EXECUTIVE ORDER NO. 150

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119 and 138 (2020), issued on April 7, 2020, and May 6, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-149 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, on March 16, 2020, I signed Executive Order No. 104, which limited all restaurants, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, to

offering food delivery and/or take-out services only, meaning that they could not allow the on-premises consumption of food or beverages; and

WHEREAS, on March 21, 2020, I signed Executive Order No. 107, which superseded Executive Order No. 104 (2020) in full but continued the prohibition of on-premises consumption of food or beverages; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey, the State can begin to take certain steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan ("Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is implementing its reopening process and has begun to relax restrictions on certain businesses, including the authorization of curbside pickup at retail establishments, the resumption of non-essential construction, and the allowance of a number of lower-risk outdoor activities; and

WHEREAS, consistent with this Plan, I have issued a number of Executive Orders, including Executive Order Nos. 133, 142, 143, 146, and 147 (2020), which authorized the openings of parks, beaches, lakefronts, and several outdoor recreational facilities and activities, with social distancing, cleaning, sanitizing, and hygiene practices in place, given repeated observations from public health experts, including but not limited to the Centers for Disease Control and Prevention ("CDC"), that outdoor environments present reduced risks of COVID-19 transmission as compared to indoor environments; and

WHEREAS, consistent with this Plan, I issued Executive Order No. 148 (2020), which allowed additional numbers of individuals to gather outdoors, consistent with the same repeated observations from public health experts, and Executive Order No. 149 (2020), which authorized the gradual restart of ordinary child care services, certain youth sporting activities, and summer camps, with social distancing requirements; and

WHEREAS, consistent with this Plan, non-essential retail businesses can begin to open their brick-and-mortar premises to the public, but should be held to the same minimum requirements that have applied to essential retail businesses since Executive Order No. 122 (2020) was signed in early April; and

WHEREAS, given the reduced risks of COVID-19 transmission outdoors, the State can begin to allow restaurants, bars, and other food or beverage establishments to provide in-person service at areas designated for food and/or beverage consumption ("outdoor dining") in accordance with CDC and DOH safeguards, but indoor dining still poses a higher risk of transmission at this time than outdoor dining; and

WHEREAS, indoor dining also entails a higher risk than indoor retail operations, as indoor dining typically involves individuals sitting together in one location for a prolonged period of time, while in indoor retail settings, individuals neither congregate in large groups nor remain in close proximity for extended periods and so the risk of COVID-19 spread is reduced; and

WHEREAS, to limit the spread of COVID-19 and thus to protect public health, establishments can only open to the public to offer outdoor dining where such food and/or beverage consumption is conducted in a way that ensures groups of individuals will be appropriately spaced apart, and there must be strict limits in place governing when individuals may enter the premises; and

WHEREAS, to limit the spread of COVID-19 and thus to protect public health, establishments can only open to the public to offer outdoor dining where such food and/or beverage consumption is conducted in a way that ensures critical Statewide health standards are met, which are being issued simultaneously by DOH; and

WHEREAS, because this Order establishes options for outdoor food and/or beverage consumption that accommodate the lack of indoor dining options as a result of COVID-19, individuals must have access to the same smoke-free options that they would have had under State law at the indoor premises of a food or beverage establishment, and which will continue to ensure that individuals can access in-person dining options without exposure to second-hand smoke during the Public Health Emergency; and

WHEREAS, many restaurants or bars will not have sufficient outdoor space to serve their patrons, and thus may seek to use additional space for outdoor food and/or beverage consumption,

including other areas of their property, such as parking lots, and shared spaces, such as sidewalks, streets, and parks; and

WHEREAS, municipalities are in the best position to make decisions on allowing restaurants or bars to expand their service footprint on their property and potentially into shared spaces in a way that comports with public safety; and

WHEREAS, if municipalities choose to make shared spaces available to restaurants or bars, it is incumbent upon them to distribute these spaces equitably among restaurants or bars who may feasibly seek to use them; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Effective at 6:00 a.m. on Monday, June 15, 2020, restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, bars, and all other holders of a liquor license with retail consumption privileges, collectively referred to as "food or beverage establishments," are permitted to offer in-person service at outdoor areas, provided that the establishment complies with the following requirements:

a. Ensure all areas designated for food and/or beverage consumption are in conformance with applicable local, State, and Federal regulations;

b. Limit capacity to a number that ensures all patrons can remain six feet apart from all other patrons at all times, except for those patrons with whom they are sharing a table;

c. Satisfy all standards issued by DOH pursuant to Paragraph 3 of this Order;

d. Ensure that tables seating individual groups are six feet apart in all directions and that individual seats in any shared area that is not reserved for individual groups, such as an outdoor bar area, are also six feet apart in all directions;

e. Prohibit patrons from entering the indoor premises of the food or beverage establishment, except to walk through such premises when entering or exiting the food or beverage establishment in order to access the outdoor area, or to use the restroom;

f. Require patrons to wear a face covering while inside the indoor premises of the food or beverage establishment, unless the patron has a medical reason for not doing so or is a child under two years of age; and

g. Prohibit smoking in any outdoor areas designated for the consumption of food and/or beverages. The requirement that food or beverage establishments impose this prohibition shall automatically sunset

once food or beverage establishments are permitted to offer in-person service in indoor areas.

2. Nothing in this Order shall prevent a food or beverage establishment that offers take-out options from allowing an individual who is seeking take-out rather than table service to enter the indoor premises of the establishment to place an order, make payment, and pick up food or beverages, including in situations where a food or beverage establishment makes outdoor areas without table service available. As noted in Paragraph 1(f), such individuals shall wear a face covering while inside the indoor premises of the food or beverage establishment, unless the individual has a medical reason for not doing so or is a child under two years of age.

3. The Commissioner of the DOH is directed, consistent with her authority under the Emergency Health Powers Act, to issue health and safety standards for use by food or beverage establishments in order to serve patrons consistent with this Order.

4. Picnic Areas and Pavilions may be open to the public. Picnic Areas and Pavilions shall be open to the public at all State Parks and Forests.

5. Municipalities are permitted to use their existing authority to allow food or beverage establishments to expand their footprint to outdoor areas, both within their property and among municipally-governed areas, including but not limited to sidewalks, streets, or parks. Any additional density and social distancing requirements imposed by municipalities on food or beverage establishments offering in-person service at outdoor areas are not inconsistent with Executive Order No. 108 (2020).

If a municipality seeks to close off a roadway for which it would need county or State approval, it still must obtain that approval.

6. Municipalities that make outdoor shared spaces such as sidewalks, streets, or parks, available for use by food or beverage establishments should equitably divide these spaces among food or beverage establishments that can feasibly use it.

7. Paragraph 8 of Executive Order No. 107 (2020), Paragraph 2 of Executive Order No. 133 (2020), Paragraph 2 of Executive Order No. 143 (2020), Paragraph 2 of Executive Order No. 147 (2020), and Paragraph 10 of Executive Order No. 148 (2020) are superseded to the extent inconsistent with this Order.

8. Effective at 6:00 a.m. on Monday, June 15, 2020, the brick-and-mortar premises of non-essential retail businesses that were closed to the public by Executive Order No. 107 (2020) can reopen to the public, provided that such businesses adopt policies that include, at minimum, the requirements that were applied to essential retail businesses in Paragraph 1 of Executive Order No. 122 (2020).

9. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

10. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

11. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions and exclusions to the terms of this Order.

12. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of Executive Order No. 150 (2020), or which will or might in any way interfere with or impede its achievement.

13. This Order shall take effect immediately.

GIVEN, under my hand and seal this 3rd day of June, Two Thousand and Twenty, and of the Independence of the United States, the Two Hundred and Forty-Fourth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor