



North Carolina Department of Public Safety

Prevent. Protect. Prepare.

Roy Cooper, Governor

Erik A. Hooks, Secretary

August 13, 2020

Dear Colleagues:

As the State Coordinating Official during any State of Emergency and Secretary of the North Carolina Department of Public Safety (DPS), I am writing to you as the State continues to address the ongoing Coronavirus Disease (COVID-19) pandemic. Governor Roy Cooper has issued a series of Executive Orders to coordinate the State's response and implement protective actions to mitigate the spread of the virus and provide for the health, safety, and welfare of residents and visitors in North Carolina.

DPS has been coordinating and collaborating with our public health partners at the North Carolina Department of Health and Human Service (DHHS) since the beginning of the pandemic. Our current goals include strengthening our enforcement efforts to ensure compliance with the Governor's Executive Orders. I have engaged DPS Alcohol Law Enforcement (ALE) to participate in these enforcement efforts. In my role of coordinating official for the State, it is my duty to manage and encourage the maximum cooperation between State and local law enforcement agencies. In order to successfully mitigate the spread of the virus, our state and local partners must consistently and uniformly enforce the Executive Orders issued by the Governor under the North Carolina Emergency Management Act.

During this pandemic some venues across the state have continued to host large events exceeding mass gathering limits and facilities ordered to remain closed have reopened. These actions not only violate the provisions of the Executive Order, but they create public health risk and undermine our efforts to slow the spread of COVID-19. The virus that causes COVID-19 is spread mainly from person-to-person between people in close contact (within six feet) through respiratory droplets. People can be infected with the COVID-19 virus without symptoms and can spread the disease without knowing they are sick. The risk of contracting and further transmitting COVID-19 is higher in gatherings where larger groups of people meet in close contact, because larger gatherings are more likely to be attended by at least one person infected with COVID-19 and because a person infected with COVID-19 who attends a large gathering has the potential to infect more people. There is evidence large gatherings have led to super-spreader events as part of this pandemic.

Local law enforcement plays an integral role in fighting the pandemic. As a reminder, enforcement efforts against willful and repeated violators are key to slowing the spread of the virus. These Executive Orders provide that the violation of any of the provisions enumerated therein is subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d) and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A. The only exception

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to this is Section 3.5 F.2. in Executive Order 141 (as amended by Section 2 of Executive Order 147), which states that law enforcement personnel are not authorized to enforce the face covering requirements against individual workers, customers or patrons. However, if a business or organization does not allow entry to a worker, customer or patron because the person refuses to wear a face covering and that worker, customer, or patron enters and refuses to leave, law enforcement personnel may enforce the trespassing laws and any other laws (other than N.C. Gen. Stat. § 14-288.20A).

I have attached sample language your agencies may use when issuing citations for violations of these Executive Orders. Our hope is North Carolina business owners, residents and visitors will voluntarily comply with the requirements of the Governor's Executive Orders. However, if they fail to do so in order to protect the health and safety of all North Carolinians, it is important that our state and local law enforcement agencies use the appropriate measures as provided by law to enforce these Orders.

Finally, if we all wear our face coverings, wash our hands, wait six feet to practice social distancing and continue enforcing the Governor's Executive Orders we can further slow the spread of the virus and begin to get back to work and school and get our economy going again. Thank you for your outstanding service, and I am extremely proud to be partnered with you in our shared public safety mission.

Sincerely,



Erik A. Hooks
Secretary

cc: Chief of Staff Kristi Jones, Governor's Office
Secretary Mandy K. Cohen, DHHS
General Counsel Jane Ammons Gilchrist

Enforcing Trespass Violations when business attempts to enforce the Governor's Executive Order #141 as amended by E.O. #147 (refusal to wear facial covering)

Charging Language

FIRST DEGREE TRESPASS (inside the building) (a class 2 misdemeanor)

I, the undersigned, find that there is probable cause to believe that on or about the date of offense shown and in the County named above the defendant named above unlawfully and willfully and without authorization (entered) (remained) in the building of another. To wit: the defendant (entered) (remained) in the _____, located at _____ after being asked (not to enter) (to leave) the premises. This act was in violation of N.C. Gen. Stat. §14-159.12.

SECOND DEGREE TRESPASS (outside the building) (a class 3 misdemeanor)

I, the undersigned, find that there is probable cause to believe that on or about the date of offense shown and in the County named above the defendant named above unlawfully and willfully and without authorization (entered) (remained) on the premises of another after being notified (not to enter) (not to remain) by (the owner) (a person in charge) (an authorized person). To wit: the defendant (entered) (remained) on the premises of _____, located at _____ after being asked (not to enter) (to leave) the premises by _____. This act was in violation of N.C. Gen. Stat. §14-159.13.

Enforcing Mass Gathering Violations when Individuals violate the Provisions of Executive Order #141 as amended by E.O #147, and extended by E.O. #151 and E.O #155

Violation of Executive Order 141 prohibiting mass gatherings (Outdoors) (a class 2 misdemeanor):

I, the undersigned, find that there is probable cause to believe that on or about the date of the offense shown, and in the county named above, the defendant named above, did unlawfully and willfully violate Section 7A of Executive Order 141, issued by Governor Cooper, pursuant to N.C.G.S. § 166A-19.3, on _____, 2020. To wit: By participating in a mass gathering consisting of more than 25 people in an outdoor space, to wit: _____, and by refusing to comply when given an opportunity to do so. This act was done in violation of N.C.G.S. § 14-288.20A(2).

Violation of Executive Order 141 prohibiting mass gatherings (indoors) (a class 2 misdemeanor):

I, the undersigned, find that there is probable cause to believe that on or about the date of the offense shown, and in the county named above, the defendant named above, did unlawfully and willfully violate Section 7A of Executive Order 141, issued by Governor Cooper, pursuant to N.C.G.S. § 166A-19.3, on _____, 2020. To wit: By participating in a mass gathering consisting of more than 10 people in an confined indoor space, to wit: _____, and by refusing to comply when given an opportunity to do so. This act was done in violation of N.C.G.S. § 14-288.20A(2).