



MARYLAND HOUSE REPUBLICAN CAUCUS

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Minority Leader

Delegate Nicholas R. Kipke, District 31B

Minority Whip

Delegate Kathy Szeliga, District 7

May 26, 2020

Sent via electronic communication

The Honorable Lawrence J. Hogan, Jr.
Governor of Maryland
State House
Annapolis, MD 21401

Dear Governor Hogan,

We know you are considering the next steps in reopening Maryland and what that will look like. While the safety and wellbeing of Marylanders is and should be your paramount concern, we are confident this concern is not merely limited to their physical health, as a strong and thriving economy is also critically important to the wellbeing of all Marylanders. We respectfully ask that you consider our collective thoughts enclosed in this letter and we want you to know that we are behind you as you move Maryland into the next phase.

It is time to change the mindset of our state's government and refocus public policy when it comes to COVID-19. Thanks to the efforts of your Administration, Maryland's surge capacity is on track to exceed an additional 6,700 hospital beds. Our hospital and critical care resources have continued to maintain sufficient capacity, and our hospital and ICU usage continues to notably decline; the potential surges, thankfully, have not materialized in Maryland. In addition, your announcements last week that Maryland will expand testing and that a robust contact tracing operation is now in place are both indicators that Maryland is ready for a wider level of reopening than what is currently authorized. It is our belief, based on the review of Maryland data, that there is enough medical infrastructure in place to allow a wider opening than was previously announced.

We are not, by any means, advocating for an immediate return to "business as usual" pre-COVID-19, but we believe the data supports a more aggressive reopening strategy in Phase 2. **We urge you to consider that Phase 2 of the Roadmap to Recovery allow for the vast majority of industries in Maryland to reopen in a common-sense way that still protects public health and allows our economy to recover.**

There are portions of the Phase 1 regulations that treat businesses of similar scope in very different ways and in many cases appear very arbitrary. For example, under Phase 1, hair salons and barber shops are permitted to open by appointment and at a maximum capacity of 50%. However, similar personal service businesses such as massage therapists, estheticians, nail salons, tanning salons, and tattoo artists are presently barred from operating when logically they should be given the same opportunities. Like hair salons and barbers, these businesses work in close proximity to clients and are appointment-based. Even the larger establishments of this nature would have less

customers in at a time than many of the large “box stores” that have remained opened during this pandemic. **In Phase 2 of the Roadmap to Recovery, all personal-service businesses must be given the same reopening opportunities as hair salons and barber shops.**

In addition to personal-service businesses, retail establishments are also placed on unequal footing in Phase 1. Big-box stores like Target and Walmart and large home improvement stores like Lowe’s and Home Depot have remained open throughout this entire closure with virtually no restrictions on crowd size. A 50% capacity crowd at one of these stores is much larger than a 50% capacity crowd at a smaller store or boutique, and yet it is these smaller establishments who are required to open at 50% capacity. These small Main Street stores, the backbone of many towns and communities, were already struggling to compete with these large chains. The shutdown has made it more difficult and the reopening as it is currently structured will only add to that. Further, in many of our communities, a substantial sector of the retail industry is encompassed within enclosed shopping malls, where retail and local merchants employ thousands and generate millions of dollars in state and local tax revenues. It is difficult to suggest that we have reopened the retail sector fairly and uniformly in Maryland while prohibiting the opening of enclosed retail malls, without even permitting reduced occupancy and social distancing limits. **In Phase 2 of the Roadmap to Recovery, all retail locations must be allowed to open at greater capacity, without unduly restrictive conditions.**

It is unlikely Maryland’s restaurant industry will ever completely rebound from these prolonged closures. Every day we hear news of yet another establishment making the gut-wrenching decision to close permanently. The longer a reopening is delayed, the longer this list will be. Nationally, restaurant sales have fallen to their lowest levels in over 35 years when adjusted for inflation. In Maryland, 45% of our restaurants remain closed, either because of the Executive Order, or have closed permanently due to insurmountable financial losses. The Restaurant Association of Maryland is already projecting that 25% of Maryland restaurants will close permanently as a result of the Coronavirus pandemic.

Maryland’s restaurant industry will need significant assistance to get back on its feet. Some of the pre-pandemic regulations will have to be waived for a time to help them navigate this new era of doing business. **In Phase 2 of the Roadmap to Recovery, all restaurants must be permitted to open at an initial 50% capacity in Phase 2, with an expansion of indoor capacity granted to establishments who have redesigned their dining areas in a manner consistent with CDC recommendations.** Operating at only 50% indoor capacity is not going to be enough to keep many restaurants afloat, however. Maryland is going to have to do more. We would also recommend the state grant a waiver to restaurants allowing them to have seating spaces/chairs/tables on any reasonable sidewalks and parking lots, thus expanded or creating outdoor dining spaces. This would also require state and local governments to waive parking requirements for restaurants. In order for restaurants to serve alcohol in these expanded areas, it will be necessary to establish a waiver allowing restaurants to serve alcohol outside of the building within the newly-constituted outdoor dining area. It is our understanding that restaurants who have been completely closed during this shut-down (not offering carry-out or delivery services) will be subject to a health inspection before they can reopen. We would request that these restaurants be permitted to open immediately and allow the inspection to occur promptly after opening. We would also request that

these inspections be based on the guidelines those businesses were operating under prior to this closure.

The importance of fitness and recreational activities must not be overlooked. While many restrictions on outdoor recreation have been lifted, more needs to be done. **In Phase 2 of the Roadmap to Recovery, gyms and similar activity centers must be reopened, even if in a modified capacity with strict cleaning guidelines.** We must also look for opportunities to be creative and innovative and reimagine outdoor events and activities so they can move forward in a way that protects public health but still allows people to get out of the house and spend quality time with their families. Organizations and towns are cancelling Fourth of July celebrations across the state. Outdoor graduation ceremonies have also been cancelled. Drive-in movie theaters are unable to reopen. There is no reason why these outdoor events could not go on with reasonable precautions taken to protect the public health. Unfortunately in some cases, local bureaucrats have been given a level of power they are incapable of handling in a reasonable way. Without clear guidelines from the state in these matters, these events are being cancelled unnecessarily. **In Phase 2 of the Roadmap to Recovery, we urge you to immediately signal that outdoor graduations and other group outdoor activities are not subject to any 10 person gathering limitation, provided that they observe existing social distancing protocols, set forth by the CDC.**

Local governments are currently permitted to establish policies more restrictive than what the State prescribes based on their own situations locally. In some jurisdictions in Maryland, this has resulted in local governments establishing such draconian restrictions and requirements that reopening might never be a possibility. There are counties are enacting stronger restrictions than the state. In some instances municipalities are enacting stronger restrictions than what is in effect within their county. While it is important for local governments to have a say, enacting orders at a local level that are more strident than what the State has selected is a power that should only be reserved for jurisdictions with the greatest number of cases, or for more specific locales that have a cluster of infection as determined by State health officials. On the other end of these considerations are jurisdictions with significantly lower infection rates that are still subject to the more restrictive state guidelines. **In Phase 2 of the Roadmap to Recovery, jurisdictions with significantly lower rates of infection should be given the flexibility to open up at a faster rate.** For example, counties such as Anne Arundel, Frederick and Howard have rates of infection and death attributed to COVID-19 well-below that of the acknowledged worst-affected counties of Prince George's and Montgomery, yet remain under nearly identical "local" restrictions, including near-total restrictions on resuming church services that are of dubious validity or purpose. Areas such as the contiguous Western Maryland counties of Garrett, Allegany and Washington, or the Harford-Cecil region, or the Mid-Shore region of Caroline, Queen Anne, Talbot and Dorchester, have comparatively low rates of infection, hospitalizations or death, particularly when taking into account isolated nursing home or other congregate facility outbreaks in those communities. Those areas should be empowered to enact less-restrictive policies based on those same considerations. At this stage in the fight against COVID-19, the one-size-fits-all approach no longer fits.

While we appreciate the concerns of those who think a more aggressive reopening at this time is dangerous or premature, we do not agree. The goal of these unprecedented policies was never to wait until the virus had passed; it was to slow the spread as much as possible until we were as prepared as we could be to combat it. We cannot now move the goal post because of concerns of

spikes in infection, without any concern for the consequences to the lives and livelihoods of the vast majority of Marylanders. We were not shutting down to wait out a storm, we shut down to prepare for a siege. We must focus our energies and resources on living with the virus, not hiding from it. While progress is being made in creating a vaccine it is still many months, if not a year, away. Some medications have shown varying levels of effectiveness in combatting the illness which is also encouraging, but a cure does not appear imminent. While we continue to combat this virus, we must also realize that it will be with us for the foreseeable future. Delaying a reopening until there is a vaccine or cure would bring forth a level of economic destruction that could take a generation to recover from.

It is significant to note that multiple states began their reopening nearly a month ago and have not realized the spikes and surges that were feared by many. States that have opened early such as Texas, South Carolina, Oklahoma, Tennessee, Colorado, and Georgia, have not yet seen significant increases in hospitalizations or deaths or a surge in infection balanced against expanded testing numbers. In these states infections have generally remained stable or have decreased. While there is a lag in reporting because of the time it takes to get results in some of these states, some of them began their reopening nearly a month ago now, and are still trending well.

For example, Texas began Phase 1 of its reopening on April 30th. The first phase allowed malls and retailers to reopen at 25% capacity, with food court dining spaces and play areas remaining closed. Dine-in services were permitted to resume in restaurants, with capacity limited to 25%. Movie theaters also opened with a 25% capacity limit, with specific seating and spacing regulations. Malls, retailers, movie theaters and restaurants in rural locations with five or less confirmed cases of COVID-19 opened at 50% capacity. Hair salons, barber shops, nail salons, and tanning salons were permitted to open in a limited capacity beginning May 8th. As part of Phase 1, gyms, offices, and manufacturers were permitted to open at 25% capacity beginning May 18th. Since the Phase 1 reopening began, the overall infection rates *and* hospitalization rates have gradually declined.

Texas began Phase 2 of its reopening on Friday, May 22. Under this new phase, bars, wine tasting rooms, and craft beer facilities are permitted to reopen at 25% capacity. Restaurants can expand indoor dining services to 50% capacity. Professional sports and youth sports camps can resume on May 31st. Even with its more aggressive expansion, the Texas plan still has guardrails. The few areas of the state that have seen a sharp rise in positive tests will not enter Phase 2 of the reopening until later this month.

When looking at what methods other states have employed when it comes to reopening, it is also important to look at what our neighboring states are doing. Almost anywhere you live in Maryland, you are within an hour's drive (or less) of another state. West Virginia began an aggressive reopening plan on April 30th. Each phase is pre-planned with new phases being implemented each week. Currently in West Virginia, daycares, churches, funeral homes, personal service businesses, drive-in movie theaters, fitness and recreation centers, gyms, and sports training facilities are all open. Restaurants can operate their dining rooms at 50% capacity. Virginia has regionally reopened outdoor dining areas at restaurants including in areas bordering our state. Salons, massage parlors, spas, tanning salons, tattoo parlors, and other personal services can open by appointment only. Retail locations can reopen at 50% capacity. Delaware has already opened its

beaches and begins Phase 1 of its opening on June 1, opening restaurants, retail, and other businesses to fully open at a reduced capacity of 30%, excluding staff. For better or for worse, Maryland's citizens and Maryland's businesses will be significantly impacted by the openings of businesses just across our borders. The degree of the impact depends on how quickly our own businesses can reopen.

In the ever-divisive world we find ourselves in, some claim that those who advocate for reopening have no regard for life and place dollars ahead of people's wellbeing. Others suggest that those who advocate for remaining closed are ruled by fear and care nothing for the financial devastation in their community. Neither of these narratives is true. We are all trying to find the best way forward to save *lives and livelihoods* in a world that has been significantly changed. Vigorous reopening plans have not shown themselves to be dangerous ones, and our state is ready.

Maryland's citizens and businesses have shown themselves willing and able to make sacrifices for the good of their communities. They have shown great patience and fortitude while facing unprecedented challenges. We know that the wellbeing of Maryland's citizens is your utmost priority as it is ours. The battle against COVID-19 will be a long one, but, through the tireless work of your Administration, our state is equipped for a more vigorous reopening of our economy. It is time to move forward with a Phase 2 reopening that is substantial, meaningful, and rational; bringing Maryland's businesses back and giving our citizens renewed hope for the future.

Sincerely,



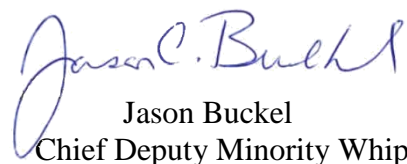
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