GOVERNOR GREG ABBOTT

May 18, 2020

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SECRETARY OF STATE
1:30PM O'CLOCK
MAY 18 2020
Secretary of State

The Honorable Ruth R. Hughs
Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

Dear Secretary Hughs:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

> Executive Order No. GA-23 relating to the expanded opening of Texas in response to the COVID-19 disaster.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,

Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
May 18, 2020

EXECUTIVE ORDER
GA 23

Relating to the expanded opening of Texas in response to the COVID-19 disaster.

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, I issued proclamations renewing the disaster declaration for all counties in Texas on April 12 and May 12, 2020; and

WHEREAS, the Commissioner of the Texas Department of State Health Services (DSHS), Dr. John Hellerstedt, has determined on March 19, April 17, and May 15, 2020, that COVID-19 represents a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, I have issued executive orders and suspensions of Texas laws in response to COVID-19, aimed at protecting the health and safety of Texans and ensuring an effective response to this disaster; and

WHEREAS, I issued Executive Order GA-08 on March 19, 2020, mandating certain obligations for Texans in accordance with the President's Coronavirus Guidelines for America, as promulgated by President Donald J. Trump and the Centers for Disease Control and Prevention (CDC) on March 16, 2020, which called upon Americans to take actions to slow the spread of COVID-19 for 15 days; and

WHEREAS, I issued Executive Order GA-14 on March 31, 2020, based on the President's announcement that the restrictive Guidelines should extend through April 30, 2020, in light of advice from Dr. Anthony Fauci and Dr. Deborah Birx, and also based on guidance by DSHS Commissioner Dr. Hellerstedt and Dr. Birx that the spread of COVID-19 can be reduced by minimizing social gatherings; and

WHEREAS, Executive Order GA-14 superseded Executive Order GA-08 and expanded the social-distancing restrictions and other obligations for Texans, aimed at slowing the spread of COVID-19 and protecting public health and safety; and

WHEREAS, after more than two weeks of having in effect the heightened restrictions like those required by Executive Order GA-14, which had saved lives, it was clear that the disease still presented a serious threat across Texas that could persist in certain areas, but also that COVID-19 had wrought havoc on many Texas businesses and workers affected by the restrictions that were necessary to protect human life; and

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WHEREAS, on April 17, 2020, I therefore issued Executive Order GA-17, creating the Governor's Strike Force to Open Texas to study and make recommendations on safely and strategically restarting and revitalizing all aspects of the Lone Star State—work, school, entertainment, and culture; and

WHEREAS, also on April 17, 2020, I issued Executive Order GA-16 to generally continue through April 30, 2020, the same social-distancing restrictions and other obligations for Texans according to federal guidelines, but also to offer a safe, strategic first step to Open Texas; and

WHEREAS, I subsequently issued Executive Orders GA-18 and GA-21 on April 27 and May 5, 2020, respectively, to expand the services that are reopened in Texas; and

WHEREAS, as normal business operations resume, everyone must act safely, and to that end Executive Orders GA-18 and GA-21, as well as this executive order, provide that all persons should follow the health protocols recommended by DSHS, which whenever achieved will mean compliance with the minimum standards for safely reopening, but which should not be used to fault those who act in good faith but can only substantially comply with the standards in light of scarce resources and other extenuating COVID-19 circumstances; and

WHEREAS, in coping with the COVD-19 disaster, and especially as services are being reopened in Texas, government officials should look for the least restrictive means of combatting the threat to public health; and

WHEREAS, on May 7, 2020, I issued Executive Order GA-22 to remove confinement in jail as an available penalty for non-compliance with any state or local executive order issued in response to COVID-19; and

WHEREAS, Texas must continue to protect lives while restoring livelihoods, both of which can be achieved with the expert advice of medical professionals and business leaders; and

WHEREAS, the "governor is responsible for meeting … the dangers to the state and people presented by disasters" under Section 418.011 of the Texas Government Code, and the legislature has given the governor broad authority to fulfill that responsibility; and

WHEREAS, under Section 418.012, the "governor may issue executive orders … hav[ing] the force and effect of law;" and

WHEREAS, under Section 418.016(a), the "governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business … if strict compliance with the provisions … would in any way prevent, hinder, or delay necessary action in coping with a disaster;" and

WHEREAS, under Section 418.017(a), the "governor may use all available resources of state government and of political subdivisions that are reasonably necessary to cope with a disaster;" and

WHEREAS, under Section 418.018(c), the "governor may control ingress and egress to and from a disaster area and the movement of persons and the occupancy of premises in the area;" and

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WHEREAS, failure to comply with any executive order issued during the COVID-19 disaster is an offense punishable under Section 418.173 by a fine not to exceed $1,000, and may be subject to regulatory enforcement;

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately, and continuing through June 3, 2020, subject to extension based on the status of COVID-19 in Texas and the recommendations of the Governor's Strike Force to Open Texas, the White House Coronavirus Task Force, and the CDC:

In accordance with guidance from DSHS Commissioner Dr. Hellerstedt, and to achieve the goals established by the President to reduce the spread of COVID-19, every person in Texas shall, except where necessary to provide or obtain Covered Services, minimize social gatherings and minimize in-person contact with people who are not in the same household. People over the age of 65, however, are strongly encouraged to stay at home as much as possible; to maintain appropriate distance from any member of the household who has been out of the residence in the previous 14 days; and, if leaving the home, to implement social distancing and to practice good hygiene, environmental cleanliness, and sanitation.

"Covered Services" shall consist of everything listed by the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) in its Guidance on the Essential Critical Infrastructure Workforce, Version 3.0 or any subsequent version, plus religious services conducted in churches, congregations, and houses of worship. These covered services are not subject to the conditions and limitations, including occupancy or operating limits, set forth below for other covered services.

"Covered Services" shall also consist of the following to the extent they are not already CISA services or religious services, subject to the conditions and limitations set forth below:

1. Retail services that may be provided through pick-up, delivery by mail, or delivery to the customer's doorstep.
2. In-store, non-CISA retail services, for retail establishments that operate at up to 25 percent of the total listed occupancy of the retail establishment.
3. Dine-in restaurant services, for restaurants that operate at up to 25 percent of the total listed occupancy of the restaurant, effective until 12:01 a.m. on Friday, May 22, 2020, when this provision is superseded by the provision set forth below for expanded dine-in restaurant services; provided, however, that
   a. this applies only to restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages; and
   b. any components of the restaurants that have interactive functions or exhibits, including child play areas, interactive games, and video arcades, must remain closed.
4. Movie theaters that operate at up to 25 percent of the total listed occupancy of any individual theater for any screening; provided, however, that components of the movie theaters that have video arcades or interactive games must remain closed.
5. Shopping malls that operate at up to 25 percent of the total listed occupancy of the shopping mall; provided, however, that within shopping malls, the food-court dining areas, play areas, video arcades, and interactive displays and settings must

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remain closed.

6. Museums and libraries that operate at up to 25 percent of the total listed occupancy; provided, however, that
   a. local public museums and local public libraries may so operate only if permitted by the local government; and
   b. any components of museums or libraries that have interactive functions or exhibits, including child play areas, must remain closed.
7. Golf course operations.
8. Local government operations, including county and municipal governmental operations relating to licensing (including marriage licenses), permitting, recordation, and document-filing services, as determined by the local government.
9. Wedding venues and the services required to conduct weddings; provided, however, that for weddings held indoors other than at a church, congregation, or house of worship, the facility may operate at up to 25 percent of the total listed occupancy of the facility.
10. Wedding reception services, for facilities that operate at up to 25 percent of the total listed occupancy of the facility.
11. Cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade; provided, however, that all such salons, shops, and establishments must ensure at least six feet of social distancing between operating work stations.
12. Tanning salons; provided, however, that all such salons must ensure at least six feet of social distancing between operating work stations.
13. Swimming pools, as determined by each pool owner; provided, however, that
   a. indoor swimming pools may operate at up to 25 percent of the total listed occupancy of the pool facility; and
   b. outdoor swimming pools may operate at up to 25 percent of normal operating limits as determined by the pool owner.
14. Non-CISA services provided by office workers in offices that operate at up to the greater of (i) ten individuals, or (ii) 25 percent of the total office workforce; provided, however, that the individuals maintain appropriate social distancing.
15. Non-CISA manufacturing services, for facilities that operate at up to 25 percent of the total listed occupancy of the facility.
16. Gyms and exercise facilities and classes that operate at up to 25 percent of the total listed occupancy of the gym or exercise facility; provided, however, that locker rooms and shower facilities must remain closed, but restrooms may open.
17. Starting immediately for all Texas counties except Deaf Smith, El Paso, Moore, Potter, and Randall counties:
   a. Massage establishments and other facilities where licensed massage therapists or other persons licensed or otherwise authorized to practice under Chapter 455 of the Texas Occupations Code practice their trade; provided, however, that all such facilities must ensure at least six feet of social distancing between operating work stations.
   b. Personal-care and beauty services that have not already been reopened, such as tattoo studios, piercing studios, hair removal services, and hair loss treatment and growth services; provided, however, that (i) all such facilities must ensure at least six feet of social distancing between operating work stations; and (ii) to the extent such services are licensed or otherwise regulated by Texas law, such services may operate only as permitted by Texas law.
   c. Child-care services other than youth camps as described below; provided, however, that to the extent such services are licensed or otherwise regulated by Texas law, such services may operate only as permitted by Texas law.
18. Starting at 12:01 a.m. on Friday, May 22, 2020, for all Texas counties except Deaf

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Smith, El Paso, Moore, Potter, and Randall counties:

a. Dine-in restaurant services, for restaurants that operate at up to 50 percent of the total listed occupancy of the restaurant; provided, however that (i) this applies only to restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages; and (ii) any components of the restaurants that have interactive functions or exhibits, including child play areas, interactive games, and video arcades, must remain closed.
b. Bars and similar establishments that are not restaurants as defined above, that hold a permit from the Texas Alcoholic Beverage Commission, and that are not otherwise expressly prohibited in this executive order, for such establishments that operate at up to 25 percent of the total listed occupancy of the establishment; provided, however, that any components of the establishments that have interactive functions or exhibits, including child play areas, interactive games, and video arcades, must remain closed.
c. Aquariums, natural caverns, and similar facilities (excluding zoos) that operate at up to 25 percent of the total listed occupancy or, for outdoor areas, at up to 25 percent of the normal operating limits as determined by the facility owner; provided, however, that (i) local public facilities may so operate only if permitted by the local government; and (ii) any components of the facilities that have interactive functions or exhibits, including child play areas, must remain closed.
d. Bowling alleys, bingo halls, simulcast racing to the extent authorized by state law, and skating rinks that operate at up to 25 percent of the total listed occupancy of the establishment; provided, however, that (i) bowling alleys must ensure at least six feet of social distancing between operating lanes; and (ii) components of the establishments that have video arcades must remain closed.
e. Rodeos and equestrian events that operate at up to 25 percent of the total listed occupancy or, for outdoor areas, at up to 25 percent of the normal operating limits as determined by the facility owner; provided, however, that this authorizes only the rodeo or equestrian event and not larger gatherings, such as county fairs, in which such an event may be held.
f. Drive-in concerts, under guidelines that facilitate appropriate social distancing, that generally require spectators to remain in their vehicles, and that minimize in-person contact between people who are not in the same household or vehicle.
g. Amateur sporting events (i) at which there is no access to the general public allowed; and (ii) for which all participants have tested negative for COVID-19 prior to the event, are quarantined for the duration of the event, are temperature-checked and monitored for symptoms daily, and are tested again for COVID-19 at the end of the event.

19. Starting at 12:01 a.m. on Friday, May 29, 2020, for Deaf Smith, El Paso, Moore, Potter, and Randall counties:
    a. All services that were restored for other Texas counties on Monday, May 18 and Friday, May 22, 2020, in numbers 17 and 18 above.
20. Starting at 12:01 a.m. on Friday, May 29, 2020, for all Texas counties:
    a. Outdoor areas of zoos that operate at up to 25 percent of the normal operating limits as determined by the zoo owner; provided, however, that (i) indoor areas of zoos, other than restrooms, must remain closed; (ii) any components of the zoos that have interactive functions or exhibits, including child play areas, must remain closed; and (iii) local public zoos may so operate only if permitted by the local government.
21. Starting at 12:01 a.m. on Sunday, May 31, 2020, for all Texas counties:

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a. Professional basketball, baseball, softball, golf, tennis, football, and car racing events, with no spectators physically present on the premises of the venue, as approved on a league-by-league basis by DSHS, in consultation with the Office of the Governor and any recommendations by the advisory Strike Force to Open Texas, based on whether the league has submitted a plan that applies to all events and that meets the minimum health and safety standards; provided, however, that each league must submit, along with a request for approval in the manner prescribed by DSHS, a plan that incorporates applicable minimum standard health protocols recommended by DSHS, as applicable, and such additional measures as are needed to ensure a safe plan for conducting the event.
b. Youth camps, including but not limited to those defined as such under Chapter 141 of the Texas Health and Safety Code, and including all summer camps and other daytime and overnight camps for youths.
c. Youth sports programs; provided, however, that practices may begin, but games and similar competitions may not begin until June 15, 2020.

22. For Texas counties that have filed with DSHS, and are in compliance with, the requisite attestation form promulgated by DSHS regarding five or fewer cases of COVID-19, those services, establishments, and facilities listed above with 25 percent occupancy or operating limits may, as otherwise defined and limited above, operate at up to 50 percent.
23. Such additional services as may be enumerated by future executive orders or proclamations by the governor.

For the Covered Services listed above with limits based on "total listed occupancy," the total listed occupancy limits refer to the maximum occupant load set by local or state law, but for purposes of this executive order, staff members are not included in determining operating levels except for non-CISA manufacturing service providers and non-CISA services provided by office workers. The "total listed occupancy" limits do not apply to outdoor areas, events, facilities, or establishments. Additionally, valet services are prohibited except for vehicles with placards or plates for disabled parking.

Notwithstanding anything herein to the contrary, the governor may by proclamation identify any county or counties in which Covered Services other than CISA services and religious services are thereafter prohibited, in the governor's sole discretion, based on the governor's determination in consultation with medical professionals that only CISA services and religious services should be permitted in the county, including based on factors such as an increase in the transmission of COVID-19 or in the amount of COVID-19-related hospitalizations or fatalities.

In providing or obtaining Covered Services, all persons (including individuals, businesses and other organizations, and any other legal entity) should use good-faith efforts and available resources to follow the minimum standard health protocols recommended by DSHS, found at www.dshs.texas.gov/coronavirus. All persons should also follow, to the extent not inconsistent with the DSHS minimum standards, the Guidelines from the President and the CDC, as well as other CDC recommendations. Individuals are encouraged to wear appropriate face coverings, but no jurisdiction can impose a civil or criminal penalty for failure to wear a face covering. Nothing in this executive order or the DSHS minimum standards precludes requiring a customer wishing to obtain services to follow additional hygiene measures.

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Religious services should be conducted in accordance with the joint guidance issued and updated by the attorney general and governor. Nothing in this executive order, the DSHS minimum standards, or the joint guidance issued and updated by the attorney general and governor precludes churches, congregations, and houses of worship from using school campuses for their religious services or other allowed services.

Except as specifically allowed above, people shall avoid visiting interactive amusement venues such as video arcades, amusement parks, or water parks, unless these enumerated establishments or venues are specifically added as a Covered Service by proclamation or future executive order of the governor. Notwithstanding anything herein to the contrary, the governor may by proclamation add to this list of establishments or venues that people shall avoid visiting. To the extent any of the establishments or venues that people shall avoid visiting also offer Covered Services permitted above, such as restaurant services, these establishments or venues can offer only the Covered Services and may not offer any other services.

This executive order does not prohibit people from accessing Covered Services or engaging in safe daily activities, such as going to the grocery store or gas station; providing or obtaining other Covered Services; visiting swimming pools, parks, beaches, rivers, or lakes; hunting or fishing; attending youth club meetings or events; or engaging in physical activity like jogging, bicycling, or other outdoor sports, so long as the necessary precautions are maintained to reduce the transmission of COVID-19 and to minimize in-person contact with people who are not in the same household.

In accordance with the Guidelines from the President and the CDC, people shall not visit nursing homes, state supported living centers, assisted living facilities, or long-term care facilities unless to provide critical assistance as determined through guidance from the Texas Health and Human Services Commission (HHSC). Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow infection control policies and practices set forth by the HHSC, including minimizing the movement of staff between facilities whenever possible.

In accordance with the Guidelines from the President and the CDC, schools shall remain temporarily closed to in-person classroom attendance by students for the 2019-2020 school year, except for the following:

1. Public education students (accompanied by an adult if needed) may, as allowed by the school consistent with the minimum standard health protocols found in guidance issued by the Texas Education Agency (TEA), visit his or her school campus (a) for limited non-instructional administrative tasks such as cleaning out lockers, collecting personal belongings, and returning school items like band instruments and books; or (b) for graduating seniors, to complete post-secondary requirements that cannot be accomplished absent access to the school facility and its resources, excluding any activity or assessment which can be done virtually.
2. Beginning June 1, 2020, public school districts may offer, and public education students may accordingly visit school campuses for, in-person classroom instructional activities and learning options, such as summer school programs, special education evaluations, specialized assessments, and individualized tutoring, under the minimum standard health protocols found in guidance issued by the TEA.
3. Public education teachers and staff are encouraged to continue to work remotely

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from home if possible, but may return to schools to conduct remote video instruction, to perform administrative duties, and, beginning June 1, 2020, to provide in-person classroom instructional activities and learning options as permitted and offered by school districts, under the minimum standard health protocols found in guidance issued by the TEA.

4. Private schools and institutions of higher education may reopen campuses and are encouraged to establish similar standards to allow students, teachers, and staff to return to schools for the limited purposes set forth above.
5. Notwithstanding anything herein to the contrary, schools may conduct graduation ceremonies consistent with the minimum standard health protocols found in guidance issued by the TEA.

This executive order, as it pertains to cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade, is retroactive to April 2, 2020, to the extent necessary to supersede and nullify the existence of any prior or existing state or local executive order, the violation of which could form the basis for confinement in jail. To the extent any order issued by local officials in response to COVID-19 would allow confinement in jail of a person inconsistent with this executive order or any prior state executive order, that order is superseded retroactive to April 2, 2020.

All existing state executive orders relating to COVID-19 are amended to eliminate confinement in jail as an available penalty for any violation of the executive orders. No jurisdiction can confine a person in jail as a penalty for violating any executive order, or any order issued by local officials, in response to the COVID-19 disaster. To the extent any order issued by local officials in response to the COVID-19 disaster would allow confinement in jail, that order is superseded, and I hereby suspend all relevant laws to the extent necessary to ensure that local officials do not confine people in jail for violating any order issued in response to the COVD-19 disaster. This amendment and suspension operates retroactively to April 2, 2020, and supersedes any contrary local or state order.

This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts Covered Services allowed by this executive order, allows gatherings prohibited by this executive order, or expands the list or scope of Covered Services as set forth in this executive order. I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.

This executive order supersedes Executive Orders GA-21 and GA-22, but does not supersede Executive Orders GA-10, GA-13, GA-17, GA-19, or GA-20. This executive order shall remain in effect and in full force until 11:59 p.m. on June 3, 2020, unless it is modified, amended, rescinded, or superseded by the governor.

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Given under my hand this the 18th day of May, 2020.

GREG ABBOTT
Governor

ATTESTED BY:

RUTH R. HUGHS
Secretary of State

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