

June 21, 2020

Ms. Princy Doss
Director of Policy, Planning and Public Information
Virginia Department of Labor and Industry
600 East Main Street, Suite 207
Richmond, VA 23219

RE: 16 VAC 25-220, Emergency Temporary Standard/ Emergency Regulation Infectious Disease Prevention SARS-CoV-2 Virus that Causes COVID-19

Ms. Doss:

On behalf of the Virginia Restaurant, Lodging & Travel Association, we want to take this opportunity to share our organization's comments regarding, the emergency temporary standard and emergency regulation for preventing COVID-19 in places of employment.

Hospitality and tourism related businesses have been diligently complying with COVID-19 related requirements from the Governor's Executive Orders (EO), Virginia Department of Health (VDH), and applicable federal standards. After reviewing the proposed regulations, our organization has many concerns and questions about the standards under review by the Virginia Department of Labor (DOLI) and Industry. Below are our comments:

- **The proposed standards state that the regulation (page 5, section E) cannot conflict with any requirements or in any guidelines set out in applicable executive orders; however, the proposed regulations conflict with VDH guidelines and Executive Order 63 regarding the use of face coverings. Executive Order 63 specifically states that "Medical-grade masks and personal protective equipment should be reserved for medical personnel."**
- VRLTA requests that PPE continue to be reserved solely for medical personnel, and that other business sections continue to follow standards for cloth face coverings.
- **In section 40 7a (page 18) with pertains to mandatory requirements for employee notification, the proposed standards indicate that employers must notify employees within 24 hours of possible exposure to COVID-19. Hospitality and tourism businesses can be made up of single restaurants, or have multiple locations in Virginia.**
- VRLTA requests that this be amended to only be applicable to the same work location.
- **Additional administrative and employer requirements in the proposed standards (pages 18, 30-34), but doesn't provide certainty or clarity to ensure that the Department of Labor and Industry will provide guidance to employers.**
- VRLTA requests that the provisions that are germane to mandatory trainings don't take effect until training materials and other guidance documents are available and provided to employers.
- **Hand washing and hand sanitizing stations, and the provision thereof are mentioned several times**

(page 21, section d; page 23, section 8), but this requirement conflicts with VDH guidelines for Phase Two that indicates either handwashing to hand sanitizing stations be available.

- VRLTA requests that the proposed regulations be amended to reflect VDH standards requiring either handwashing or hand sanitizing stations be available.
- **The proposed regulations mandate the installation of clear physical barriers (page 28, section Aa; page 14 in the physical distancing definition), such as sneeze guards between customers and employees.**
- VRLTA believes that installation of such barriers should remain a best practice that is encouraged as outlined in the VDH guidelines for restaurants in Phase Two, not a mandatory requirement.
- **Section b (page 29) stipulates that employers are required to provide PPE to suspected COVID-19 non-employees.**
- VRLTA requests that this requirement be removed from the proposed regulations as the VDH guidelines for signage telling patrons to stay home if sick is sufficient.
- **Numerous times in the proposed standards (page 21 sections F, and G; page 23, section K; page 30, section C; page 34, section B6) for Personal Protective Equipment PPE is mentioned as a requirement in the workplace for employees. In addition, the document states in the definitions section (page 12) that face coverings are not considered a form of PPE.**
- VRLTA requests that these standards be amended to continue to allow cloth face coverings to satisfy the requirement for face masks. Moreover, there needs to be additional clarification on this issue as it appears to direct employers to also comply with VDH guidelines for applicable industry and Executive Orders.

As noted above, there are many issues with the proposed language in the regulations that appears to conflict with Virginia Department of Health guidelines and Governor Northam's Executive Orders, and there is significant uncertainty as to many aspects of the Virginia Department of Labor and Industry emergency temporary standards.

We are now three months into the COVID-19 crisis and during this period hospitality and tourism related businesses have put into place policies and procedures pursuant to VDH and EO guidelines. Imposing new standards will create additional financial hardship and loss of economic activity that will further harm Virginia's economic recovery.

For these reasons, we strongly believe that the best approach is to not promulgate these regulations. Instead, we urge you to enforce and administer VDH, EOs, CDC, and OSHA guidance which provides the means to address the public health issues pertinent to mitigating transmission of COVID-19.

Sincerely,



Eric Terry
President
Virginia Restaurant, Lodging & Travel Association



Robert Melvin
Director, Government Affairs
Virginia Restaurant, Lodging & Travel Association

cc: Clark Mercer, Chief of Staff to Governor Ralph S. Northam

The Honorable R. Brian Ball, Secretary of Commerce and Trade

The Honorable Cassidy Rasnick, Deputy Secretary of Commerce and Trade for Rural Economic
Development