STATE OF ILLINOIS

EXECUTIVE DEPARTMENT

SPRINGFIELD, ILLINOIS

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INDEX DEPARTMENT
NOV 18 2020
IN THE OFFICE OF
SECRETARY OF STATE

November 18, 2020 Executive Order 2020-73

EXECUTIVE ORDER 2020-73
(COVID-19 EXECUTIVE ORDER NO. 69)

Tier 3 Mitigation Order

WHEREAS, since early March 2020, Illinois has faced a pandemic that has caused extraordinary sickness and loss of life, infecting over 600,000, and taking the lives of more than 11,000 residents; and,

WHEREAS, at all times but especially during a public health crisis, protecting the health and safety of Illinoisans is among the most important functions of State government; and,

WHEREAS, it is critical that Illinoisans who become sick have access to necessary care from medical professionals, including hospital beds, emergency room beds, or ventilators if needed; and,

WHEREAS, it is also critical that the State's health care and first responder workforce has adequate personal protective equipment (PPE) to safely treat patients, respond to public health disasters, and prevent the spread of communicable diseases; and,

WHEREAS, as Illinois responds to the public health disaster caused by Coronavirus Disease 2019 (COVID-19), a novel severe acute respiratory illness that spreads rapidly through respiratory transmissions and that continues to be without an effective treatment or vaccine, the burden on residents, healthcare providers, first responders, and governments throughout the State is unprecedented; and,

WHEREAS, despite efforts to contain COVID-19, the virus has continued to spread rapidly, resulting in the ongoing need for federal and State governments to take significant steps; and,

WHEREAS, the CDC now advises that cloth face coverings or masks protect both the wearer and those around them from COVID-19; and,

WHEREAS, as a result, the CDC recommends wearing cloth face coverings in public settings where social distancing measures are difficult to maintain; and,

WHEREAS, public health research and guidance indicates that the risk of transmission outdoors is less than the risk of transmission indoors; and,

WHEREAS, public health guidance advises that minimizing physical interactions between people who do not reside in the same household is critical to slowing the spread of COVID-19; and,

WHEREAS, as COVID-19 has spread in Illinois over the course of the Gubernatorial Disaster Proclamations, the circumstances causing a disaster throughout the State have changed and continue to change, making definitive predictions of the course the virus will take over the coming months extremely difficult; and,

WHEREAS, at the time I issued the first Gubernatorial Disaster Proclamation, there were 11 confirmed cases of COVID-19 in one Illinois county; and,

WHEREAS, as of today, there have been over 600,000 confirmed cases of COVID-19 in all 102 Illinois counties; and,

WHEREAS, the first death attributed to COVID-19 in Illinois was announced on March 17, 2020; and,

WHEREAS, as of today, November 18, 2020, more than 11,000 residents of Illinois have died due to COVID-19; and,

WHEREAS, from the outset, studies have suggested that for every confirmed case there are many more unknown cases, some of which are asymptomatic individuals who can pass the virus to others without knowing; and,

WHEREAS, the number of new COVID-19 cases in the State has surged over the past several weeks, and the virus continues to infect thousands of individuals and claim the lives of too many Illinoisans each day; and,

WHEREAS, the COVID-19 pandemic is not limited to the most populous counties, and as of today, counties in all regions of the State are demonstrating significant increased COVID-19 risk; and,

WHEREAS, without precautions COVID-19 can spread exponentially, even in less populous areas; for example, in Jasper County, a single infected first responder visited a nursing home and instigated series of infections that resulted in one of highest infection rates in the State; and similarly, in Randolph County, a single infected person attended an event in mid-March that caused that county likewise to suffer one of the State's highest infection rates; and,

WHEREAS, numerous counties all around the State have reported more than 75 cases per 100,000 people over the past 7 days; and,

WHEREAS, the State and the Illinois Department of Public Health have developed a mitigation plan to trigger additional precautions when regions meet certain risk levels; and,

WHEREAS, as of today, all regions of the State have triggered these additional mitigation strategies; and,

WHEREAS, while the precautions taken by Illinoisans previously slowed the growth of COVID-19 cases and deaths in the State, the number of cases in the State is now again growing exponentially; and,

WHEREAS, COVID-19 has claimed the lives of and continues to impact the health of Black and Hispanic Illinoisans at a disproportionately high rate – magnifying significant health disparities and inequities; and,

WHEREAS, as the virus has progressed through Illinois, the crisis facing the State continues to develop and requires an evolving response to ensure hospitals, health care professionals and first responders are able to meet the health care needs of all Illinoisans and in a manner consistent with CDC guidance that continues to be updated; and,

WHEREAS, hospitalizations now are rapidly rising again; and Illinois is using a significant percentage of hospital beds and ICU beds; and, if COVID-19 cases continue to surge, the State could face a shortage of critical health care resources; and,

FILED
INDEX DEPARTMENT
NOV 18 2020
IN THE OFFICE OF
SECRETARY OF STATE

WHEREAS, in addition to causing the tragic loss of more than 11,000 Illinoisans and wreaking havoc on the physical health of tens of thousands more, COVID-19 has caused extensive economic loss and continues to threaten the financial welfare of a significant number of individuals and businesses across the nation and the State; and,

WHEREAS, COVID-19 also has been extraordinarily disruptive to schools, and it is among the highest priorities of the State to ensure that students are able to obtain a quality education and that schools are able to provide an environment that is safe for students, teachers, and the community; and,

WHEREAS, considering the rapid spread of COVID-19 and the ongoing health and economic impacts that will be felt over the coming month by people across the State, on November 13, 2020, I declared that the circumstances in Illinois surrounding the spread of COVID-19 constitute an epidemic emergency and a public health emergency under Section 4 of the Illinois Emergency Management Agency Act;

THEREFORE, by the powers vested in me as the Governor of the State of Illinois, pursuant to the Illinois Constitution and Sections 7(1), 7(2), 7(3), 7(8), 7(9), and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305, and consistent with the powers in public health laws, I hereby order the following, effective at 12:01 a.m. on Friday, November 20:

Tier 3 Mitigation Order

1. **Intent of this Executive Order**. The intent of this Executive Order is to institute strict public health measures that are known to slow the spread of COVID-19 in order to stop the exponential growth of the virus throughout the State. We cannot risk overwhelming our healthcare system, and we must prioritize the health and lives of all Illinoisans, especially the most vulnerable among us. For that reason, this Executive Order aims to limit gatherings and encourages people to stay home to the greatest extent possible. At the same time, this Executive Order allows most industries to continue operating, although at significantly reduced levels, in order to minimize the disruption to our economy and to allow people to perform necessary tasks. The intent of this Executive Order is to effectuate those goals.

   This Executive Order supersedes Executive Order 2020-43. The Executive Orders imposing regional mitigation measures remain in place. Where prior guidance and these Tier 3 Mitigations imply different standards, the more restrictive standards apply.

2. **Public health requirements for individuals.** Individuals must take the following public health steps to protect their own and their neighbors' health and lives:

   a. **Practice social distancing.** To the extent individuals are using shared spaces when outside their residence, including when outdoors, they must at all times and as much as reasonably possible maintain social distancing of at least six feet from any other person who does not live with them.

   b. **Wear a face covering in public places or when working**.[1] Any individual who is over age two and able to medically tolerate a face covering (a mask or cloth face covering) shall be required to cover their nose and mouth with a face covering when in a public place and unable to maintain a six-foot social distance. This requirement applies whether in an indoor space, such as a store, or in a public outdoor space where maintaining a six-foot social distance is not always possible.

FILED
INDEX DEPARTMENT
NOV 18 2020
IN THE OFFICE OF
SECRETARY OF STATE

[1] Throughout this Executive Order, any reference to a face covering requirement excludes those two years old and younger and those for whom wearing a face covering is not medically advisable. Guidance on use of face coverings from the Illinois Department of Human Rights is available here: https://www2.illinois.gov/dhr/Documents/IDHR_FAQ_for_Businesses_Concerning_Use_of_Face-Coverings_During_COVID-19_Ver_20205111b%20copy.pdf

c. **Elderly people and those who are vulnerable as a result of illness should take additional precautions.** People at high risk of severe illness from COVID-19, including elderly people and those with a health condition that may make them vulnerable, are urged to stay in their residence and minimize in-person contact with others to the extent possible.

d. **Limit gatherings**. Indoor gatherings of more than one household are prohibited by this Executive Order, unless exempted by this Executive Order. Outdoor gatherings are limited to no more than ten people. Nothing in this Executive Order prohibits the gathering of members of a household or residence. Because in-person contact presents the greatest risk of transmission of COVID-19, Illinoisans are encouraged to strictly limit in-person contact with others. Gathering remotely continues to be the safe way to interact with those outside a household or residence.

e. **Where possible, conduct activities outdoors**. Public health guidance suggests that the risks of transmission of COVID-19 are greatly reduced outdoors as opposed to indoors. Where possible, Illinoisans are encouraged to conduct their activities outdoors.

3. **Public health requirements for businesses, nonprofits, and other organizations.** For the purposes of this Executive Order, covered businesses include any for-profit, non-profit, or educational entity, regardless of the nature of the service (excluding instructional activities at K-12 institutions, colleges, or universities), the function it performs, or its corporate or entity structure. Those entities must take the following public health measures to protect their employees, their customers, and all others who come into physical contact with their operations:

   a. **Requirements for all businesses.** All businesses must:
      - continue to evaluate which employees are able to work from home, and facilitate remote work from home when possible;
      - ensure that employees practice social distancing and wear face coverings when social distancing is not always possible;
      - ensure that all spaces where employees may gather, including locker rooms and lunchrooms, allow for social distancing; and
      - ensure that all visitors (customers, vendors, etc.) to the workplace can practice social distancing; but if maintaining a six-foot social distance will not be possible at all times, encourage visitors to wear face coverings;
      - cap occupancy at 25 percent capacity for customer-facing activity; and
      - prominently post the guidance from the Illinois Department of Public Health (IDPH) and Office of the Illinois Attorney General regarding workplace safety during the COVID-19 emergency.[2]

FILED
INDEX DEPARTMENT
NOV 18 2020
IN THE OFFICE OF
SECRETARY OF STATE

   The Department of Commerce and Economic Opportunity (DCEO), in partnership with IDPH, has developed industry-specific guidance and toolkits to help businesses operate safely and responsibly. These documents are available at: https://dceocovid19resources.com/restore-illinois/restore-illinois-phase-4/. This Executive Order places additional restrictions on DCEO's industry-specific guidance, and supersedes the DCEO guidance where there is a conflict.

   b. **Requirements for retail stores.** Retail stores must ensure all employees practice social distancing and must take appropriate additional public health precautions, in accordance with DCEO guidance, which include:
      - cap occupancy at 50 percent of store capacity for grocery stores and pharmacies;

[2] This guidance is available at: https://www.dph.illinois.gov/sites/default/files/COVID-19_WorkplaceHealth_SafetyGuidance20200505.pdf

- cap occupancy at 25 percent of store capacity for other retail stores, including general merchandise stores, "big box" stores that sell groceries and/or include a pharmacy, and convenience stores;
- provide face coverings to all employees; and
- communicate with customers through in-store signage, and public service announcements and advertisements, about the social distancing and face covering requirements set forth in this Order.

c. **Requirements for manufacturers.** Manufacturers must ensure all employees practice social distancing and must take appropriate additional public health precautions, in accordance with DCEO guidance, which include:
   - provide additional COVID-19 training for employees, even if previous training was provided;
   - coordinate with IDPH to implement testing protocols and contact tracing;
   - provide face coverings to all employees who are not able to maintain a minimum six-foot social distance at all times;
   - ensure that all spaces where employees may gather, including locker rooms and lunchrooms, allow for social distancing;
   - allow only manufacturing staff and key personnel in facilities, with non-production employees working remotely whenever possible;
   - modify and downsize operations (staggering shifts, reducing line speeds, operating only essential lines, while shutting down non-essential lines) to the extent necessary to allow for social distancing and to provide a safe workplace in response to the COVID-19 emergency;
   - review policies to ensure that workers are not encouraged or incentivized to report to work while sick or potentially contagious (this may include suspending attendance-based incentive pay and implementing temporary sick leave policies); and
   - develop and implement safety protocols for employee travel vans to ensure appropriate spacing, require face coverings, temperature checks, air circulation, and vehicle sanitation.

d. **Requirements for office buildings.** Employers in office buildings must ensure all employees practice social distancing and must take appropriate additional public health precautions, in accordance with DCEO guidance, which may include:
   - provide face coverings to all employees;
   - cap occupancy at 50 percent of office capacity, and consider implementing stricter capacity limits where the physical space does not clearly allow for social distancing;
   - allow telework where possible; and
   - develop and prominently post plans and signage to ensure social distancing in shared spaces such as waiting rooms, service counters, and cafeterias.

FILED
INDEX DEPARTMENT
NOV 18 2020
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SECRETARY OF STATE

e. **Requirements for meetings and events.** Indoor venues and meeting spaces such as meeting rooms, banquet centers, private party rooms, private clubs, country clubs, and party buses are prohibited from hosting gatherings of any size. Venues hosting funeral or visitation services are subject to IDPH guidance available at http://www.dph.illinois.gov/covid19/community-guidance/funeral-homes.

f. **Requirements for restaurants and bars.** All businesses that offer food or beverages for on-premises consumption—including restaurants, bars, grocery stores, and food halls—may not allow in-person indoor consumption. Such businesses continue to be permitted and encouraged to serve food and beverages so that they may be consumed off-premises, as permitted by law, through means such as in-house delivery, third-party delivery, drive-through, and curbside pick-

up. Establishments offering food or beverages must ensure that they have an environment where patrons maintain adequate social distancing. All businesses covered in this section may permit outdoor on-premises food and beverage consumption in accordance with DCEO guidance and when permitted by local ordinances and regulations.

g. **Requirements for hotels.** Hotel room occupancy must be limited to registered guests only. Fitness centers must be closed unless operated only on a reservation model and with a 25 percent occupancy cap. Hotels may not host gatherings in their meeting and event spaces, per the requirements for meetings and events listed above. Hotel restaurants and bars are subject to the requirements for restaurants and bars described above, and may not allow consumption in the restaurant or bar area, but may offer food for take-out and room service.

h. **Requirements for fitness and exercise gyms.** Fitness and exercise gyms must cap occupancy at 25 percent, must require reservations (which may include walk-up reservations) to ensure capacity is strictly limited, and may not conduct indoor group classes. Face coverings must be worn at all times within the fitness and exercise gym. Locker room areas must be closed except as permitted by DCEO guidance.

i. **Requirements for personal services facilities.** Personal services facilities such as spas, hair salons, barber shops, nail salons, waxing centers, tattoo parlors, and similar facilities may be open but must cap occupancy at no more than 25 percent. Personal services facilities must ensure the use of face coverings at all times, and must suspend services for which a face covering cannot be worn. Massage therapy and body treatments are allowed as deemed necessary by a medical provider, but appointments must be separated by a minimum of 15 minutes and facilities must take steps to sanitize and circulate clean air through service rooms before and after each service.

j. **Requirements for recreation, youth day camps, and youth sports.** This Executive Order prohibits indoor group sporting and recreational activities including youth and recreational sports (such as park district and travel leagues) and bowling. Outdoor sports and recreation are allowed in groups no larger than ten, but must ensure the use of face coverings, adherence to social distancing requirements, and must take other public health steps in accordance with DCEO guidance.

k. **Requirements for places of public amusement.** Places of indoor public amusement and indoor recreation (including but not limited to arcades, indoor driving ranges, museums and aquariums, theaters and performing arts, spectator events, and casinos and gaming), are prohibited from operating by this Executive Order. Outdoor recreational activities are capped at 25 percent occupancy, with adherence to face covering and social distancing requirements. Reservations are required for outdoor activities, and any groups for outdoor activities should be limited to no more than ten people.

FILED
INDEX DEPARTMENT
NOV 18 2020
IN THE OFFICE OF
SECRETARY OF STATE

l. **Requirements for film production.** Film production may operate with restrictions contained in DCEO guidance.

m. **Minimum basic operations.** All businesses may continue to:

   i. Perform necessary activities to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or for related functions.

ii. Perform necessary activities to facilitate employees of the business being able to continue to work remotely.

iii. Fulfill online and telephonic retail orders through pick-up or delivery.

4. **Exemptions.**

a. **Free exercise of religion**. This Executive Order does not limit the free exercise of religion. To protect the health and safety of faith leaders, staff, congregants and visitors, religious organizations and houses of worship are strongly encouraged to consult and follow the recommended practices and guidelines from the Illinois Department of Public Health.[3] As set forth in the IDPH guidelines, the safest practices for religious organizations at this time are to provide services online, in a drive-in format, or outdoors (and consistent with social distancing requirements and guidance regarding wearing face coverings), and to limit services to 10 people. Religious organizations are strongly encouraged to take steps to ensure social distancing, the use of face coverings, and implementation of other public health measures.

b. **Emergency functions.** All first responders, emergency management personnel, emergency dispatchers, court personnel, law enforcement and corrections personnel, hazardous materials responders, child protection and child welfare personnel, housing and shelter personnel, military, and other governmental employees working for or to support the emergency response are exempt from this Executive Order, but are encouraged to practice social distancing and take recommended public health measures.

c. **Governmental functions.** This Executive Order does not apply to the United States government and does not affect services provided by the State or any municipal, township, county, subdivision or agency of government and needed to ensure the continuing operation of the government agencies or to provide for or support the health, safety and welfare of the public.

d. **Election-related functions.** This Executive Order does not apply to activities related to the November 2020 General Election, including the December 14, 2020 meeting of Illinois Presidential Electors as part of the Electoral College. This Executive Order also does not apply to the December 2020 township caucuses and multi-township district caucus, *see* 60 ILCS 1/45, and municipal caucus, *see* 10 ILCS 5/10. Statewide public health-related procedures for the 2020 General Election should be followed for these caucuses as applicable. *See* Illinois Department of Public Health's Guidance for Preventing the Spread of COVID-19 in Election Polling Locations, available at https://www.dph.illinois.gov/2020election. Nothing in this Executive Order prohibits caucuses from being held virtually, and caucus organizers are encouraged to facilitate virtual attendance, to convene outdoors, and must adhere to all Social Distancing Requirements.

FILED
INDEX DEPARTMENT
NOV 18 2020
IN THE OFFICE OF
SECRETARY OF STATE

5. **Social Distancing, Face Covering, and PPE Requirements**. For purposes of this Executive Order, social distancing includes maintaining at least six-foot distance from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.

a. **Required measures.** Businesses must take proactive measures to ensure compliance with Social Distancing Requirements, including where possible:

[3] This guidance is available at: https://www.dph.illinois.gov/covid19/community-guidance/places-worship-guidance

i. **Designate six-foot distances**. Designating with signage, tape, or by other means six-foot spacing for employees and customers to maintain appropriate distance;

ii. **Hand sanitizer and sanitizing products.** Having hand sanitizer and sanitizing products readily available for employees and customers;

iii. **Separate operating hours for vulnerable populations**. Implementing separate operating hours for elderly and vulnerable customers;

iv. **Online and remote access**. Posting online whether a facility is open and how best to reach the facility and continue services by phone or remotely; and,

v. **Face Coverings and PPE**. Providing employees with appropriate face coverings and requiring that employees wear face coverings where maintaining a six-foot social distance is not possible at all times. When the work circumstances require, providing employees with other PPE in addition to face coverings.

6. **Enforcement**. This Executive Order may be enforced by State and local law enforcement pursuant to, *inter alia*, Section 7, Section 15, Section 18, and Section 19 of the Illinois Emergency Management Agency Act, 20 ILCS 3305.

   Businesses must follow guidance provided or published by the Illinois Department of Commerce and Economic Opportunity regarding safety measures during Phase IV, and the Illinois Department of Public Health, local public health departments, and the Workplace Rights Bureau of the Office of the Illinois Attorney General with respect to Social Distancing Requirements. Pursuant to Section 25(b) of the Whistleblower Act, 740 ILCS 174, businesses are prohibited from retaliating against an employee for disclosing information where the employee has reasonable cause to believe that the information discloses a violation of this Order.

7. **No limitation on authority**. Nothing in this Executive Order shall, in any way, alter or modify any existing legal authority allowing the State or any county, or local government body to order (1) any quarantine or isolation that may require an individual to remain inside a particular residential property or medical facility for a limited period of time, including the duration of this public health emergency, or (2) any closure of a specific location for a limited period of time, including the duration of this public health emergency. Nothing in this Executive Order shall be construed as an exercise of any authority to order any quarantine, isolation, or closure. Nothing in this Executive Order shall, in any way, alter or modify any existing legal authority allowing a county or local government body to enact provisions that are stricter than those in this Executive Order.

8. **Savings clause**. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable. This Executive Order is meant to be read consistently with any Court order regarding this Executive Order.

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JB Pritzker, Governor

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