

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
DOCKET NO. _____

COMMCAN, INC.; THE GREEN LADY)
DISPENSARY, INC.; ASCEND MASS LLC;)
MASSGROW, LLC; SLANG, INC.; and)
STEPHEN MANDILE,)
Plaintiffs,)
v.)
CHARLIE BAKER, in his Official Capacity)
as Governor of the Commonwealth of)
Massachusetts,)
Defendant.)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

The plaintiffs, CommCan, Inc., The Green Lady Dispensary, Inc., Ascend Mass, LLC, MassGrow, LLC, Slang, Inc., d/b/a Bloom Brothers, and Stephen Mandile, bring this action against the defendant, Charlie Baker, solely in his official capacity of Governor of the Commonwealth of Massachusetts, pursuant to G.L. c. 231A, § 1, as a limited challenge to his executive orders “COVID-19 Order No. 13” (dated March 23, 2020) and “COVID-19 Order No. 21”) (dated March 31, 2020) in response to the COVID-19 outbreak (“Executive Orders”).

Included in the Executive Orders is a requirement that certain purportedly non-essential businesses, including all adult-use marijuana establishments, close their physical workplaces and facilities to workers, customers, and the public until at least May 4, 2020. Accordingly, the Executive Orders effectively have forced the closure of 43 licensed adult-use retail marijuana establishments (and many more adult-use cultivation and manufacturing marijuana establishments) employing a total of approximately 8,000 people, and other provisionally-licensed

retail marijuana establishments will be unable to open while the Executive Orders remain in effect, causing irreparable damage to the adult-use cannabis industry and its customers.

The Executive Orders also are depriving the Commonwealth's residents of safe access to regulated marijuana; and, persons such as Mr. Mandile, who rely on medical marijuana to treat or alleviate serious medical conditions, either will not be able to do so, or will be subject to undue hardship in doing so. This includes military veterans and other persons who rely on marijuana for medical treatment but are reluctant to access the Commonwealth's medical marijuana program because they fear this might deprive them of federal benefits; and, persons on Nantucket, where The Green Lady Dispensary is the only legal source of marijuana products.

By classifying adult-use marijuana establishments as non-essential, while classifying similar regulated businesses—such as liquor stores and medical marijuana dispensaries—as essential, the Executive Orders violate the constitutional rights of the plaintiffs and exceed the Governor's executive authority. As a result, the plaintiffs seek declaratory and injunctive relief from the court to permit the opening of adult-use marijuana establishments in the Commonwealth while the Executive Orders are in effect, subject to any lesser constitutionally-permissible measures intended to mitigate the COVID-19 outbreak.

PARTIES

1. The plaintiff, CommCan, Inc. ("CommCan"), operates a state-licensed "co-located" retail adult-use marijuana establishment and retail medical marijuana treatment center ("MMTC") in the Town of Millis; and, a state-licensed MMTC in the Town of Southborough.

2. The plaintiff, The Green Lady Dispensary, Inc. ("The Green Lady"), operates a state-licensed retail adult-use marijuana establishment in the Town of Nantucket.

3. The plaintiff, Ascend Mass, LLC (“Ascend”), has a provisional state license to operate a retail adult-use marijuana establishment in the City of Boston and a pending application for a retail adult-use marijuana establishment in the City of Newton.

4. The plaintiff, MassGrow, LLC (“MassGrow”), operates a Tier-11 adult-use cultivation marijuana establishment in Athol and has a provisional state license to operate an adult-use manufacturing marijuana establishment in Athol.

5. The plaintiff, Slang, Inc., d/b/a Bloom Brothers (“Bloom Brothers”), operates a retail adult-use marijuana establishment in the City of Pittsfield. (Hereinafter, CommCan, The Green Lady, Ascend, MassGrow, and Bloom Brothers are referred to collectively as the “Marijuana Establishment Plaintiffs”).

6. The plaintiff, Stephen Mandile (“Mr. Mandile”), is a Massachusetts resident and veteran who uses marijuana for medical purposes.

7. The defendant, Charlie Baker (“Governor” or “Governor Baker”), is the Governor of the Commonwealth of Massachusetts and, upon information and belief, has a principal office at the Massachusetts State House, 24 Beacon Street, Office of the Governor, Room 280, Boston, Massachusetts.

JURISDICTION

8. The court has subject matter jurisdiction over this action, which involves constitutional questions and requests for equitable and declaratory relief pursuant to G.L. c. 231A.

FACTS & BACKGROUND

The Executive Orders

9. On March 10, 2020, pursuant to Chapter 639 of the Acts of 1950, and G.L. c. 17, sec. 2A, Governor Baker declared a state of emergency in the Commonwealth of Massachusetts due to the outbreak of COVID-19.

10. On March 11, 2020, the World Health Organization declared that the outbreak of COVID-19 constituted a global pandemic.

11. On March 19, 2020, the Federal Cybersecurity and Infrastructure Security Agency identified 14 infrastructures the agency considered to provide functions essential to combating the COVID-19 pandemic (“Federal Guidelines,” attached at Tab 1).

12. On March 23, 2020, pursuant to Sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 (“Civil Defense Act”), Governor Baker issued “COVID-19 Order No. 13” (“First Executive Order,” attached at Tab 2), referring to the Federal Guidelines and declaring that he had “identified additional services and functions that likewise are essential to promote the public health and welfare of the Commonwealth, and therefore it is imperative to ensure that workers providing critical services and functions in these State and Federally designated sectors may continue to work to ensure community resilience and continuity of response efforts[.]”

13. The First Executive Order provided that:

- The production and services sectors identified in Exhibit A [accompanying the First Executive Order] are hereby designated as ‘COVID-19 Essential Services.’ (Emphasis in original.)
- The workforces engaged and working in these production and service sectors are hereby designated as ‘COVID-19 Essential Workforces.’
- Businesses and other organizations that provide the services and functions identified as COVID-19 Essential Services in Exhibit A are urged to continue operations during the state of emergency, but to do so with allowance for social distancing protocols consistent with guidance provided by the Department of Public Health. (Emphasis in original.)
- All businesses and other organizations that do not provide COVID-19 Essential Services shall close their physical workplaces and facilities (‘brick-and-mortar premises’) to workers, customers, and the public as of 12:00 noon on March 24, 2020 and shall not re-open to workers, customers, or the public before noon on April 7, 2020.

- Businesses and other organizations that do not provide COVID-19 Essential Services are encouraged to continue operations where they are able to operate through remote means that do not require workers, customers, or the public to enter or appear at the brick-and-mortar premises closed by this Order.”

14. Exhibit A to the First Executive Order contained a list, “based on [the Federal Guidelines] and amended to reflect the needs of Massachusetts’ unique economy[,]” with 14 categories of COVID-19 Essential Services, corresponding with the same 14 industry categories listed in the Federal Guidelines. (Exhibit A to the First Executive Order is attached at Tab 3.)

15. The category “Food and Agriculture” was included in the Federal Guidelines and Exhibit A.

16. While the Federal Guidelines’ first Food and Agriculture subcategory was “[w]orkers supporting pharmacies, groceries and other retail that sells food and beverage products[,]” Exhibit A’s first Food and Agriculture subcategory was “[w]orkers supporting groceries, pharmacies and other retail, including farmers markets and farm stands, that sells food and beverage products, including liquor stores.”

17. Adult-use marijuana establishments were not included on Exhibit A’s list of COVID-19 Essential Services.

18. MMTCs were included on Exhibit A’s list of COVID-19 Essential Services: Together with many other “medical facilities,” they are found in the “Health Care/Public Health/Human Services” category.

19. By law, MMTCs can only sell marijuana products to qualified registered patients.

20. Exhibit A provided a mechanism permitting any business not on the list of COVID-19 Essential Services to make a request to the Governor’s office that the business be added to the list and allowed to keep its brick-and-mortar operations open.

21. The Marijuana Establishment Plaintiffs made requests to Governor's office that adult-use marijuana establishments be added to the list, but the Governor's office has not responded.

22. On March 23, 2020, in response to the First Executive Order, the Cannabis Control Commission ("CCC") issued a "Cease and Desist Order" declaring that all adult-use retail marijuana establishments in the Commonwealth would have to close between 12:00 p.m. on Tuesday, March 24, 2020 and 12:00 p.m. on Tuesday, April 7, 2020.

23. The CCC's Cease and Desist Order purported to offer a hearing within 21 days to any aggrieved establishments.

24. However, the First Executive Order prevented the CCC from granting relief to any aggrieved establishments, because the First Executive Order did not invite the CCC to issue any subsequent orders, directives, or guidelines of any kind.

25. In his public statements, the only rationale the Governor has offered for differentiating between liquor stores and MMTCs (on the one hand) and adult-use marijuana establishments (on the other hand) is to deter residents from neighboring states without lawful recreational marijuana from patronizing Massachusetts' adult-use marijuana establishments:

"If we make recreational marijuana available, we are going to have to deal with the fact that people are going to come here from all over the place, across the northeast and create issues for us with respect to the fundamental issue we are trying to solve for here — which is to stop the spread," [Governor] Baker said at a press conference Tuesday. "And for that reason and that reason alone, I think this is just a non-starter with us."

26. The plaintiffs are not aware of any reasons offered by the Governor for not simply requiring adult-use marijuana establishments to limit their sales to Massachusetts residents alone, other than his concern that this might not be legal.

27. On March 31, 2020, the Governor issued “COVID-19 Order No. 21” (“Second Executive Order,” attached at Tab 4), extending the First Executive Order through and including May 4, 2020.

28. The Second Executive Order was accompanied by a modified list of COVID-19 Essential Services that, once again, provided that liquor stores and MMTCs were allowed to keep their brick-and-mortar facilities open, while adult-use marijuana establishments again were not allowed to keep their facilities open. (A copy of the list accompanying the Second Executive Order is attached at Tab 5.)¹

*Other States’ Treatment of Adult-Use Marijuana
Establishments During the COVID-19 Outbreak*

29. Among the many states with regulated adult-use and medical marijuana markets that have responded to the COVID-19 outbreak, Massachusetts seems to be the only state that has deemed medical marijuana essential but adult-use/recreational marijuana non-essential.

30. The states of California, Colorado, Illinois, Nevada, and Washington have deemed both medical and recreational marijuana establishments to be “essential,” while Michigan and Oregon have provided legal guidance effectively allowing the continued operation of all cannabis businesses. More specifically:

- In California, on March 19, 2020, Governor Newsom issued an Executive Order that directed all residents to comply with the State Department of Public Health Officer’s COVID-19 directives, while the Health Officer’s March 19 and 22, 2020 directives have referred to the Federal Guidelines, and have included all cannabis retailers as a part of the State’s “Essential Workforce” in the “Healthcare/Public Health” category.
- In Colorado, a Public Health Order (issued pursuant to an Executive Order of Governor Polis) includes marijuana dispensaries as “Critical Businesses,” with the caveats that adult-use sales occur only via curbside

¹ Yesterday, April 7, 2020, the CCC updated its Cease and Desist Order to account for the Second Executive Order; and in doing so, the CCC (among other things) confirmed that the adult-use marijuana industry has been deemed non-essential and must remain closed until May 4, 2020.

delivery, and that any such businesses follow social-distancing guidelines. (Previously, Governor Polis suspended the State’s prohibition of online marijuana sales, consistent with social-distancing guidelines promulgated by the Colorado Department of Public Health and Environment, which relied upon the federal CDC’s “Interim Guidance for Coronavirus Disease (COVID-19)” (dated March 15, 2020).

- In Illinois, on March 20, 2020, Governor Pritzker issued an Executive Order determining—in pertinent part—that adult-use cannabis dispensaries are essential businesses. (Governor Pritzker relied on both the CDC’s social-distancing guidelines and, by reference and in substance, and the Federal Guidelines.)
- In Michigan, the determination that marijuana businesses are “essential” was not as explicit; nevertheless, an Executive Order of Governor Whitmer determined that “no person or entity shall operate a business or conduct operations that require workers to leave their homes or places of residence except to the extent that those workers are necessary to sustain or protect life or to conduct minimum basic operations.” (Furthermore, the Michigan Marijuana Regulatory Agency’s Advisory Bulletin (dated March 23, 2020) granted licensed marijuana businesses the ability to engage in regulated activities as authorized by their licenses, although provisioning centers and retailers are limited to curbside service or delivery, and marijuana businesses must abide by the CDC’s social-distancing guidelines.)
- In Nevada, Governor Sisolak issued an “Emergency Directive” (on March 20, 2020) allowing retail cannabis dispensaries to continue operations by delivery only, while closing Non-Essential Businesses entirely. In issuing his Directive, Governor Sisolak specifically relied upon the CDC guidelines.
- In Oregon, Governor Brown issued an Executive Order (dated March 23, 2020), ordering, inter alia, the immediate closure of certain businesses. Retail marijuana dispensaries were not required to close, so long as they designated a representative to enforce the social-distancing policies directed by the Oregon Health Authority. In his Order, Governor Brown acknowledged the CDC’s mitigation strategies against COVID-19.
- In Washington, a Proclamation of Governor Inslee required the statewide shutdown of certain businesses and establishments (and limited the size of gatherings to no more than 50 people). Cannabis retailers were not among the businesses required to close. Any retail establishments not ordered to close—including cannabis retailers—again were required to designate a representative to enforce social-distancing and sanitation measures established by the CDC or Washington State Department of Health.

The Marijuana/Cannabis Industry in Massachusetts and its Nexus to Liquor Stores

31. In 2016, The Regulation and Taxation of Marijuana Act (“Act”), legalized adult-use marijuana in the Commonwealth and had a stated purpose “to control the production and distribution of marijuana under a system that licenses, regulates and taxes the businesses involved in a manner similar to alcohol[.]”

32. The Act included at least two direct correlations between adult-use retail marijuana establishments and liquor stores, one of which (a) limit[ed] the ability of municipalities to prohibit the number of adult-use retail marijuana establishments to “fewer than 20 percent of the number of licenses issued within the city or town for the retail sale of alcoholic beverages not to be drunk on the premises where sold[.]” and the other of which (b) established the CCC and tasked it with creating “qualifications for licensure and standards for employment ... similar to qualifications for licensure and employment standards in connection with alcoholic beverages[.]”

33. With slight modifications, the aforementioned provisions of the Act are now codified by Sections 3 and 4, respectively, of Chapter 94G of the Massachusetts General Laws (“94G”).

34. While 94G allows for home-delivery from adult-use marijuana establishments, the CCC has not yet accepted applications for licenses permitting home-delivery.

35. Meanwhile, adult-use marijuana can only be sold at the physical-storefront locations of licensed adult-use marijuana establishments (i.e., the type of “brick-and-mortar” operations proscribed by the Executive Orders).

36. Since the first adult-use marijuana establishments began operating in Massachusetts, they collectively have generated gross sales of approximately \$549,000,000.00, and millions of dollars of corresponding tax revenue for the Commonwealth and its citizens.

37. Currently, adult-use retail marijuana establishments generate approximately \$13,000,000.00 in gross weekly sales throughout the Commonwealth.

38. As of March 26, 2020, there were 399 adult-use marijuana establishment license applications pending before the CCC, and 43 adult-use marijuana establishments had received permission from the CCC to commence operations.

39. There are currently no adult-use/recreational marijuana dispensaries open in any of the states bordering Massachusetts, although Vermont and Maine have legalized (but not yet formally permitted) marijuana sales.

Plaintiff The Green Lady

40. The Green Lady operates the only adult-use marijuana establishment in the Town of Nantucket, and there are no MMTCs in Nantucket.

41. Therefore, medical marijuana patients who live on Nantucket rely exclusively upon The Green Lady to obtain regulated marijuana.

42. On March 22, 2020, the Nantucket Health Department issued an emergency order to shelter-in-place as of 5:00 p.m. on March 23, 2020 (“Nantucket Order”).

43. With limited exceptions, the Nantucket Order required all individuals living on the island to stay home, except to “[p]rovide or receive certain essential activities or engage in certain essential activities and work for essential businesses...”

44. The Nantucket Order permitted individuals to “leave their residence to work for or obtain services at any ‘Healthcare Operations,’ including but not limited to..., marijuana dispensary (sic) or any related and/or ancillary healthcare services.”

45. The Governor’s Executive Orders effectively nullified the Nantucket Order’s determination that The Green Lady was an essential “Healthcare Operation.”

46. As a result of the Executive Orders, The Green Lady has closed its retail marijuana establishment and is not able to provide marijuana for medical purposes to any individuals who rely exclusively upon The Green Lady for marijuana.

Plaintiff Stephen Mandile

47. Mr. Mandile served in Iraq, where he suffered a number of injuries, including five ruptured discs, spinal stenosis, damage to the sciatic nerve, radiculopathy in both legs, and a traumatic brain injury.

48. Upon returning from Iraq, Mr. Mandile was diagnosed with chronic pain and PTSD by Department of Veterans Affairs physicians who prescribed him over 50 different prescription drugs, including Methadone, Morphine, Oxycodone, Oxycontin, Percocet, Fentanyl, and Benzodiazepine.

49. As a result of taking these medications, Mr. Mandile experienced negative side effects, including depression and suicidal thoughts; and therefore, he began using marijuana as an alternative medical treatment and, within five months, he was able to cease using all but one of the prescriptions drugs, and marijuana has since become an essential part of his medical treatment.

50. Mr. Mandile relies on adult-use marijuana establishments to obtain marijuana to treat his medical conditions, because he would have to travel over one hour to visit a MMTC, making the adult-use establishments significantly more accessible to him.

51. Mr. Mandile is the founder of a nonprofit organization, Alternative Treatment for Veterans (“ATV”), whose mission is to raise awareness about veterans and marijuana use, support research, and advocate for veteran access to marijuana.

52. Through his work with ATV, Mr. Mandile has gained first-hand knowledge of veterans who rely exclusively upon adult-use marijuana establishments to obtain marijuana for medical purposes because they are reluctant to enter into the Commonwealth’s medical marijuana

program, fearing this might deprive them of federal benefits. (Under federal law, marijuana sales are not authorized and marijuana is considered to have no accepted medical use.)

53. Additionally, through his work at ATV, Mr. Mandile has personal knowledge of veterans who have been deprived of access to marijuana for medical purposes because of the Executive Order's closure of all adult-use marijuana establishments in the Commonwealth.

Harm to Plaintiffs

54. As a result of the Executive Orders, the Marijuana Establishment Plaintiffs have ceased their adult-use operations and begun to suffer irreparable financial harm.

55. Overall, the Executive Order effectively has closed 43 licensed adult-use establishments (and many more cultivation and manufacturing marijuana establishments, including MassGrow's and The Green Lady's cultivation establishments in Athol and Nantucket, respectively) employing approximately 8,000 people; and, at least 21 other provisionally-licensed adult-use retail marijuana establishments, including Ascend's approved Boston facility, will be unable to open while the Second Executive Order remains in effect.

56. For as long as the Governor's Executive Orders remain in effect and adult-use marijuana establishments are deemed non-essential:

- The Marijuana Establishment Plaintiffs (and all adult-use marijuana establishments) will be deprived of all revenue, and the Commonwealth and its citizens will be deprived of corresponding tax revenue.
- The Marijuana Establishment Plaintiffs will continue to suffer ever-more-substantial irreparable financial harm on a daily basis.
- The citizens of the Commonwealth desirous of patronizing adult-use marijuana establishments for medical purposes will be unable to do so, including any such individuals on Nantucket, where The Green Lady is the only legal source of marijuana.
- Certain other medical users of marijuana, including but not limited to persons reluctant to access the Commonwealth's medical marijuana

program because they fear it might deprive them of federal benefits, will not be able to legally purchase marijuana for medical purposes.

- Mr. Mandile and other similarly situated veterans will be unable to patronize adult-use retail marijuana establishments to purchase the marijuana products essential to the treatment of their medical conditions.
- The unavailability of adult-use marijuana products may lead certain marijuana users to resort to illegal and unregulated sources of marijuana, where social-distancing and other protective measures against COVID-19 cannot be enforced.

COUNT I – DECLARATORY JUDGMENT
VIOLATION OF UNITED STATES CONSTITUTION

57. The plaintiffs incorporate herein by reference their preceding allegations.

58. The Equal Protection Clause of the Fourteenth Amendment of the United States Constitution provides that no State shall deprive any person of equal protection of the laws.

59. The defendant has ordered the Marijuana Establishment Plaintiffs to close their brick-and-mortar stores and thereby deprived them of their right to conduct business of any kind.

60. The Executive Orders violate the Equal Protection Clause because, for purposes of combating the outbreak of COVID-19, there is no legitimate or rational basis to distinguish between adult-use and medical marijuana establishments; between adult-use marijuana establishments and liquor stores; between those who frequent such stores; or, between medical marijuana users (such as Mr. Mandile) who frequent adult-use marijuana establishments, and medical marijuana users who only frequent medical marijuana dispensaries.

61. The defendant's failure to grant adult-use retail marijuana establishments the same protections granted to MMTCs and liquor stores violates the equal protection rights of the Marijuana Establishment Plaintiffs (and other members of the adult-use marijuana industry), as well as users of medical marijuana who frequent adult-use marijuana establishments, causing them all irreparable injury.

62. An actual justiciable controversy has arisen between the plaintiffs and the defendant as to whether the Executive Orders violate the United States Constitution's Fourteenth Amendment.

63. Accordingly, the plaintiffs are entitled to declaratory relief invalidating the Executive Orders' requirement that the adult-use marijuana industry cease conducting business until at least May 4, 2020.

COUNT II – DECLARATORY JUDGMENT
VIOLATION OF MASSACHUSETTS CONSTITUTION

64. The plaintiffs incorporate herein by reference their preceding allegations.

65. All persons in the Commonwealth are guaranteed the right to equal protection of the laws by the Massachusetts Declaration of Rights.

66. The defendant has ordered the Marijuana Establishment Plaintiffs to close their brick-and-mortar stores and thereby deprived them of their right to conduct business of any kind.

67. The Executive Orders violate the rights of the plaintiffs to equal protection of the laws under the Massachusetts Declaration of Rights because, for purposes of combating the outbreak of COVID-19, there is no legitimate or rational basis to distinguish between adult-use and medical marijuana establishments; between adult-use marijuana establishments and liquor stores; between those who frequent such stores; or, between medical marijuana users (such as Mr. Mandile) who frequent adult-use marijuana establishments, and medical marijuana users who only frequent medical marijuana establishments.

68. The defendant's failure to grant adult-use retail marijuana establishments stores the same protections granted to MMTCs and liquor stores violates the equal protection rights of the Marijuana Establishment Plaintiffs (and other members of the adult-use marijuana industry), as

well as users of medical marijuana who frequent adult-use marijuana establishments, causing them all irreparable injury.

69. An actual justiciable controversy has arisen between the plaintiffs and the defendant as to whether the Executive Orders violate the United States Constitution's Fourteenth Amendment.

70. Accordingly, the plaintiffs are entitled to declaratory and relief invalidating the Executive Orders' requirement that the adult-use marijuana industry cease conducting business of any kind until at least May 4, 2020.

COUNT III – INVALID USE OF EXECUTIVE POWER

71. The plaintiffs incorporate herein by reference the preceding allegations.

72. The Executive Orders' failure to grant adult-use marijuana establishments the same protections granted to liquor stores constitutes an excessive or invalid use of the powers granted to the Governor under the Constitution and Laws of the Commonwealth of Massachusetts.

73. The Executive Orders are not sufficiently tailored to Chapter 639 of the Acts of 1950, pursuant to which they were enacted, or to the equal protection requirements of the federal and state constitutions.

74. An actual justiciable controversy has arisen between the plaintiffs and the defendant as to whether the Executive Orders' closure of the adult-use marijuana industry constitutes an excessive or invalid exercise of the defendant's executive power.

75. The plaintiffs are entitled to declaratory relief invalidating the Executive Orders' requirement that the adult-use marijuana industry cease conducting business of any kind.

COUNT IV – PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF

76. The plaintiffs incorporate herein by reference the preceding allegations.

77. The irreparable harm suffered and to be suffered by the plaintiffs as a result of the Executive Orders outweigh any conceivable harm to the public that would be caused by deeming adult-use marijuana establishments “essential businesses.”

78. Moreover, the public interest to be gained by deeming adult-use marijuana establishments as “essential businesses” outweighs any conceivable harm to the public that would be caused by forcing the stoppage of the Marijuana Establishment Plaintiffs’ operations while the Executive Orders remain in effect.

79. The court should award temporary and permanent injunctive relief that would serve to prevent the Executive Orders from being enforced against the plaintiffs.

WHEREFORE, the plaintiffs requests the following relief:

A. A declaratory judgment that the Executive Orders violate the federal and state constitutional equal protection rights of the plaintiffs;

B. A declaratory judgment that the Executive Orders constitute an invalid use of the executive power under the Laws and Constitution of the Commonwealth of Massachusetts as against the plaintiffs;

C. Temporary and permanent injunctive relief that would serve to prevent the Executive Orders from being enforced against the Marijuana Establishment Plaintiffs; and,

D. Any further relief the court deems appropriate.

The Plaintiffs,

COMMCAN, INC.; THE GREEN LADY
DISPENSARY, INC.; ASCEND MASS LLC;
MASSGROW, LLC; SLANG, INC.; and
STEPHEN MANDILE.

By their attorneys,

/s/ Michael T. Sullivan

/s/ Michael P. Ross

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Dated: April 8, 2020

-4/8/20

TAB 1

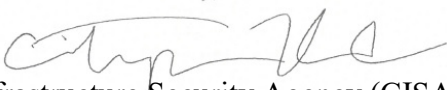


CISA
CYBER+INFRASTRUCTURE

March 19, 2020

**MEMORANDUM ON IDENTIFICATION OF ESSENTIAL CRITICAL
INFRASTRUCTURE WORKERS DURING COVID-19 RESPONSE**

FROM: Christopher C. Krebs
Director
Cybersecurity and Infrastructure Security Agency (CISA)



As the Nation comes together to slow the spread of COVID-19, on March 16th, the President issued updated Coronavirus Guidance for America. This guidance states that:

“If you work in a critical infrastructure industry, as defined by the Department of Homeland Security, such as healthcare services and pharmaceutical and food supply, you have a special responsibility to maintain your normal work schedule.”

The Cybersecurity and Infrastructure Security Agency (CISA) executes the Secretary of Homeland Security’s responsibilities as assigned under the Homeland Security Act of 2002 to provide strategic guidance, promote a national unity of effort, and coordinate the overall federal effort to ensure the security and resilience of the Nation’s critical infrastructure. CISA uses trusted partnerships with both the public and private sectors to deliver infrastructure resilience assistance and guidance to a broad range of partners.

In accordance with this mandate, and in collaboration with other federal agencies and the private sector, CISA developed an initial list of “Essential Critical Infrastructure Workers” to help State and local officials as they work to protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. The list can also inform critical infrastructure community decision-making to determine the sectors, sub-sectors, segments, or critical functions that should continue normal operations, appropriately modified to account for Centers for Disease Control (CDC) workforce and customer protection guidance.

The attached list identifies workers who conduct a range of operations and services that are essential to continued critical infrastructure viability, including staffing operations centers, maintaining and repairing critical infrastructure, operating call centers, working construction, and performing management functions, among others. The industries they support represent, but are not necessarily limited to, medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, water and wastewater, law enforcement, and public works.

We recognize that State, local, tribal, and territorial governments are ultimately in charge of implementing and executing response activities in communities under their jurisdiction, while the Federal Government is in a supporting role. As State and local communities consider COVID-19-related restrictions, CISA is offering this list to assist prioritizing activities related to continuity of operations and incident response, including the appropriate movement of critical infrastructure workers within and between jurisdictions.

Accordingly, this list is advisory in nature. It is not, nor should it be considered to be, a federal directive or standard in and of itself.

In addition, these identified sectors and workers are not intended to be the authoritative or exhaustive list of critical infrastructure sectors and functions that should continue during the COVID-19 response. Instead, State and local officials should use their own judgment in using their authorities and issuing implementation directives and guidance. Similarly, critical infrastructure industry partners will use their own judgment, informed by this list, to ensure continued operations of critical infrastructure services and functions. All decisions should appropriately balance public safety while ensuring the continued delivery of critical infrastructure services and functions.

CISA will continue to work with you and our partners in the critical infrastructure community to update this list as the Nation's response to COVID-19 evolves. We also encourage you to submit how you might use this list so that we can develop a repository of use cases for broad sharing across the country.

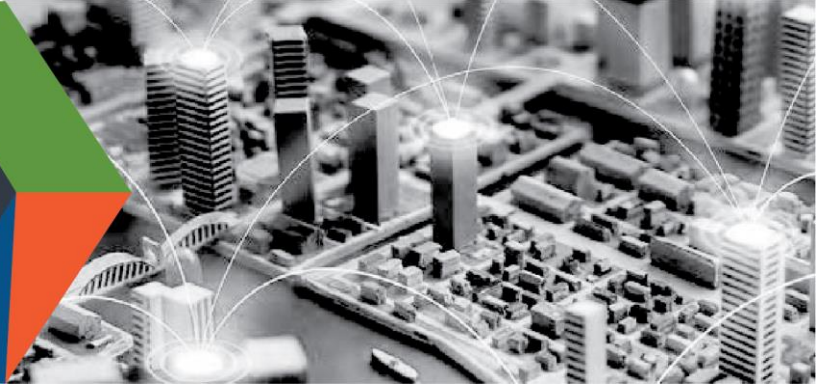
Should you have questions about this list, please contact CISA at CISA.CAT@cisa.dhs.gov.

Attachment: "Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response"



CISA
CYBER+INFRASTRUCTURE

DEFEND TODAY, SECURE TOMORROW



Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response

Version 1.0 (March 19, 2020)

THE IMPORTANCE OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

Functioning critical infrastructure is imperative during the response to the COVID-19 emergency for both public health and safety as well as community well-being. Certain critical infrastructure industries have a special responsibility in these times to continue operations.

This guidance and accompanying list are intended to support State, Local, and industry partners in identifying the critical infrastructure sectors and the essential workers needed to maintain the services and functions Americans depend on daily and that need to be able to operate resiliently during the COVID-19 pandemic response.

This document gives guidance to State, local, tribal, and territorial jurisdictions and the private sector on defining essential critical infrastructure workers. Promoting the ability of such workers to continue to work during periods of community restriction, access management, social distancing, or closure orders/directives is crucial to community resilience and continuity of essential functions.

CONSIDERATIONS FOR GOVERNMENT AND BUSINESS

This list was developed in consultation with federal agency partners, industry experts, and State and local officials, and is based on several key principles:

1. Response efforts to the COVID-19 pandemic are locally executed, State managed, and federally supported
2. Everyone should follow guidance from the CDC, as well as State and local government officials, regarding strategies to limit disease spread.
3. Workers should be encouraged to work remotely when possible and focus on core business activities. In-person, non-mandatory activities should be delayed until the resumption of normal operations.
4. When continuous remote work is not possible, businesses should enlist strategies to reduce the likelihood of spreading the disease. This includes, but is not necessarily limited to, separating staff by off-setting shift hours or days and/or social distancing. These steps can preserve the workforce and allow operations to continue.

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email CISA.CAT@cisa.dhs.gov



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5. All organizations should implement their business continuity and pandemic plans, or put plans in place if they do not exist. Delaying implementation is not advised and puts at risk the viability of the business and the health and safety of the employees.
6. In the modern economy, reliance on technology and just-in-time supply chains means that certain workers must be able to access certain sites, facilities, and assets to ensure continuity of functions.
7. Government employees, such as emergency managers, and the business community need to establish and maintain lines of communication.
8. When government and businesses engage in discussions about critical infrastructure workers, they need to consider the implications of business operations beyond the jurisdiction where the asset or facility is located. Businesses can have sizeable economic and societal impacts as well as supply chain dependencies that are geographically distributed.
9. Whenever possible, jurisdictions should align access and movement control policies related to critical infrastructure workers to lower the burden of workers crossing jurisdictional boundaries.

IDENTIFYING ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS

The following list of sectors and identified essential critical infrastructure workers are an initial recommended set and are intended to be overly inclusive reflecting the diversity of industries across the United States. CISA will continually solicit and accept feedback on the list (both sectors/sub sectors and identified essential workers) and will evolve the list in response to stakeholder feedback. We will also use our various stakeholder engagement mechanisms to work with partners on how they are using this list and share those lessons learned and best practices broadly. We ask that you share your feedback, both positive and negative on this list so we can provide the most useful guidance to our critical infrastructure partners. **Feedback can be sent to CISA.CAT@CISA.DHS.GOV.**



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HEALTHCARE / PUBLIC HEALTH

- Workers providing COVID-19 testing; Workers that perform critical clinical research needed for COVID-19 response
- Caregivers (e.g., physicians, dentists, psychologists, mid-level practitioners, nurses and assistants, infection control and quality assurance personnel, pharmacists, physical and occupational therapists and assistants, social workers, speech pathologists and diagnostic and therapeutic technicians and technologists)
- Hospital and laboratory personnel (including accounting, administrative, admitting and discharge, engineering, epidemiological, source plasma and blood donation, food service, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians, respiratory therapists, etc.)
- Workers in other medical facilities (including Ambulatory Health and Surgical, Blood Banks, Clinics, Community Mental Health, Comprehensive Outpatient rehabilitation, End Stage Renal Disease, Health Departments, Home Health care, Hospices, Hospitals, Long Term Care, Organ Pharmacies, Procurement Organizations, Psychiatric Residential, Rural Health Clinics and Federally Qualified Health Centers)
- Manufacturers, technicians, logistics and warehouse operators, and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products
- Public health / community health workers, including those who compile, model, analyze and communicate public health information
- Blood and plasma donors and the employees of the organizations that operate and manage related activities
- Workers that manage health plans, billing, and health information, who cannot practically work remotely
- Workers who conduct community-based public health functions, conducting epidemiologic surveillance, compiling, analyzing and communicating public health information, who cannot practically work remotely
- Workers performing cybersecurity functions at healthcare and public health facilities, who cannot practically work remotely
- Workers conducting research critical to COVID-19 response
- Workers performing security, incident management, and emergency operations functions at or on behalf of healthcare entities including healthcare coalitions, who cannot practically work remotely
- Workers who support food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, such as those residing in shelters
- Pharmacy employees necessary for filling prescriptions
- Workers performing mortuary services, including funeral homes, crematoriums, and cemetery workers
- Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to mental/behavioral health services to the family members, responders, and survivors of an incident

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LAW ENFORCEMENT, PUBLIC SAFETY, FIRST RESPONDERS

- Personnel in emergency management, law enforcement, Emergency Management Systems, fire, and corrections, including front line and management
- Emergency Medical Technicians
- 911 call center employees
- Fusion Center employees
- Hazardous material responders from government and the private sector.
- Workers – including contracted vendors – who maintain digital systems infrastructure supporting law enforcement and emergency service operations.

FOOD AND AGRICULTURE

- Workers supporting groceries, pharmacies and other retail that sells food and beverage products
- Restaurant carry-out and quick serve food operations - Carry-out and delivery food employees
- Food manufacturer employees and their supplier employees—to include those employed in food processing (packers, meat processing, cheese plants, milk plants, produce, etc.) facilities; livestock, poultry, seafood slaughter facilities; pet and animal feed processing facilities; human food facilities producing by-products for animal food; beverage production facilities; and the production of food packaging
- Farm workers to include those employed in animal food, feed, and ingredient production, packaging, and distribution; manufacturing, packaging, and distribution of veterinary drugs; truck delivery and transport; farm and fishery labor needed to produce our food supply domestically
- Farm workers and support service workers to include those who field crops; commodity inspection; fuel ethanol facilities; storage facilities; and other agricultural inputs
- Employees and firms supporting food, feed, and beverage distribution, including warehouse workers, vendor-managed inventory controllers and blockchain managers
- Workers supporting the sanitation of all food manufacturing processes and operations from wholesale to retail
- Company cafeterias - in-plant cafeterias used to feed employees
- Workers in food testing labs in private industries and in institutions of higher education
- Workers essential for assistance programs and government payments
- Employees of companies engaged in the production of chemicals, medicines, vaccines, and other substances used by the food and agriculture industry, including pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids
- Animal agriculture workers to include those employed in veterinary health; manufacturing and distribution of animal medical materials, animal vaccines, animal drugs, feed ingredients, feed, and bedding, etc.; transportation of live animals, animal medical materials; transportation of deceased animals for disposal; raising of animals for food; animal production operations; slaughter and packing plants and associated regulatory and government workforce
- Workers who support the manufacture and distribution of forest products, including, but not limited to timber, paper, and other wood products
- Employees engaged in the manufacture and maintenance of equipment and other infrastructure necessary to agricultural production and distribution

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ENERGY

Electricity industry:

- Workers who maintain, ensure, or restore the generation, transmission, and distribution of electric power, including call centers, utility workers, reliability engineers and fleet maintenance technicians
- Workers needed for safe and secure operations at nuclear generation
- Workers at generation, transmission, and electric blackstart facilities
- Workers at Reliability Coordinator (RC), Balancing Authorities (BA), and primary and backup Control Centers (CC), including but not limited to independent system operators, regional transmission organizations, and balancing authorities
- Mutual assistance personnel
- IT and OT technology staff – for EMS (Energy Management Systems) and Supervisory Control and Data Acquisition (SCADA) systems, and utility data centers; Cybersecurity engineers; cybersecurity risk management
- Vegetation management crews and traffic workers who support
- Environmental remediation/monitoring technicians
- Instrumentation, protection, and control technicians

Petroleum workers:

- Petroleum product storage, pipeline, marine transport, terminals, rail transport, road transport
- Crude oil storage facilities, pipeline, and marine transport
- Petroleum refinery facilities
- Petroleum security operations center employees and workers who support emergency response services
- Petroleum operations control rooms/centers
- Petroleum drilling, extraction, production, processing, refining, terminal operations, transporting, and retail for use as end-use fuels or feedstocks for chemical manufacturing
- Onshore and offshore operations for maintenance and emergency response
- Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them

Natural and propane gas workers:

- Natural gas transmission and distribution pipelines, including compressor stations
- Underground storage of natural gas
- Natural gas processing plants, and those that deal with natural gas liquids
- Liquefied Natural Gas (LNG) facilities
- Natural gas security operations center, natural gas operations dispatch and control rooms/centers natural gas emergency response and customer emergencies, including natural gas leak calls
- Drilling, production, processing, refining, and transporting natural gas for use as end-use fuels, feedstocks for chemical manufacturing, or use in electricity generation
- Propane gas dispatch and control rooms and emergency response and customer emergencies, including propane leak calls
- Propane gas service maintenance and restoration, including call centers

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- Processing, refining, and transporting natural liquids, including propane gas, for use as end-use fuels or feedstocks for chemical manufacturing
- Propane gas storage, transmission, and distribution centers

WATER AND WASTEWATER

Employees needed to operate and maintain drinking water and wastewater/drainage infrastructure, including:

- Operational staff at water authorities
- Operational staff at community water systems
- Operational staff at wastewater treatment facilities
- Workers repairing water and wastewater conveyances and performing required sampling or monitoring
- Operational staff for water distribution and testing
- Operational staff at wastewater collection facilities
- Operational staff and technical support for SCADA Control systems
- Chemical disinfectant suppliers for wastewater and personnel protection
- Workers that maintain digital systems infrastructure supporting water and wastewater operations

TRANSPORTATION AND LOGISTICS

- Employees supporting or enabling transportation functions, including dispatchers, maintenance and repair technicians, warehouse workers, truck stop and rest area workers, and workers that maintain and inspect infrastructure (including those that require cross-border travel)
- Employees of firms providing services that enable logistics operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use.
- Mass transit workers
- Workers responsible for operating dispatching passenger, commuter and freight trains and maintaining rail infrastructure and equipment
- Maritime transportation workers - port workers, mariners, equipment operators
- Truck drivers who haul hazardous and waste materials to support critical infrastructure, capabilities, functions, and services
- Automotive repair and maintenance facilities
- Manufacturers and distributors (to include service centers and related operations) of packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations
- Postal and shipping workers, to include private companies
- Employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers
- Air transportation employees, including air traffic controllers, ramp personnel, aviation security, and aviation management
- Workers who support the maintenance and operation of cargo by air transportation, including flight crews, maintenance, airport operations, and other on- and off- airport facilities workers

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PUBLIC WORKS

- Workers who support the operation, inspection, and maintenance of essential dams, locks and levees
- Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including bridges, water and sewer main breaks, fleet maintenance personnel, construction of critical or strategic infrastructure, traffic signal maintenance, emergency location services for buried utilities, maintenance of digital systems infrastructure supporting public works operations, and other emergent issues
- Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences
- Support, such as road and line clearing, to ensure the availability of needed facilities, transportation, energy and communications
- Support to ensure the effective removal, storage, and disposal of residential and commercial solid waste and hazardous waste

COMMUNICATIONS AND INFORMATION TECHNOLOGY

Communications:

- Maintenance of communications infrastructure- including privately owned and maintained communication systems- supported by technicians, operators, call-centers, wireline and wireless providers, cable service providers, satellite operations, undersea cable landing stations, Internet Exchange Points, and manufacturers and distributors of communications equipment
- Workers who support radio, television, and media service, including, but not limited to front line news reporters, studio, and technicians for newsgathering and reporting
- Workers at Independent System Operators and Regional Transmission Organizations, and Network Operations staff, engineers and/or technicians to manage the network or operate facilities
- Engineers, technicians and associated personnel responsible for infrastructure construction and restoration, including contractors for construction and engineering of fiber optic cables
- Installation, maintenance and repair technicians that establish, support or repair service as needed
- Central office personnel to maintain and operate central office, data centers, and other network office facilities
- Customer service and support staff, including managed and professional services as well as remote providers of support to transitioning employees to set up and maintain home offices, who interface with customers to manage or support service environments and security issues, including payroll, billing, fraud, and troubleshooting
- Dispatchers involved with service repair and restoration

Information Technology:

- Workers who support command centers, including, but not limited to Network Operations Command Center, Broadcast Operations Control Center and Security Operations Command Center
- Data center operators, including system administrators, HVAC & electrical engineers, security personnel, IT managers, data transfer solutions engineers, software and hardware engineers, and database administrators
- Client service centers, field engineers, and other technicians supporting critical infrastructure, as well as

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manufacturers and supply chain vendors that provide hardware and software, and information technology equipment (to include microelectronics and semiconductors) for critical infrastructure

- Workers responding to cyber incidents involving critical infrastructure, including medical facilities, SLTT governments and federal facilities, energy and utilities, and banks and financial institutions, and other critical infrastructure categories and personnel
- Workers supporting the provision of essential global, national and local infrastructure for computing services (incl. cloud computing services), business infrastructure, web-based services, and critical manufacturing
- Workers supporting communications systems and information technology used by law enforcement, public safety, medical, energy and other critical industries
- Support required for continuity of services, including janitorial/cleaning personnel

OTHER COMMUNITY-BASED GOVERNMENT OPERATIONS AND ESSENTIAL FUNCTIONS

- Workers to ensure continuity of building functions
- Security staff to maintain building access control and physical security measures
- Elections personnel
- Federal, State, and Local, Tribal, and Territorial employees who support Mission Essential Functions and communications networks
- Trade Officials (FTA negotiators; international data flow administrators)
- Weather forecasters
- Workers that maintain digital systems infrastructure supporting other critical government operations
- Workers at operations centers necessary to maintain other essential functions
- Workers who support necessary credentialing, vetting and licensing operations for transportation workers
- Customs workers who are critical to facilitating trade in support of the national emergency response supply chain
- Educators supporting public and private K-12 schools, colleges, and universities for purposes of facilitating distance learning or performing other essential functions, if operating under rules for social distancing
- Hotel Workers where hotels are used for COVID-19 mitigation and containment measures

CRITICAL MANUFACTURING

- Workers necessary for the manufacturing of materials and products needed for medical supply chains, transportation, energy, communications, food and agriculture, chemical manufacturing, nuclear facilities, the operation of dams, water and wastewater treatment, emergency services, and the defense industrial base.

HAZARDOUS MATERIALS

- Workers at nuclear facilities, workers managing medical waste, workers managing waste from pharmaceuticals and medical material production, and workers at laboratories processing test kits
- Workers who support hazardous materials response and cleanup
- Workers who maintain digital systems infrastructure supporting hazardous materials management operations

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FINANCIAL SERVICES

- Workers who are needed to process and maintain systems for processing financial transactions and services (e.g., payment, clearing, and settlement; wholesale funding; insurance services; and capital markets activities)
- Workers who are needed to provide consumer access to banking and lending services, including ATMs, and to move currency and payments (e.g., armored cash carriers)
- Workers who support financial operations, such as those staffing data and security operations centers

CHEMICAL

- Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, textiles, and paper products.
- Workers supporting the safe transportation of chemicals, including those supporting tank truck cleaning facilities and workers who manufacture packaging items
- Workers supporting the production of protective cleaning and medical solutions, personal protective equipment, and packaging that prevents the contamination of food, water, medicine, among others essential products
- Workers supporting the operation and maintenance of facilities (particularly those with high risk chemicals and/or sites that cannot be shut down) whose work cannot be done remotely and requires the presence of highly trained personnel to ensure safe operations, including plant contract workers who provide inspections
- Workers who support the production and transportation of chlorine and alkali manufacturing, single-use plastics, and packaging that prevents the contamination or supports the continued manufacture of food, water, medicine, and other essential products, including glass container manufacturing

DEFENSE INDUSTRIAL BASE

- Workers who support the essential services required to meet national security commitments to the federal government and U.S. Military. These individuals, include but are not limited to, aerospace; mechanical and software engineers, manufacturing/production workers; IT support; security staff; security personnel; intelligence support, aircraft and weapon system mechanics and maintainers
- Personnel working for companies, and their subcontractors, who perform under contract to the Department of Defense providing materials and services to the Department of Defense, and government-owned/contractor-operated and government-owned/government-operated facilities

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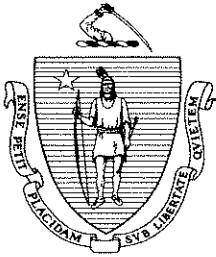


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TAB 2



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COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER ASSURING CONTINUED OPERATION OF ESSENTIAL SERVICES
IN THE COMMONWEALTH, CLOSING CERTAIN WORKPLACES,
AND PROHIBITING GATHERINGS OF MORE THAN 10 PEOPLE**

COVID-19 Order No. 13

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 number of presumptive positive and confirmed cases of COVID-19 continues to rise exponentially in the Commonwealth. As of March 22, 2020, the Department of Public Health had reported 646 cases of COVID-19, including 5 deaths, with 13 of the 14 counties in the Commonwealth impacted;

WHEREAS, the Department of Public Health is urging all residents of the Commonwealth to limit activities outside of the home and to practice social distancing at all times, both inside and outside of the home to limit the spread of this highly contagious and potentially deadly virus;

WHEREAS, on March 19, 2020, the Federal Cybersecurity and Infrastructure Security Agency issued guidance to assist States that identifies 14 critical infrastructure sectors whose workers provide services and functions that are essential to maintain in order to support a strong response to the COVID-19 pandemic;

WHEREAS, as Governor, I have identified additional services and functions that likewise are essential to promote the public health and welfare of the Commonwealth, and

therefore it is imperative to ensure that workers providing critical services and functions in these State and Federally designated sectors may continue to work to ensure community resilience and continuity of response efforts; 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 public assemblages in order to protect the health and safety of persons, regulating the sale of articles of food and household articles, and policing, protection, and preservation of public and private property;

NOW, THEREFORE, in order to minimize all unnecessary activities outside of the home during the state of emergency, I hereby order the following:

1. Maintaining Operation of COVID-19 Essential Services and Workforces

The production and service sectors identified in Exhibit A are hereby designated as “COVID-19 Essential Services.” The workforces engaged and working in these production and service sectors are hereby designated as “COVID-19 Essential Workforces.” I shall amend and publish updates to Exhibit A as I determine necessary in response to conditions as they develop.

Businesses and other organizations that provide the services and functions identified as COVID-19 Essential Services in Exhibit A are urged to continue operations during the state of emergency, but to do so with allowance for social distancing protocols consistent with guidance provided by the Department of Public Health.

Restaurants, bars, and other retail establishments that sell food and beverage products to the public provide COVID-19 Essential Services and are designated as such in Exhibit A. These establishments are therefore encouraged to continue to offer food and beverages for take-out and by delivery provided that they follow the social distancing protocols set forth in Department of Public Health guidance. Restaurants, bars, or other establishments that offer food or beverages to the public shall not permit on-premises consumption of food or beverages.

2. Temporary Closing of Other Businesses and Organizations

All businesses and other organizations that do not provide COVID-19 Essential Services shall close their physical workplaces and facilities (“brick-and-mortar premises”) to workers, customers, and the public as of 12:00 noon on March 24, 2020 and shall not re-open to workers, customers, or the public before 12:00 noon on April 7, 2020. Churches, temples, mosques, and other places of worship shall not be required to close their brick and mortar premises to workers or the public; provided, however, that such institutions shall be required to comply with all limitations on gatherings established in section 3 below.

Businesses and other organizations that do not provide COVID-19 Essential Services are encouraged to continue operations where they are able to operate through remote means that do not require workers, customers, or the public to enter or appear at the brick-and-mortar premises closed by this Order.

3. Limitations on Gatherings

Gatherings of more than 10 people are prohibited throughout the Commonwealth. Gatherings subject to this Order include, without limitation, community, civic, public, leisure, faith-based, or sporting events, concerts, conferences, conventions, fundraisers, parades, fairs, festivals, weddings, funerals, and any similar event or activity that brings together more than 10 persons in any confined indoor or outdoor space. This limitation shall not apply to the operations or activities of any business or organization in its provision or delivery of COVID-19 Essential Services.

This Order does not prohibit gatherings of more than 10 people in an unenclosed, outdoor space such as a park, athletic field, or parking lot.

Athletic and recreational activities that bring participants into close, physical contact are prohibited even when involving 10 or fewer people and regardless of where conducted.

4. Exceptions

(a) This Order shall not apply to any municipal legislative body or to the General Court or to the Judiciary.

(b) This Order shall not apply to residential schools for special needs students. This Order also does not apply to public and private elementary and secondary (K-12) schools in the Commonwealth, which are subject to the March 15, 2020 Order Temporarily Closing All Public and Private Elementary and Secondary Schools, as may be subsequently amended, which suspended all normal, in-person instruction.

(c) This Order does not apply to the operation of child care programs in the Commonwealth, which are subject to the March 18, 2020 Order Temporarily Closing All Child Care Programs and Authorizing the Temporary Creation and Operation of Emergency Child Care Programs, as may be subsequently amended.

5. Implementing Guidance and Enforcement

The Commissioner of Public Health is directed to issue guidance (“DPH Guidance”), subject to my approval, to implement the terms of this Order. The DPH Guidance shall include a requirement that grocery stores and other retailers with substantial retail grocery sales establish special limited access hours during which elderly and other vulnerable populations may have exclusive access to make grocery purchases.

The Department of Public Health, along with any board of health or authorized agent pursuant to G. L. c. 111, § 30, shall enforce this Order and if necessary may do so with the assistance of State or municipal police. Violation of the terms of this Order or the DPH Guidance may result in a criminal penalty pursuant to Section 8 of Chapter 639 of the Acts of 1950 or a civil fine of up to \$300 per violation, in the manner provided for non-criminal disposition of violations of municipal by-law, ordinance, rule, or regulation pursuant to G. L. c. 40, § 21D. A criminal complaint for violation of or a motion for an injunction to enforce this Order or the DPH Guidance shall be filed in the district court with jurisdiction for the municipality in which the violation has been charged.

In addition, I hereby direct the Commissioner of Public Health to act under the authority of G. L. c. 17, § 2A and G. L. c. 111, § 6 or any other appropriate authority to supplement the terms of this Order in the event she determines additional measures are required to ensure that the terms of this Order are observed.

This Order supersedes and makes inoperative any order or rule issued by a municipality that will or might in any way impede or interfere with the achievement of the objectives of this Order. With respect to work and travel in particular, any order or rule issued by a municipality is hereby made inoperative to the extent: (1) such municipal order or rule will or might interfere with provisions of this Order ensuring the continued operation of COVID-19 Essential Services; or (2) such municipal order or rule will or might interfere with the free travel anywhere within the Commonwealth of any person who is a member of any COVID-19 Essential Workforce where such travel is made in connection with the ongoing operation of COVID-19 Essential Services.

This Order rescinds and revokes the Order Prohibiting Gatherings of More than 25 People and On-Premises Consumption of Food or Drink, issued March 15, 2020.

If any provision of this Order or the application thereof to any person or 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 the application thereof to other persons, entities, and circumstances.

This Order shall be effective at 12:00 noon March 24, 2020 and shall remain in effect through 12:00 noon on April 7, 2020 unless further extended.

Given in Boston at 9:15 AM this 23rd day
of March, two thousand and twenty

A handwritten signature in cursive script, appearing to read "Charles D. Baker". The signature is written in black ink and is positioned above a horizontal line.

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts

TAB 3

COVID-19 ESSENTIAL SERVICES

EXHIBIT A OF THE ORDER OF THE GOVERNOR ASSURING CONTINUED OPERATION OF ESSENTIAL SERVICES IN THE COMMONWEALTH, CLOSING CERTAIN WORKPLACES AND PROHIBITING GATHERINGS OF MORE THAN 10 PEOPLE

March 23, 2020

Governor Charlie Baker issued an emergency order requiring all businesses and organizations that do not provide “COVID-19 Essential Services” to close their physical workplaces and facilities to workers, customers and the public as of Tuesday, March 24th at noon until Tuesday, April 7th at noon. These businesses are encouraged to continue operations remotely.

The Baker-Polito Administration issued a list of designated businesses and other organizations that provide essential services and workforces related to COVID-19 that shall continue to operate brick and mortar facilities during this two-week time period. This list is based on federal guidance and amended to reflect the needs of Massachusetts’ unique economy. While these businesses are designated as essential, they are urged to follow social distancing protocols for workers in accordance with guidance from the Department of Public Health.

Businesses and organizations not on the list of essential services are encouraged to continue operations through remote means that do not require workers, customers, or the public to enter or appear at the brick-and-mortar premises closed by the order.

Restaurants, bars, and other establishments that sell food and beverage products to the public are encouraged to continue to offer food for take-out and by delivery if they follow the social distancing protocols set forth in Department of Public Health guidance continue operations. On-premises consumption of food or drink is prohibited.

HEALTHCARE / PUBLIC HEALTH / HUMAN SERVICES

- Workers providing COVID-19 testing; Workers that perform critical clinical research needed for COVID-19 response
- Medical Professionals and caregivers (e.g., physicians, dentists, psychologists, mid-level practitioners, nurses and assistants, infection control and quality assurance personnel, pharmacists, physical and occupational therapists and assistants, social workers, speech pathologists and diagnostic and therapeutic technicians and technologists, other providers of mental and behavioral health care, personal care attendants, home health aides and home care workers)
- Hospital and laboratory personnel (including accounting, administrative, admitting and discharge, engineering, epidemiological, source plasma and blood donation, food service, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians, respiratory therapists, etc.)
- Workers in other medical facilities (including Ambulatory Health and Surgical, Blood Banks, Medical Clinics, Community Mental Health Centers, Methadone/OBOT Clinics, 24 hour Diversionary and Residential Behavioral Health Providers, Comprehensive Outpatient rehabilitation, End Stage Renal Disease, Health Departments, Home Health care, Hospices, Hospitals, Nursing Facilities, Rest Homes, Assisted Living Residences, Organ Pharmacies,

COVID-19 Essential Services

Procurement Organizations, Psychiatric Residential, Residential Treatment Schools, Rural Health Clinics and Federally Qualified Health Centers and Community Health Centers, State Hospitals, and licensed medical marijuana retailers)

- Workers in other 24/7 community resident services serving children and youth, and individuals with developmental, intellectual, physical and/or cognitive disabilities
- Manufacturers, technicians, logistics and warehouse operators, and distributors of or necessary to the supply chain of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products
- Public health / community health workers, including those who compile, model, analyze and communicate public health information
- Blood and plasma donors and the employees of the organizations that operate and manage related activities
- Workers that manage health plans, billing, and health information, who cannot practically work remotely
- Workers who conduct community-based public health functions, conducting epidemiologic surveillance, compiling, analyzing and communicating public health information, who cannot practically work remotely
- Workers performing cybersecurity functions at healthcare and public health facilities, who cannot practically work remotely
- Workers conducting research critical to COVID-19 response
- Workers performing security, incident management, and emergency operations functions at or on behalf of healthcare entities including healthcare coalitions, who cannot practically work remotely
- Workers who support food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, such as those residing in shelters
- Pharmacy employees necessary for filling prescriptions
- Workers performing mortuary services and workers at funeral homes, crematoriums, and cemeteries
- Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to mental/behavioral health services to the family members, responders, and survivors of an incident

LAW ENFORCEMENT, PUBLIC SAFETY, FIRST RESPONDERS

- Personnel in emergency management, law enforcement, Emergency Management Systems, fire, and corrections, including front line and management required to maintain operations
- Emergency Medical Technicians
- 911 call center employees, including telecommunicators, dispatchers and managers
- Fusion Center employees
- Hazardous material responders from government and the private sector.
- Workers – including contracted vendors -- who maintain digital systems infrastructure supporting law enforcement and emergency service operations.

FOOD AND AGRICULTURE

- Workers supporting groceries, pharmacies and other retail, including farmers markets and farm stands, that sells food and beverage products, including liquor stores
- Restaurant carry-out and quick serve food operations - Carry-out and delivery food employees

COVID-19 Essential Services

- Food manufacturer employees and their supplier employees—to include those employed in food processing (packers, meat processing, cheese plants, milk plants, produce, etc.) facilities; livestock, poultry, seafood slaughter facilities; pet and animal feed processing facilities; human food facilities producing by-products for animal food; beverage production facilities; and the production of food packaging
- Farm workers to include those employed in animal food, feed, and ingredient production, packaging, and distribution; manufacturing, packaging, and distribution of veterinary drugs; truck delivery and transport; farm and fishery labor needed to produce our food supply domestically
- Farm workers and support service workers to include those who field crops; commodity inspection; fuel ethanol facilities; storage facilities; and other agricultural inputs
- Workers supporting the seafood and fishing industry
- Employees and firms supporting food, feed, and beverage distribution, including warehouse workers, vendor-managed inventory controllers and blockchain managers
- Workers supporting the sanitation of all food manufacturing processes and operations from wholesale to retail
- Company cafeterias - in-plant cafeterias used to feed employees; food service workers in residential schools with students who are unable to leave campus
- Workers in food testing labs in private industries and in institutions of higher education
- Workers essential for assistance programs and government payments
- Employees of companies engaged in the production of chemicals, medicines, vaccines, and other substances used by the food and agriculture industry, including pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids
- Animal agriculture workers to include those employed in veterinary health; manufacturing and distribution of animal medical materials, animal vaccines, animal drugs, feed ingredients, feed, and bedding, etc.; transportation of live animals, animal medical materials; transportation of deceased animals for disposal; raising of animals for food; animal production operations; slaughter and packing plants and associated regulatory and government workforce
- Organizations and workers responsible for the care and custody of animals, pets and livestock
- Workers who support the manufacture and distribution of forest products, including, but not limited to timber, paper, and other wood products
- Employees engaged in the manufacture and maintenance of equipment and other infrastructure necessary to agricultural production and distribution

ENERGY

Electricity industry:

- Workers who maintain, ensure, or restore the reliable generation, transmission, and distribution of electric power, including call centers, utility workers, reliability engineers and fleet maintenance technicians
- Workers needed for safe and secure operations at nuclear generation
- Workers at generation, transmission and electric blackstart facilities
- Workers at Reliability Coordinator (RC), Balancing Authorities (BA), and primary and backup Control Centers (CC), including but not limited to independent system operators, regional transmission organizations, and balancing authorities
- Mutual assistance personnel

COVID-19 Essential Services

- IT and OT technology staff – for EMS (Energy Management Systems) and Supervisory Control and Data Acquisition (SCADA) systems, and utility data centers; Cybersecurity engineers; cybersecurity risk management
- Vegetation management crews and traffic workers who support
- Environmental remediation/monitoring technicians
- Instrumentation, protection, and control technicians

Petroleum workers:

- Petroleum product storage, pipeline, marine transport, terminals, rail transport, road transport
- Crude oil storage facilities, pipeline, and marine transport
- Petroleum refinery facilities
- Petroleum security operations center employees and workers who support emergency response services
- Petroleum operations control rooms/centers
- Petroleum drilling, extraction, production, processing, refining, terminal operations, transporting, and retail for use as end-use fuels or feedstocks for chemical manufacturing
- Onshore and offshore operations for maintenance and emergency response
- Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them

Natural and propane gas workers:

- Natural gas transmission and distribution pipelines, including compressor stations, and road transport
- Underground storage of natural gas
- Natural gas processing plants, and those that deal with natural gas liquids
- Liquefied Natural Gas (LNG) facilities
- Natural gas security operations center, natural gas operations dispatch and control rooms/centers natural gas emergency response and customer emergencies, including natural gas leak calls
- Drilling, production, processing, refining, and transporting natural gas for use as end-use fuels, feedstocks for chemical manufacturing, or use in electricity generation
- Propane gas dispatch and control rooms and emergency response and customer emergencies, including propane leak calls
- Propane gas service maintenance and restoration, including call centers
- Processing, refining, and transporting natural liquids, including propane gas, for use as end-use fuels or feedstocks for chemical manufacturing
- Propane gas storage, transmission, and distribution centers

Steam workers:

- Workers who support steam distribution companies' provision of district heating and any electric generation
- Workers who support steam distribution companies' dispatch and control rooms and emergency response and customer emergencies, including steam leak calls
- Workers who support steam distribution companies' service maintenance and restoration, including call centers
- Workers who support steam distribution companies' storage, transmission, and distribution centers

WATER AND WASTEWATER

Employees needed to operate and maintain public and private drinking water and wastewater/drainage infrastructure, including:

- Operational staff at water authorities
- Operational staff at community water systems
- Operational staff at wastewater treatment facilities
- Workers repairing water and wastewater conveyances and performing required sampling or monitoring
- Operational staff for water distribution and testing
- Operational staff at wastewater collection facilities
- Operational staff and technical support for SCADA Control systems
- Chemical disinfectant suppliers for wastewater and personnel protection
- Workers that maintain digital systems infrastructure supporting water and wastewater operations

TRANSPORTATION AND LOGISTICS

- Employees supporting or enabling transportation functions, including dispatchers, maintenance and repair technicians, warehouse workers, truck stop and rest area workers, and workers that maintain and inspect infrastructure (including those that require cross-border travel)
- Employees of firms providing services that enable logistics operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use
- Mass transit and passenger rail workers, including contracted vendors providing transportation and maintenance services to public transit authorities
- Workers critical to operating rental car companies and Transportation Network Companies (TNCs) that facilitate continuity of operations for essential workforces, and other essential travel
- Workers responsible for operating dispatching passenger, commuter and freight trains and public transportation and buses and maintaining rail and transit infrastructure and equipment
- Maritime transportation workers - port workers, mariners, equipment operators
- Truck drivers who haul hazardous and waste materials to support critical infrastructure, capabilities, functions, and services
- Automotive repair and maintenance facilities
- Workers who respond to and clear traffic crashes, including contracted vendors and dispatchers
- Manufacturers and distributors (to include service centers and related operations) of packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations
- Postal and shipping workers, to include private companies
- Workers who support moving and storage services
- Employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers
- Air transportation employees, including air traffic controllers, ramp personnel, aviation security, and aviation management and other workers – including contracted vendors – providing services for air passengers
- Workers who support the maintenance and operation of cargo by air transportation, including flight crews, maintenance, airport operations, and other on- and off- airport facilities workers

PUBLIC WORKS

- Workers who support the operation, inspection, and maintenance of essential dams, locks and levees
- Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including roads and bridges, water and sewer main breaks, fleet maintenance personnel, construction of critical or strategic infrastructure, traffic signal maintenance, emergency location services for buried utilities, maintenance of digital systems infrastructure supporting public works operations, and other emergent issues
- Workers – including contracted vendors – involved in the construction of critical or strategic infrastructure including public works construction, airport operations, water, sewer, gas, electrical, nuclear, oil refining and other critical energy services, roads and highways, public transportation, solid waste collection and removal, and internet, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services)
- Workers such as plumbers, electricians, exterminators, inspectors and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, construction sites and projects, and needed facilities
- Support, such as road and line clearing and utility relocation, to ensure the availability of needed facilities, transportation, energy and communications
- Support to ensure the effective removal, storage, and disposal of residential and commercial solid waste and hazardous waste
- Licensed site clean-up professionals and other workers addressing hazardous spills, waste sites, and remediation.
- Workers who support the operation, maintenance and public safety of state parks, forests, wildlife management areas, water supply protection lands, and other critical natural resources.
- Workers who support storm clean-up operations (e.g., foresters).

COMMUNICATIONS AND INFORMATION TECHNOLOGY

Communications:

- Maintenance of communications infrastructure- including privately owned and maintained communication systems- supported by technicians, operators, call-centers, wireline and wireless providers, cable service providers, satellite operations, undersea cable landing stations, Internet Exchange Points, and manufacturers and distributors of communications equipment
- Workers who support radio, television, and media service, including, but not limited to front line news reporters, studio, and technicians for newsgathering and reporting
- Workers at Independent System Operators and Regional Transmission Organizations, and Network Operations staff, engineers and/or technicians to manage the network or operate facilities
- Engineers, technicians and associated personnel responsible for infrastructure construction and restoration, including contractors for construction and engineering of fiber optic cables
- Installation, maintenance and repair technicians that establish, support or repair service as needed
- Central office personnel to maintain and operate central office, data centers, and other network office facilities
- Customer service and support staff, including managed and professional services as well as remote providers of support to transitioning employees to set up and maintain home offices,

COVID-19 Essential Services

who interface with customers to manage or support service environments and security issues, including payroll, billing, fraud, and troubleshooting

- Dispatchers involved with service repair and restoration

Information Technology:

- Workers who support command centers, including, but not limited to Network Operations Command Center, Broadcast Operations Control Center and Security Operations Command Center
- Data center operators, including system administrators, HVAC & electrical engineers, security personnel, IT managers, data transfer solutions engineers, software and hardware engineers, and database administrators
- Client service centers, field engineers, and other technicians supporting critical infrastructure, as well as manufacturers and supply chain vendors that provide hardware and software, and information technology equipment (to include microelectronics and semiconductors) for critical infrastructure
- Workers responding to cyber incidents involving critical infrastructure, including medical facilities, SLTT governments and federal facilities, energy and utilities, and banks and financial institutions, and other critical infrastructure categories and personnel
- Workers supporting the provision of essential global, national and local infrastructure for computing services (incl. cloud computing services), business infrastructure, web-based services, and critical manufacturing
- Workers supporting communications systems and information technology used by law enforcement, public safety, medical, energy and other critical industries
- Support required for continuity of services, including janitorial/cleaning personnel

OTHER COMMUNITY-BASED ESSENTIAL FUNCTIONS AND GOVERNMENT OPERATIONS

- Workers to ensure continuity of building functions, including local and state inspectors and administrative support of inspection services who are responsible for the inspection of elevators, escalators, lifts, buildings, plumbing and gas fitting, electrical work, and other safety related professional work
- Security staff to maintain building access control and physical security measures
- Elections personnel
- Federal, State, and Local, Tribal, and Territorial employees who support Mission Essential Functions and communications networks
- Trade Officials (FTA negotiators; international data flow administrators)
- Weather forecasters
- Workers that maintain digital systems infrastructure supporting other critical government operations
- Workers at operations centers necessary to maintain other essential functions
- Workers who support necessary credentialing, vetting and licensing operations for transportation workers including holders of Commercial Drivers Licenses
- Workers who are critical to facilitating trade in support of the national, state and local emergency response supply chain
- Educators and staff supporting public and private emergency childcare programs, residential schools for students with disabilities, K-12 schools, colleges, and universities for purposes of facilitating distance learning, provision of school meals, or performing other essential student support functions, if operating under rules for social distancing

COVID-19 Essential Services

- Hotel workers
- Critical government workers, as defined by the employer and consistent with Continuity of Operations Plans
- Construction Workers who support the construction, operation, inspection, and maintenance of construction sites and construction projects (including housing construction)
- Workers that provide services for or determine eligibility for public benefits such as subsidized health care, food and feeding programs, residential and congregate care programs, shelter, in-home supportive services, child welfare, juvenile justice programs, adult protective services and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including family members)
- Workers in sober homes
- Professional services (such as legal and accounting services) and payroll and employee benefit services, when necessary to assist in compliance with legally mandated activities and critical sector services or where failure to provide such services during the time of the order would result in significant prejudice
- Commercial retail stores that supply essential sectors, including convenience stores, pet supply stores, auto supplies and repair, hardware and home improvement, and home appliance retailers
- Laundromats and laundry services
- Workers and instructors supporting academies and training facilities and courses for the purpose of graduating students and cadets that comprise the essential workforce for all identified critical sectors
- Workers at places of worship

CRITICAL MANUFACTURING

- Workers necessary for the manufacturing of materials and products needed for medical supply chains including personal protective equipment and hygiene products, transportation, energy, communications, food and agriculture, chemical manufacturing, nuclear facilities, the operation of dams, water and wastewater treatment, emergency services, and the defense industrial base.

HAZARDOUS MATERIALS

- Workers at nuclear facilities, workers managing medical waste, workers managing waste from pharmaceuticals and medical material production, and workers at laboratories processing test kits
- Workers who support hazardous materials response and cleanup
- Workers who maintain digital systems infrastructure supporting hazardous materials management operations

FINANCIAL SERVICES

- Workers who are needed to process and maintain systems for processing financial transactions and services (e.g., payment, clearing, and settlement; wholesale funding; insurance services; and capital markets activities)
- Workers who are needed to provide consumer access to banking and lending services, including ATMs, and to move currency and payments (e.g., armored cash carriers)
- Workers who support financial operations, such as those staffing data and security operations centers

CHEMICAL

- Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, textiles, and paper products.
- Workers supporting the safe transportation of chemicals, including those supporting tank truck cleaning facilities and workers who manufacture packaging items
- Workers supporting the production of protective cleaning and medical solutions, personal protective equipment, and packaging that prevents the contamination of food, water, medicine, among others essential products
- Workers supporting the operation and maintenance of facilities (particularly those with high risk chemicals and/or sites that cannot be shut down) whose work cannot be done remotely and requires the presence of highly trained personnel to ensure safe operations, including plant contract workers who provide inspections
- Workers who support the production and transportation of chlorine and alkali manufacturing, single-use plastics, and packaging that prevents the contamination or supports the continued manufacture of food, water, medicine, and other essential products, including glass container manufacturing

DEFENSE INDUSTRIAL BASE

- Workers who support the essential services required to meet national security commitments to the federal government and U.S. Military. These individuals, include but are not limited to, aerospace; mechanical and software engineers, manufacturing/production workers; IT support; security staff; security personnel; intelligence support, aircraft and weapon system mechanics and maintainers
- Personnel working for companies, and their subcontractors, who perform under contract to the Department of Defense providing materials and services to the Department of Defense, and government-owned/contractor-operated and government-owned/government-operated facilities

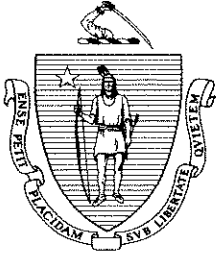
If the function of your business is not listed above, but you believe that it is essential or it is an entity providing essential services or functions, you may request designation as an essential business.

Requests by businesses to be designated an essential function should only be made if they are NOT covered by the guidance.

To request designation as an essential business, please click here:
<https://www.mass.gov/forms/essential-service-designation-request>

Any questions can be directed to covid19.biz@mass.gov.

TAB 4



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER EXTENDING THE CLOSING OF CERTAIN WORKPLACES
AND THE PROHIBITION ON GATHERINGS OF MORE THAN 10 PEOPLE**

COVID-19 Order No. 21

Extending the Operation of COVID-19 Order No. 13

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 number of presumptive positive and confirmed cases of COVID-19 continues to rise exponentially in the Commonwealth. As of March 30, 2020, the Department of Public Health had reported 5,752 cases of COVID-19, including 56 deaths, with all counties in the Commonwealth impacted;

WHEREAS, the Department of Public Health continues to urge all residents of the Commonwealth to limit activities outside of the home and to practice social distancing at all times to limit the spread of this highly contagious and potentially deadly virus;

WHEREAS, on March 19, 2020, the Federal Cybersecurity and Infrastructure Security Agency issued guidance to assist States with identifying critical infrastructure sectors whose workers provide services and functions that are essential to maintain in order to support a strong response to the COVID-19 pandemic;

WHEREAS, on March 23, 2020, I issued an Order that designated COVID-19 Essential Services, temporarily closed the bricks-and-mortar premises of businesses and organizations that do not provide COVID-19 Essential Services, and prohibited gatherings of more than 10 people;

WHEREAS, on March 28, 2020, the Federal Cybersecurity and Infrastructure Security Agency issued updated guidance on the identification of critical infrastructure sectors during the COVID-19 Response;

WHEREAS, as Governor, I have identified additional services and functions that likewise are essential to promote the public health and welfare of the Commonwealth, and therefore it is imperative to ensure that workers providing critical services and functions in these State and Federally designated sectors may continue to work to ensure community resilience and continuity of response efforts; 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 public assemblages in order to protect the health and safety of persons, transportation and travel by any means or mode, regulating the sale of articles of food and household articles, and policing, protection, and preservation of public and private property;

NOW, THEREFORE, I hereby order the following:

The provisions of the March 23, 2020 Order Assuring Continued Operation of Essential Services in the Commonwealth, Closing Certain Workplaces, and Prohibiting Gatherings of More than 10 People ("COVID-19 Order No. 13") are hereby extended until May 4, 2020. Accordingly, all businesses and other organizations that do not provide COVID-19 Essential Services shall not re-open their bricks-and-mortar premises to workers, customers, or the public before May 4, 2020.

Gatherings of more than 10 people also remain prohibited until May 4, 2020.

Effective at 12:00 noon on April 1, 2020, Exhibit A of the previously issued COVID-19 Order No. 13 is hereby replaced with the attached, updated Exhibit A of even date with this Order to reflect the revised guidance of the Federal Cybersecurity and Infrastructure Security Agency and the additional services and functions that I, as Governor, have identified as essential to promote the public health and welfare of the Commonwealth.

The Commissioner of Public Health shall continue to issue guidance as necessary and subject to my approval to implement the terms of COVID-19 Order No. 13.

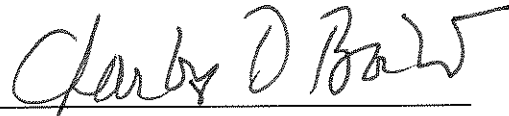
The Massachusetts Department of Transportation, in consultation with the Division of Capital and Asset Management and Maintenance, shall issue guidance and enforcement procedures for the safe operation of public works construction sites, consistent with the terms of Exhibit A of COVID-19 Order No. 13.

The Department of Public Health, along with any board of health or authorized agent pursuant to G. L. c. 111, § 30, shall continue to enforce the terms of COVID-19 Order No. 13 and implementing guidance issued under the authority of that Order as here amended.

In addition, I renew my directive to the Commissioner of Public Health to act under the authority of G. L. c. 17, § 2A and G. L. c. 111, § 6 or any other appropriate authority to supplement the terms of COVID-19 Order No. 13 in the event she determines additional measures are required to ensure that its terms are observed.

This Order is effective immediately and shall remain in effect until May 4, 2020 unless further extended.

Given in Boston at 1:35 PM this 31st day
of March, two thousand and twenty



CHARLES D. BAKER

GOVERNOR

Commonwealth of Massachusetts

TAB 5

The following information was copied by counsel from the following web page of Governor Baker:

<https://www.mass.gov/info-details/covid-19-essential-services#health-care/-public-health-/-human-services-COVID-19: Essential Services>

Learn about businesses and organizations defined as providing "COVID-19 Essential Services" under Governor Baker's March 23, 2020 Emergency Order, updated March 31, 2020

Governor Charlie Baker has issued an **emergency order** extending requiring all businesses and organizations that do not provide “COVID-19 Essential Services” to close their physical workplaces and facilities to workers, customers and the public. These businesses are encouraged to continue operations remotely (**read the original order here**). **Governor Baker's order has been extended until May 4.**

Frequently Asked Questions about Essential Services.

The Administration also updated the “COVID-19 Essential Services” list which is based on updated federal guidance. The new list goes into effect on April 1 at noon.

Governor Baker also directed the Department of Public Health to issue a Stay at Home Advisory: **Read the Advisory.**

The below "Essential Services List" has been issued to list designated businesses and other organizations that provide essential services and workforces related to COVID-19 that shall continue to operate brick and mortar facilities during this time period. This list is based on federal guidance and amended to reflect the needs of Massachusetts' unique economy. Businesses that provide essential services according to the essential services list do not need to take any further action in order to continue operating. Businesses will not receive a designation or certification from the Commonwealth specific to their individual company. While these businesses are designated as essential, they are urged to follow social

distancing protocols for workers in accordance with guidance from the Department of Public Health.

Businesses and organizations not on the list of essential services are encouraged to continue operations through remote means that do not require workers, customers, or the public to enter or appear at the brick-and-mortar premises closed by the order.

Restaurants, bars, and other establishments that sell food and beverage products to the public are encouraged to continue to offer food for take-out and by delivery if they follow the social distancing protocols set forth in Department of Public Health guidance continue operations. On-premises consumption of food or drink is prohibited.

Health Care/ Public Health / Human Services

- Workers who perform critical clinical research, development, and testing needed for COVID-19 response.
- Healthcare providers and Caregivers including physicians, dentists, psychologists, mid-level practitioners, nurses and assistants, infection control and quality assurance personnel, pharmacists, physical and occupational therapists and assistants, social workers, optometrists, speech pathologists, chiropractors, other providers of mental and behavioral health care, peer support and recovery coach workers, personal care attendants, home health aides and home care workers, and diagnostic and therapeutic technicians and technologists.
- Hospital and laboratory personnel (including accounting, administrative, admitting and discharge, engineering, epidemiological, source plasma and blood donation, food service, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians, respiratory therapists, etc.).
- Workers in other medical and biomedical facilities (including Ambulatory Health and Surgical, Blood Banks, Medical Clinics, Community Mental Health Centers, Comprehensive Outpatient rehabilitation, Methadone/OBOT Clinics, 24 hour Diversionary and Residential Behavioral Health Providers, End Stage Renal Disease,

Health Departments, Home Health care, Hospices, Hospitals, Rest Homes, Assisted Living Residences, Nursing Care Facilities, Organ Pharmacies, Procurement Organizations, Psychiatric Residential, Residential Treatment Schools, Rural Health Clinics and Federally Qualified Health Centers, State Hospitals, licensed medical marijuana retailers, and retail facilities specializing in medical good and supplies).

- Manufacturer workers for health manufacturing (including biotechnology companies), materials and parts suppliers, logistics and warehouse operators, distributors of medical equipment (including those who test and repair), personal protective equipment (PPE), isolation barriers, medical gases, pharmaceuticals (including companies and institutions involved in the research and development, manufacture, distribution, warehousing, and supplying of pharmaceuticals, biotechnology therapies, and medical devices, diagnostics, equipment and services) (including materials used in radioactive drugs), dietary supplements, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products.
- Public health / community health workers, including those who compile, model, analyze and communicate public health information.
- Blood and plasma donors and the employees of the organizations that operate and manage related activities.
- Workers who manage health plans, billing, and health information, who cannot practically work remotely.
- Workers who conduct community-based public health functions, conducting epidemiologic surveillance, compiling, analyzing and communicating public health information, who cannot practically work remotely.
- Workers performing information technology and cybersecurity functions at healthcare and public health facilities, who cannot practically work remotely.
- Workers performing security, incident management, and emergency operations functions at or on behalf of healthcare entities including healthcare coalitions, who cannot practically work remotely.
- Pharmacy employees necessary to maintain uninterrupted prescription filling.

- Workers performing mortuary funeral, cremation, burial, cemetery, and related services, including at funeral homes, crematoriums, cemeteries, and coffin makers.
- Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to mental/behavioral health services to the family members, responders, and survivors of an incident.

Law Enforcement, Public Safety, First Responders

- Public, private, and voluntary personnel (front line and management) in emergency management, law enforcement, fire and rescue services, emergency medical services, and private security, to include public and private hazardous material responders, air medical service providers (pilots and supporting technicians), corrections, and search and rescue personnel.
- 911 call center employees (including telecommunicators, dispatchers and managers) and Public Safety Answering Points and other police communication facilities who can't perform their duties remotely.
- Fusion Center employees.
- Workers – including contracted vendors -- who maintain, manufacture, or supply equipment and services supporting law enforcement emergency service and response operations (to include electronic security and life safety security personnel).
- Workers supporting the manufacturing of safety equipment and uniforms for law enforcement, public safety personnel, and first responders.
- Workers supporting the operation of firearm or ammunition product manufacturers, importers, and distributors.
- Public agency workers responding to abuse and neglect of children, elders, and dependent adults.
- Workers who support weather disaster / natural hazard mitigation and prevention activities.

- Security staff to maintain building access control and physical security measures.

Food and Agriculture

- Workers supporting groceries, pharmacies, convenience stores, farmers markets and farm stands, nurseries, greenhouses, garden centers, and agriculture supply stores, and other retail (including unattended and vending) that sells human food, animal/pet food and pet supply, and beverage products (including liquor stores), including retail customer support service and information technology support staff necessary for online orders, pickup and delivery.
- Restaurant carry-out and quick serve food operations, including dark kitchen and food prep centers, and carry-out and delivery food employees.
- Food manufacturer employees and their supplier employees—to include those employed in food ingredient production and processing facilities; livestock, poultry, seafood slaughter facilities; pet and animal feed processing facilities; human food facilities producing by-products for animal food; beverage production facilities; and the production of food packaging.
- Farmers, farm workers, and agribusiness support services to include those employed in auction and sales: grain and oilseed handling, processing and distribution; animal food, feed, and ingredient production, packaging, and distribution; manufacturing, packaging, and distribution of veterinary drugs; truck delivery and transport; farm and fishery labor needed to produce our food supply domestically and for export.
- Farmers, farm workers, support service workers, and their supplier employees to include those engaged in producing and harvesting field crops; commodity inspection; fuel ethanol facilities; biodiesel and renewable diesel facilities; storage facilities; and other agricultural inputs.
- Employees and firms supporting the distribution of food, feed, and beverage and ingredients used in these products, including warehouse workers, vendor- managed inventory controllers and blockchain managers.

- Workers supporting the sanitation and pest control of all food manufacturing processes and operations from wholesale to retail.
- Employees in cafeterias used to feed employees, particularly employee populations sheltered against COVID-19.
- Food service workers in residential schools with students who are unable to leave campus
- Workers in animal diagnostic and food testing laboratories in private industries and in institutions of higher education.
- Government, private, and non-governmental organizations' workers essential for food assistance programs (including school breakfast and lunch programs) and government payments.
- Employees of companies engaged in the production, storage, transport, and distribution of chemicals, medicines, vaccines, and other substances used by the food and agriculture industry, including seeds, pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids.
- Animal agriculture workers to include those employed in veterinary health (including those involved in supporting emergency veterinary or livestock services); raising of animals for food; animal production operations; livestock markets; slaughter and packing plants, manufacturers, renderers, and associated regulatory and government workforce.
- Transportation supporting animal agricultural industries, including movement of animal medical and reproductive supplies and materials, animal vaccines, animal drugs, feed ingredients, feed, and bedding, live animals, animal by-products, and deceased animals for disposal.
- Workers who support sawmills and the manufacture and distribution of fiber and forest products, including, but not limited to timber, paper, and other wood and fiber products.
- Employees engaged in the manufacture and maintenance of equipment and other infrastructure necessary for agricultural production and distribution.
- Organizations and workers responsible for the care and custody of animals, pets and livestock.

Energy

- Workers supporting the energy sector, regardless of the energy source (including but not limited to nuclear, fossil, hydroelectric, or renewable), segment of the system, or infrastructure the worker is involved in, or who are needed to monitor, operate, engineer, and maintain the reliability, safety, environmental health, and physical and cyber security of the energy system.
- Energy/commodity trading/scheduling/marketing functions, who can't perform their duties remotely.
- IT and OT technology for essential energy sector operations including support workers, customer service operations; energy management systems, control systems, and Supervisory Control and Data Acquisition SCADA systems, and energy sector entity data centers; cybersecurity engineers; and cybersecurity risk management.
- Workers supporting the energy sector through renewable energy infrastructure or energy efficiency projects (including, but not limited to wind, solar, biomass, hydrogen, ocean, geothermal, and/or hydroelectric), including those supporting construction, manufacturing, transportation, permitting, operation/maintenance, monitoring, and logistics.
- Workers and security staff involved in nuclear re-fueling operations.
- Providing services related to energy sector fuels (including, but not limited, petroleum (crude oil), natural gas, propane, natural gas liquids, other liquid fuels, nuclear, and coal), supporting the mining, processing, manufacturing, construction, logistics, transportation, permitting, operation/maintenance, security, waste disposal and storage, and monitoring of support for resources.
- Environmental remediation/monitoring, limited to immediate critical needs technicians.
- Manufacturing and distribution of equipment, supplies, and parts necessary to maintain production, maintenance, restoration, and service at energy sector facilities (across all energy sector segments).

Electricity industry:

- Workers who maintain, ensure, or restore, or are involved in the reliable development, transportation, fuel procurement, expansion, or operation of the generation, transmission, and distribution of electric power, including call centers, utility workers, engineers, retail electricity, constraint maintenance, and fleet maintenance technicians-who cannot perform their duties remotely.
- Workers at coal mines, production facilities, and those involved in manufacturing, transportation, permitting, operation/maintenance and monitoring at coal sites which is critical to ensuring the reliability of the electrical system.
- Workers who produce, process, ship and handle coal used for power generation and manufacturing.
- Workers needed for safe and secure operations at nuclear generation to include but not limited to, the broader nuclear supply chain, parts to maintain nuclear equipment, fuel manufacturers and fuel components used in the manufacturing of fuel.
- Workers at renewable energy infrastructure (including, but not limited to wind, solar, biomass, hydrogen, geothermal, and/or hydroelectric), including those supporting construction, manufacturing, transportation, permitting, operation/maintenance, monitoring, and logistics.
- Workers at generation, transmission, and electric black start facilities.
- Workers at Reliability Coordinator, Balancing Authorities, and primary and backup Control Centers, including but not limited to independent system operators, regional transmission organizations, and local distribution control centers.
- Mutual assistance personnel which may include workers from outside of the state or local jurisdiction.
- Vegetation management and traffic control for supporting those crews.
- Environmental remediation/monitoring workers limited to immediate critical needs technicians.
- Instrumentation, protection, and control technicians.
- Essential support personnel for electricity operations.
- Generator set support workers such as diesel engineers used in power generation including those providing fuel.

Petroleum industry:

- Workers for onshore and offshore petroleum drilling operations; platform and drilling construction and maintenance; transportation (including helicopter operations), maritime transportation, supply, and dredging operations; maritime navigation; well stimulation, intervention, monitoring, automation and control, extraction, production; processing; waste disposal, and maintenance, construction, and operations.
- Workers for crude oil, petroleum and petroleum product storage and transportation, including pipeline, marine transport, terminals, rail transport, storage facilities and racks and road transport for use as end-use fuels such as gasoline, diesel fuel, jet fuel, and heating fuels or feedstocks for chemical manufacturing.
- Petroleum and petroleum product security operations center employees and workers who support maintenance and emergency response services.
- Petroleum and petroleum product operations control rooms/centers and refinery facilities.
- Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them.
- Supporting new and existing construction projects, including, but not limited to, pipeline construction.

Natural Gas, Natural Gas Liquids (NGL), Propane and other liquid fuels:

- Workers who support onshore and offshore drilling operations, platform and drilling construction and maintenance; transportation (including helicopter operations); maritime transportation, supply, and dredging operations; maritime navigation; natural gas and natural gas liquid production, processing, extraction, storage and transportation; well intervention, monitoring, automation and control; waste disposal, and maintenance, construction, and operations.
- Transmission and distribution pipeline workers, including compressor stations and any other required, operations maintenance, construction,

and support for natural gas, natural gas liquid, propane, and other liquid fuels.

- Natural gas, propane, natural gas liquids, and other liquid fuel processing plants, including construction, maintenance, and support operations.
- Natural gas processing plants workers, and those that deal with natural gas liquids.
- Workers who staff natural gas, propane, natural gas liquids, and other liquid fuel security operations centers, operations dispatch and control rooms/centers, and emergency response and customer emergencies (including leak calls) operations.
- Drilling, production, processing, refining, and transporting natural gas for use as end-use fuels, feedstocks for chemical manufacturing, or use in electricity generation.
- Dispatch and control rooms and emergency response and customer emergencies, including propane leak calls.
- Propane gas service maintenance and restoration, including call centers.
- Propane, natural gas liquids, and other liquid fuel distribution centers.
- Propane gas storage, transmission, and distribution centers.
- Supporting new and existing construction projects, including, but not limited to, pipeline construction.
- Ethanol and biofuel production, refining, and distribution.
- Workers in fuel sectors (including, but not limited to nuclear, coal, and gas types and liquid fuels) supporting the mining, manufacturing, logistics, transportation, permitting, operation/maintenance, and monitoring of support for resources.

Steam workers:

- Workers who support steam distribution companies' provision of district heating and any electric generation
- Workers who support steam distribution companies' dispatch and control rooms and emergency response and customer emergencies, including steam leak calls
- Workers who support steam distribution companies' service maintenance and restoration, including call centers

- Workers who support steam distribution companies' storage, transmission, and distribution centers

Water and Wastewater

Employees needed to operate and maintain public and private drinking water and wastewater/drainage infrastructure, including:

- Operational staff at water authorities.
- Operational staff at community water systems.
- Operational staff at wastewater treatment facilities.
- Workers repairing water and wastewater conveyances and performing required sampling or monitoring, including field staff.
- Operational staff for water distribution and testing.
- Operational staff at wastewater collection facilities.
- Operational staff and technical support for SCADA Control systems.
- Chemical and equipment suppliers to water and wastewater systems and personnel protection.
- Workers who maintain digital systems infrastructure supporting water and wastewater operations.

Transportation and Logistics

- Employees supporting or enabling transportation functions, including truck drivers, bus drivers, dispatchers, maintenance and repair technicians, warehouse workers, truck stop and rest area workers, Registry of Motor Vehicle (RMV) employees, towing/recovery services, roadside assistance workers, intermodal transportation personnel, and workers who maintain and inspect infrastructure (including those that require cross-jurisdiction travel).
- Workers supporting the distribution of food, pharmaceuticals (including materials used in radioactive drugs) and other medical materials, fuels, chemicals needed for water or water treatment and energy
- Workers, including contracted vendors, engaged in the maintenance and operation of essential highway infrastructure, including roads,

bridges, and tunnels (e.g., traffic operations centers and moveable bridge operators).

- Employees of firms providing services, supplies, and equipment that enable warehouse and operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use. Includes cold- and frozen-chain logistics for food and critical biologic products.
- Mass transit, freight and passenger rail workers, including contracted vendors, providing transit services and/or performing critical or routine maintenance to rail or mass transit infrastructure or equipment.
- Employees supporting personal and commercial transportation services – including taxis, delivery services, vehicle rental services, bicycle maintenance and car-sharing services, and transportation network providers.
- Workers responsible for operating and dispatching passenger, commuter and freight trains public transportation and buses and maintaining rail and transit infrastructure and equipment.
- Maritime transportation workers, including dredgers, port workers, mariners, ship crewmembers, ship pilots and tug boat operators, equipment operators (to include maintenance and repair, and maritime-specific medical providers), ship supply, Chandler, and repair companies.
- Workers including truck drivers, railroad employees and contractors, maintenance crew, and cleaners supporting transportation of chemicals, hazardous, medical, and waste materials to support critical infrastructure, capabilities, functions, and services, including specialized carriers, crane and rigging industry workers.
- Bus drivers and workers who provide or support intercity, commuter and charter bus service in support of other essential services or functions.
- Automotive repair, maintenance, and transportation equipment manufacturing and distribution facilities (including those who repair and maintain electric vehicle charging stations).
- Workers who respond to and clear traffic crashes, including contracted vendors and dispatchers
- Transportation safety inspectors, including hazardous material inspectors and accident investigator inspectors.

- Manufacturers and distributors (to include service centers and related operations) of packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations.
- Postal, parcel, courier, last-mile delivery, and shipping and related workers, to include private companies.
- Workers who support moving and storage services
- Employees who repair and maintain motor vehicles, subway and rail vehicles, rolling stock, buses, aircraft, rail equipment, marine vessels, bicycles, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers.
- Air transportation employees, including air traffic controllers and maintenance personnel, ramp workers, aviation and aerospace safety, security, and operations personnel and accident investigations.
- Workers, including contracted vendors, who support the operation, distribution, maintenance, and sanitation, of air transportation for cargo and passengers, including flight crews, maintenance, airport operations, those responsible for cleaning and disinfection, and other on- and off-airport facilities workers.
- Workers supporting transportation via inland waterways such as barge crew, dredging, river port workers for essential goods.
- Workers critical to rental and leasing of vehicles and equipment that facilitate continuity of operations for essential workforces and other essential travel.
- Warehouse operators, including vendors and support personnel critical for business continuity (including HVAC & electrical engineers; security personnel; and janitorial staff) and customer service for essential functions.

Public Works & Infrastructure Support Services

- Support to ensure the effective removal, storage, and disposal of residential and commercial solid waste, recycling, and hazardous waste, including landfill operations.

- Workers who support the operation, inspection, and maintenance of essential dams, locks and levees.
- Workers who support the inspection and maintenance of aids to navigation, and other government provided services that ensure continued maritime commerce.
- Licensed site clean-up professionals and other workers addressing hazardous spills, waste sites, and remediation.
- Workers who support the operation, maintenance and public safety of parks, forests, reservations, conservation restrictions, wildlife management areas, water supply protection lands, and other critical natural resources and open space for passive recreation.
- Workers who support storm clean-up operations (e.g., foresters).

Communications and Information Technology

Communications:

- Maintenance of communications infrastructure- including privately owned and maintained communication systems- supported by technicians, operators, call -centers, wireline and wireless providers, cable service providers, satellite operations, Internet Exchange Points, Points of Presence, Network Access Points, back haul and front haul facilities, and manufacturers and distributors of communications equipment.
- Government and private sector employees (including government contractors) with work related to undersea cable infrastructure and support facilities, including cable landing sites, beach manhole vaults and covers, submarine cable depots and submarine cable ship facilities.
- Government and private sector employees (including government contractors) supporting Department of Defense internet and communications facilities.
- Workers who support radio, television, newspaper and media service, including, but not limited to front-line news reporters, studio, and technicians for newsgathering, and reporting, and publishing news.

- Network Operations staff, engineers and/or technicians to include IT managers and staff, HVAC & electrical engineers, security personnel, software and hardware engineers, and database administrators that manage the network or operate facilities.
- Engineers, technicians and associated personnel responsible for infrastructure construction and restoration, including contractors for construction and engineering of fiber optic cables, buried conduit, small cells, other wireless facilities, and other communications sector-related infrastructure. This includes construction of new facilities and deployment of new technology as these are required to address congestion or customer usage due to unprecedented use of remote services.
- Installation, maintenance and repair technicians that establish, support or repair service as needed.
- Central office personnel to maintain and operate central office, data centers, and other network office facilities, critical support personnel assisting front line employees.
- Customer service and support staff, including managed and professional services as well as remote providers of support to transitioning employees to set up and maintain home offices, who interface with customers to manage or support service environments and security issues, including payroll, billing, fraud, logistics, and troubleshooting.
- Workers providing electronic security, fire, monitoring and life safety services, and to ensure physical security, cleanliness and safety of facilities and personnel, including temporary licensing waivers for security personnel to work in other States or Municipalities.
- Dispatchers involved with service repair and restoration.
- Retail customer service personnel at critical service center locations for onboarding customers, distributing and repairing equipment and addressing customer issues in order to support individuals' remote emergency communications needs, supply chain and logistics personnel to ensure goods and products are on-boarded to provision these front-line employees.
- External Affairs personnel to assist in coordinating with local, state and federal officials to address communications needs supporting COVID-19 response, public safety, and national security.

Information Technology:

- Workers who support command centers, including, but not limited to Network Operations Command Centers, Broadcast Operations Control Centers and Security Operations Command Centers.
- Data center operators, including system administrators, HVAC & electrical engineers, security personnel, IT managers and purchasers, data transfer solutions engineers, software and hardware engineers, and database administrators, for all industries (including financial services).
- Workers who support client service centers, field engineers, and other technicians and workers supporting critical infrastructure, as well as manufacturers and supply chain vendors that provide hardware and software, support services, research and development, and information technology equipment (to include microelectronics and semiconductors), and HVAC and electrical equipment for critical infrastructure, and test labs and certification agencies that qualify such equipment (to include microelectronics, optoelectronics, and semiconductors) for critical infrastructure, including data centers.
- Workers needed to preempt and respond to cyber incidents involving critical infrastructure, including medical facilities, SLTT governments and federal facilities, energy and utilities, and banks and financial institutions, securities/other exchanges, other entities that support the functioning of capital markets, public works, critical manufacturing, food & agricultural production, transportation, and other critical infrastructure categories and personnel, in addition to all cyber defense workers (who can't perform their duties remotely).
- Suppliers, designers, transporters and other workers supporting the manufacture, distribution and provision and construction of essential global, national and local infrastructure for computing services (including cloud computing services and telework capabilities), business infrastructure, financial transactions/services, web-based services, and critical manufacturing.
- Workers supporting communications systems and information technology- and work from home solutions- used by law enforcement, public safety, medical, energy, public works, critical manufacturing, food & agricultural production, financial services, education, and other critical industries and businesses.

- Employees required in person to support Software as a Service businesses that enable remote working, performance of business operations, distance learning, media services, and digital health offerings, or required for technical support crucial for business continuity and connectivity.

Other Community-, Education-, Or Government-Based Operations And Essential Functions

- Workers to ensure continuity of building functions, including but not limited to security and environmental controls (e.g., HVAC), the manufacturing and distribution of the products required for these functions, and the permits and inspections for construction supporting essential infrastructure.
- Local and state inspectors and administrative support of inspection services who are responsible for the inspection of elevators, escalators, lifts, buildings, plumbing and gas fitting, electrical work, and other safety related professional work
- Elections personnel to include both public and private sector elections support.
- Federal, State, and Local, Tribal, and Territorial employees who support Mission Essential Functions and communications networks.
- Trade Officials (FTA negotiators; international data flow administrators).
- Employees necessary to maintain news and media operations across various media.
- Employees supporting Census 2020.
- Weather forecasters.
- Workers at places of worship
- Workers who maintain digital systems infrastructure supporting other critical government operations.
- Workers who support necessary credentialing, vetting and licensing operations for critical infrastructure workers including holders of Commercial Drivers Licenses.

- Workers who are critical to facilitating trade in support of the national, state and local emergency response supply chain.
- Educators and staff supporting emergency childcare programs and residential schools for students with severe disabilities, and public and private K-12 schools, colleges, and universities for purposes of facilitating distance learning, provision of school meals and other essential student support functions, and essential administrative functions necessary to maintain continuity of operations.
- Scientific researchers in higher education completing in-process research to ensure health and safety and to prevent the loss of essential data
- Workers who support the design, production and distribution of educational materials or technologies for the use of educators or students in distance learning during the state of emergency
- Staff at government offices who perform title search, notary, and recording services in support of mortgage and real estate services and transactions.
- Residential and commercial real estate services, including settlement services.
- Workers supporting essential maintenance, manufacturing, design, operation, inspection, security, and construction for essential products, services, and supply chain and COVID-19 relief efforts.
- Critical government workers, as defined by the employer and consistent with Continuity of Operations Plans
- Workers that provide services for or determine eligibility for public benefits such as subsidized health care, food and feeding programs, residential and congregate care programs, shelter, in-home supportive services, child welfare, juvenile justice programs, adult protective services and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including family members)
- Workers in sober homes
- Professional services (such as legal, accounting and tax preparation) and payroll and employee benefit services when necessary to assist in compliance with legally mandated activities and critical sector services or where failure to provide such services during the time of the order would result in significant prejudice

- Commercial retail stores that supply essential sectors, including convenience stores, pet supply stores, auto supplies and repair, hardware and home improvement, and home appliance retailers
- Workers and instructors supporting academies or training facilities and courses or assessments for the purpose of graduating or certifying, during the duration of the state of emergency, healthcare personnel, cadets, and other workers who are critical to the ongoing response to COVID-19

Critical Manufacturing

- Workers necessary for the manufacturing of metals (including steel and aluminum), industrial minerals, semiconductors, materials and products needed for medical supply chains, and for supply chains associated with transportation, energy, communications, information technology, food and agriculture, chemical manufacturing, nuclear facilities, wood products, commodities used as fuel for power generation facilities, the operation of dams, water and wastewater treatment, processing and reprocessing of solid waste, emergency services, and the defense industrial base. Additionally, workers needed to maintain the continuity of these manufacturing functions and associated supply chains, and workers necessary to maintain a manufacturing operation in warm standby.
- Workers necessary for the manufacturing of materials and products needed to manufacture medical equipment and personal protective equipment (PPE).
- Workers necessary for mining and production of critical minerals, materials and associated essential supply chains, and workers engaged in the manufacture and maintenance of equipment and other infrastructure necessary for mining production and distribution.
- Workers who produce or manufacture parts or equipment that supports continued operations for any essential services and increase in remote workforce (including computing and communication devices, semiconductors, and equipment such as security tools for Security Operations Centers (SOCs) or datacenters).

Hazardous Materials

- Workers who manage hazardous materials associated with any other essential activity, including but not limited to healthcare waste (medical, pharmaceuticals, medical material production), testing operations (laboratories processing test kits), and energy (nuclear facilities) Workers at nuclear facilities, workers managing medical waste, workers managing waste from pharmaceuticals and medical material production, and workers at laboratories processing tests Workers who support hazardous materials response and cleanup.
- Workers who maintain digital systems infrastructure supporting hazardous materials management operations.

Financial Services

- Workers who are needed to provide, process and maintain systems for processing, verification, and recording of financial transactions and services, including payment, clearing, and settlement; wholesale funding; insurance services; consumer and commercial lending; and capital markets activities).
- Workers who are needed to maintain orderly market operations to ensure the continuity of financial transactions and services.
- Workers who are needed to provide business, commercial, and consumer access to bank and non-bank financial services and lending services, including ATMs, lending and money transmission, and to move currency, checks, securities, and payments (e.g., armored cash carriers).
- Workers who support financial operations and those staffing call centers, such as those staffing data and security operations centers, managing physical security, or providing accounting services.
- Workers supporting production and distribution of debit and credit cards.
- Workers providing electronic point of sale support personnel for essential businesses and workers.

Chemical

- Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, paintings and coatings, textiles, building materials, plumbing, electrical, and paper products.
- Workers supporting the safe transportation of chemicals, including those supporting tank truck cleaning facilities and workers who manufacture packaging items.
- Workers supporting the production of protective cleaning and medical solutions, personal protective equipment, disinfectants, fragrances, and packaging that prevents the contamination of food, water, medicine, among others essential.
- Workers supporting the operation and maintenance of facilities (particularly those with high risk chemicals and/ or sites that cannot be shut down) whose work cannot be done remotely and requires the presence of highly trained personnel to ensure safe operations, including plant contract workers who provide inspections.
- Workers who support the production and transportation of chlorine and alkali manufacturing, single-use plastics, and packaging that prevents the contamination or supports the continued manufacture of food, water, medicine, and other essential products, including glass container manufacturing.

Defense Industrial Base

- Workers who support the essential services required to meet national security commitments to the federal government and U.S. Military. These individuals include, but are not limited to, space and aerospace; mechanical and software engineers (various disciplines), manufacturing/production workers; IT support; security staff; security personnel; intelligence support, aircraft and weapon system mechanics

and maintainers; and sanitary workers who maintain the hygienic viability of necessary facilities.

- Personnel working for companies, and their subcontractors, who perform under contract or sub-contract to the Department of Defense, as well as personnel at government-owned/contractor-operated and government-owned/government-operated facilities, and who provide materials and services to the Department of Defense, including support for weapon systems, software systems and cybersecurity, defense and intelligence communications and surveillance, space systems and other activities in support of our military, intelligence and space forces.

Commercial Facilities

- Workers who support the supply chain of building materials from production through application/installation, including cabinetry, fixtures, doors, cement, hardware, plumbing, electrical, heating/cooling, refrigeration, appliances, paint/coatings, and employees who provide services that enable repair materials and equipment for essential functions.
- Workers supporting ecommerce through distribution, warehouse, call center facilities, and other essential operational support functions.
- Workers in hardware and building materials stores, consumer electronics, technology and appliances retail, and related merchant wholesalers and distributors - with reduced staff to ensure continued operations.
- Workers distributing, servicing, repairing, installing residential and commercial HVAC systems, boilers, furnaces and other heating, cooling, refrigeration, and ventilation equipment.

Residential/Shelter Facilities And Services

- Workers in dependent care services, in support of workers in other essential products and services.
- Workers who support food, shelter, and social services, and other necessities of life for needy groups and individuals, including in-need populations and COVID-19 responders (including travelling medical staff).

- Workers in animal shelters.
- Workers responsible for the leasing of residential properties and RV facilities to provide individuals and families with ready access to available housing.
- Workers at hotels, motels, inns, and other lodgings providing overnight accommodation, but only to the degree those lodgings are offered or provided to accommodate the COVID-19 Essential Workforce, other workers responding to the COVID-19 public health emergency, and vulnerable populations
- Workers responsible for handling property management, maintenance, and related service calls who can coordinate the response to emergency “at-home” situations requiring immediate attention, as well as facilitate the reception of deliveries, mail, and other necessary services.
- Workers performing services in support of the elderly and disabled populations who coordinate a variety of services, including health care appointments and activities of daily living.

Hygiene Products And Services

- Workers who produce hygiene products.
- Workers in laundromats, laundry services, and dry cleaners.
- Workers providing personal and household goods repair and maintenance.
- Workers providing disinfection services, for all essential facilities and modes of transportation, and supporting the sanitation of all food manufacturing processes and operations from wholesale to retail.
- Workers necessary for the installation, maintenance, distribution, and manufacturing of water and space heating equipment and its components.
- Support required for continuity of services, including commercial disinfectant services, janitorial/cleaning personnel, and support personnel functions that need freedom of movement to access facilities in support of front-line employees.

Construction-Related Activities

- Workers such as plumbers, electricians, exterminators, builders, contractors, HVAC Technicians, landscapers, inspectors and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, businesses and buildings such as hospitals, health care facilities, senior living facilities, and any temporary construction required to support COVID-19 response.
- Workers – including contracted vendors - who support the operation, inspection, maintenance and repair of essential public works facilities and operations, including roads and bridges, water and sewer, laboratories, fleet maintenance personnel, construction of critical or strategic infrastructure, traffic signal maintenance, emergency location services for buried utilities, and maintenance of digital systems infrastructure supporting public works operations. Critical or strategic infrastructure includes public works construction including construction of public schools, colleges and universities and construction of state facilities, including leased space, managed by the Division of Capital Asset Management; airport operations; water and sewer; gas, electrical, nuclear, oil refining and other critical energy services; roads and highways; public transportation; steam; solid waste and recycling collection and removal; and internet and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services)
- Workers who support infrastructure, such as by road and line clearing and utility relocation, to ensure the availability of and access to needed facilities, transportation, energy and communications.
- Workers performing housing construction related activities, including construction of mixed-use projects that include housing, to ensure additional units can be made available to combat the Commonwealth's existing housing supply shortage.
- Workers supporting the construction of housing, including those supporting government functions related to the building and development process, such as inspections, permitting and plan review services that can be modified to protect the public health, including

allowing qualified private third-party inspections accountable to government agencies).

Special Note

If the function of your business is not listed above, but you believe that it is essential or it is an entity providing essential services or functions, you may request designation as an essential business.

Requests by businesses to be designated an essential function should only be made if they are NOT covered by the guidance.

To request designation as an essential business, **[please click here](#)**.

Any questions can be directed to **covid19.biz@mass.gov**.