SENATE BILL 364

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC HEALTH; ENACTING NEW SECTIONS OF THE
EMERGENCY POWERS CODE AND THE PUBLIC HEALTH ACT; AMENDING THE
PUBLIC HEALTH EMERGENCY RESPONSE ACT; PROVIDING THAT PUBLIC
HEALTH AND EXECUTIVE ORDERS OF GENERAL APPLICABILITY THROUGHOUT
THE STATE OR A PORTION OF THE STATE SHALL PROVIDE THAT
BUSINESSES MAY OPEN TO SERVE A MINIMUM OF FIFTY PERCENT OF
THEIR PRE-ORDER OCCUPANCY LIMIT AS ESTABLISHED BY STATE OR
LOCAL FIRE CODES OR OTHER LOCAL PERMITTING ORDINANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Emergency Powers Code is
enacted to read:

"[NEW MATERIAL] PUBLIC HEALTH ORDER--PUBLIC PLACES AND
GATHERINGS--LIMITATIONS ON BUSINESS CLOSURES.--An executive
order or a public health order issued pursuant to the Emergency
.219103.2
Powers Code that is of general applicability throughout the state or a portion of the state that restricts business openings shall provide that a business may open and provide services for a minimum of fifty percent of the occupancy limit of that business established prior to the public health order pursuant to municipal, county or state fire codes or other municipal or county permitting ordinances."

SECTION 2. Section 12-10A-5 NMSA 1978 (being Laws 2003, Chapter 218, Section 5) is amended to read:

"12-10A-5. DECLARING A STATE OF PUBLIC HEALTH EMERGENCY--TERMINATING THE EMERGENCY--LIMITATIONS ON BUSINESS CLOSURES.--

A. A state of public health emergency may be declared by the governor upon the occurrence of a public health emergency. Prior to a declaration of a state of public health emergency, the governor shall consult with the secretary of health. The governor shall authorize the secretary of health, the secretary of public safety and the director to coordinate a response to the public health emergency.

B. A state of public health emergency shall be declared in an executive order that specifies:

(1) the nature of the public health emergency;

(2) the political subdivisions or geographic areas affected by the public health emergency;

(3) the conditions that caused the public
health emergency;

(4) the expected duration of the public health
emergency, if less than thirty days;

(5) the public health officials needed to
assist in the coordination of a public health emergency
response; and

(6) any other provisions necessary to
implement the executive order.

C. A declaration of a state of public health
emergency shall not abrogate any disease-reporting requirements
set forth in the Public Health Act.

D. An executive order based on a declaration issued
pursuant to the Public Health Emergency Response Act that is of
general applicability throughout the state or a portion of the
state that restricts business openings shall provide that a
business may open and provide services for a minimum of fifty
percent of the occupancy limits established for the business
prior to the public health order established pursuant to
municipal, county or state fire codes or other municipal or
county permitting ordinances.

E. A declaration of a state of public health
emergency shall be terminated:

(1) by the governor, after consultation with
the secretary of health, upon determining that there is no
longer a public health emergency; or
(2) automatically after thirty days, unless renewed by the governor after consultation with the secretary of health.

Upon the termination of a state of public health emergency, the secretary of health shall consult with the secretary of public safety and the director to ensure public safety during termination procedures."

SECTION 3. A new section of the Public Health Act is enacted to read:

"[NEW MATERIAL] PUBLIC HEALTH ORDER--PUBLIC PLACES AND GATHERINGS--LIMITATIONS ON BUSINESS CLOSURES.--A public health order issued pursuant to the Public Health Act that is of general applicability throughout the state or a portion of the state that restricts business openings shall provide that a business may open and provide services for a minimum of fifty percent of the occupancy limit of that business established prior to the public health order pursuant to municipal, county or state fire codes or other municipal or county permitting ordinances."

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

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