

JAY INSLEE
Governor



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**DIRECTIVE OF THE GOVERNOR
20-17**

December 16, 2020

To: Joel Sacks, Director
Washington State Department of Labor and Industries

From: Governor Jay Inslee

Subject: Proclamation Enforcement during the COVID-19 Emergency

As you know, on February 29, 2020, I issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and its confirmed person-to-person spread in Washington State. COVID-19, classified by the World Health Organization as a worldwide pandemic, spreads easily from person to person and has resulted result in serious illness and death worldwide and in our state.

To date, I have issued hundreds of proclamations, amendments, and guidance under my emergency authority as changing facts, data, and scientific and other expert judgment have developed, including the *Stay Home* order (Proclamation 20-25, first issued March 23, 2020), and the transition to a four-phased reopening *Safe Start* plan (Proclamation 20-25.3, issued May 31, 2020). During this time, some measures were tightened, and others have been loosened. The COVID-19 crisis is constantly evolving, necessitating an adaptive approach to address the related public health and economic challenges. These formal emergency orders carry the force and effect of state law.

Throughout this emergency, you and your staff have worked tirelessly to support and enforce the restrictions within the bounds of your jurisdiction. Your approach has been admirable and consistent with my expectation—that is, you have endeavored to protect employees and the public, beginning with efforts to educate and seek voluntary compliance, and only implementing further enforcement tools when faced with intentional non-compliance of current state law.

In October and November 2020, as COVID-19 cases increased dramatically nationwide, in Washington, COVID-19 cases doubled and related hospitalizations rose sharply, putting Washingtonians, our health system, and our economy in a precariously dangerous position. These alarming circumstances led me, on November 17, 2020, to suspend the *Safe Start* plan and impose tighter, uniform restrictions statewide, restrictions that have since been extended to January 4, 2021.

Notwithstanding these restrictions, some businesses continue to disregard public health recommendations, as well as my emergency orders that legally require compliance with many of these public health recommendations. Businesses ignoring emergency public health orders are both potentially contributing to the spread of this deadly disease and also obtaining an unfair competitive advantage over the overwhelming majority of businesses complying with state law.

While I am grateful for the high rate of compliance by the vast majority of individuals and businesses with these difficult but necessary emergency public health orders, a new and potentially tragic trend has recently emerged: a refusal by some businesses to comply with these orders, notwithstanding your agency's efforts to educate, provide opportunities for compliance, and even issue Orders of Immediate Restraint (OIR). One such business owner has even boasted that his refusal to comply with state emergency orders has led to an unprecedented increase in business, and that his actions have attracted customers from the Canadian border to California. What one business owner sees as a financial boon for his family and employees, I see as a series of potentially catastrophic superspreader events that may result in serious illnesses and deaths.

I understand that we are all experiencing COVID-19 fatigue. I am also painfully aware of the economic challenges that many in our state are facing. We must continue to mitigate economic losses and impacts. But we cannot mitigate death.

Therefore, I direct your agency to continue to take any and all actions within your existing authority to address non-compliant businesses in a manner that also ensures the personal safety of your staff. Per my prior verbal directive, in circumstances in which you determine it is necessary to issue an OIR to ensure that a non-compliant business ceases certain business operations, but the business still refuses to comply with it, your agency shall issue daily civil penalties for willful violations of regulations implementing my orders and proclamations. And such penalties shall be issued as though each day the violation continues is a separate violation. Daily penalties should be assessed until the business complies with state law.

Although I regret the need to issue this directive, I will use every tool I have to fight to protect every single Washingtonian. Again, I want to thank you for your leadership and the department's hard work, courage, and compassion in serving all Washingtonians during this very difficult time.