

1 SENATE BILL 364

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Joshua Sanchez

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10 AN ACT

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

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

23 "[NEW MATERIAL] PUBLIC HEALTH ORDER--PUBLIC PLACES AND
24 GATHERINGS--LIMITATIONS ON BUSINESS CLOSURES.--An executive
25 order or a public health order issued pursuant to the Emergency
.219103.2

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1 Powers Code that is of general applicability throughout the
2 state or a portion of the state that restricts business
3 openings shall provide that a business may open and provide
4 services for a minimum of fifty percent of the occupancy limit
5 of that business established prior to the public health order
6 pursuant to municipal, county or state fire codes or other
7 municipal or county permitting ordinances."

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

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

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

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

- 22 (1) the nature of the public health emergency;
23 (2) the political subdivisions or geographic
24 areas affected by the public health emergency;
25 (3) the conditions that caused the public

.219103.2

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1 health emergency;

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

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

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

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

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

21 [~~D.~~] E. A declaration of a state of public health
22 emergency shall be terminated:

23 (1) by the governor, after consultation with
24 the secretary of health, upon determining that there is no
25 longer a public health emergency; or

.219103.2

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1 (2) automatically after thirty days, unless
2 renewed by the governor after consultation with the secretary
3 of health.

4 ~~[E.]~~ F. Upon the termination of a state of public
5 health emergency, the secretary of health shall consult with
6 the secretary of public safety and the director to ensure
7 public safety during termination procedures."

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

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

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