19 Order No. 51, effective the same day as this Order, public health data measuring the incidence of COVID-19 can be monitored at the level of the individual municipality, and this permits a targeted relaxation of restrictions on outdoor gatherings in municipalities that demonstrate a measurably lower incidence rate of infection over a sustained period;

WHEREAS, compliance with safety protocols can be effectively overseen and monitored by public health authorities when gatherings are conducted at outdoor event venues and public settings, which permits the adoption of higher capacity limitations in such venues; and

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting a state of emergency, including but

not limited to authority over assemblages in order to protect the health and safety of persons, transportation and travel by any means or mode, and policing, protection, and preservation of public and private property;

NOW, THEREFORE, I hereby Order the following:

1. *Entities Subject to Sector-Specific Rules*: With the exception of events and gatherings subject to the Indoor and Outdoor Events Guidance issued by the Department of Labor Standards, any Phase I, II, or III enterprise shall not be subject to the limitations in Section 3 of this Order if the enterprise is operating in compliance with applicable sector-specific COVID-19 safety rules and any applicable capacity limitations issued under the authority of an executive order.

   All indoor and outdoor events shall be required to comply with both the limitations and requirements in Section 3 of this Order and the sector-specific safety rules for Indoor and Outdoor Events, except if the gathering or event is exempt pursuant to Section 2.

2. *Gatherings for Political Expression and Religious Activities*. Gatherings for religious activities shall not be subject to the limitations in Section 3 of this Order; provided, however, that such gatherings shall follow the COVID-19 safety rules and capacity limitations set forth in the Places of Worship sector-specific rules. Outdoor gatherings for the purpose of political expression shall also not be subject to the limitations of Section 3. Indoor gatherings for the purposes of political expression shall follow the indoor capacity limitations of Section 3.

3. *Otherwise Applicable Indoor and Outdoor Gathering Limits and Requirements*: The following limitations apply to indoor and outdoor gatherings not exempted by Sections 1 or 2, including, without limitation, all social, community, civic, public, and leisure events, as well as conferences, conventions, fundraisers, and other similar events or assemblies. Workers and staff shall not count towards the capacity limitations set forth in this Section.

   a. *Required Social Distancing*: In addition to the capacity restrictions specified below, all participants in indoor and outdoor gatherings, including gatherings at private residences, must maintain at least 6 feet of physical distance from every other participant in the gathering except where participants are members of the same household. A gathering shall violate this provision where, no matter the number of participants present, conditions or activities at the gathering are such that it is not reasonably possible for all participants to maintain this degree of separation.

   b. *All Indoor Gatherings*: Indoor gatherings are limited to 25 persons in a single enclosed, indoor space.

c. *Outdoor Gatherings at Private Residences and Other Spaces*: Outdoor gatherings at private residences and in private backyards and at any other venue or location not included in subsection (d) are limited to a maximum of 50 people.

d. *Outdoor Gatherings at Event Venues and in Public Settings*: The capacity limitations in this subsection shall apply to outdoor gatherings held in settings open to the public and at event venues, clubs, parks, and other outdoor venues or spaces, public or private, that are regularly used or available for gatherings through lease, license, permit, contract, reservation, or similar arrangement.

    i. In Lower Risk Communities, as defined in COVID-19 Order No. 51, gatherings at event venues and in public settings, as defined above, are limited to a maximum of 100 persons in a single venue or space.

    ii. In communities that do not qualify as Lower Risk Communities, gatherings at event venues and in public settings, as defined above, are limited to a maximum of 50 persons in a single venue or space.

e. *Notification to Local Boards of Health*: For outdoor gatherings where more than 50 attendees are anticipated, the operator of the event venue shall provide notice to the Local Board of Health in the municipality where the gathering is located at least 1 week before the event is scheduled, or otherwise as soon as possible where 1 week notice is not practicable due to the nature of the event (e.g., memorial services). For events held in public places like parks, the event organizer shall be responsible for providing notice. The notification shall include, at minimum, the location and time of the planned event, the name and contact information of the event organizer, the number of anticipated attendees, and any other information reasonably requested by the Local Board of Health.

4. *Face Coverings*: For gatherings of more than 10 people, all persons over the age of 5 must wear a face covering when they attend indoor and outdoor gatherings where participants other than those in the same household will be in attendance, unless they are prevented from wearing a face covering by a medical or disabling condition. This restriction applies to gatherings in all venues and locations.

5. *Legal Exceptions*: This Order shall not apply to any of the following businesses, organizations, workplaces, or facilities:
    a. Any municipal legislative body, the General Court, or the Judiciary
    b. Federal governmental entities
    c. Any health care facility or licensed health care provider

d. Any of the following workplaces or facilities with specialized functions and populations:
    - Polling places
    - Public and private elementary and secondary (K-12) schools
    - Residential and day schools for special needs students
    - Licensed, approved, or exempt child care programs and emergency residential programs operating under emergency authorization
    - Facilities operated by the Department of Correction or any Sheriff
    - Facilities operated, contracted, or licensed by the Department of Youth Services, Department of Mental Health, Department of Public Health, or the Department of Developmental Services
    - Facilities and programs that provide safe spaces for the unstably housed such as homeless and domestic violence shelters
    - and any other facility or workplace that the Commissioner of Public Health may exempt in writing from the terms of this Order

6. *Enforcement.* The Department of Public Health, local boards of health and their authorized agents pursuant to G. L. c. 111, § 30, and State and municipal police are authorized to enforce this Order. Violation of the terms of this Order may result in a civil fine of up to $500 per violation as provided in St. 1950, c. 639, § 8, provided that the fine shall be administered in the manner provided for the non-criminal disposition of violations of municipal by-law, ordinance, rule, or regulation pursuant to G. L. c. 40, § 21D. This Order may also be enforced by injunction. A motion for an injunction to enforce this Order may be filed in the district court or any other court of competent jurisdiction for the municipality in which the violation has been charged. The Alcoholic Beverages Control Commission or a local licensing authority may, after notice to the licensee and a reasonable opportunity to be heard, suspend, revoke, or cancel a license for the sale or service of alcoholic beverages or take other appropriate enforcement action upon satisfactory proof that the licensee has violated or permitted a violation of this Order.

If any provision of this Order or the application thereof to any person, entity, or circumstance is determined to be invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Order or its application to other persons, entities, and circumstances.

The Third Revised Order Regulating Gatherings Throughout the Commonwealth (COVID-19 Order No. 46) is hereby rescinded effective 12:01 am on October 5, 2020.

This Order shall be effective 12:01 am on October 5, 2020 and shall remain in effect until rescinded or until the state of emergency is ended, whichever occurs first.

Given in Boston at 12:46 AM/PM this 29th day of September, two thousand and twenty

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts