



May 1, 2020

Governor Roy Cooper
North Carolina Office of the Governor
20301 Mail Service Center
Raleigh, NC 27699-0301

SENT VIA ELECTRONIC MAIL TO ROY.COOPER@NC.GOV

Dear Governor Cooper:

Thank you for your continued leadership during these difficult times. On behalf of the North Carolina Retail Merchants Association (NCRMA) and its 2,500 members representing more than 25,000 store locations across North Carolina, I write to provide you a framework for how discretionary retail locations can responsibly and safely be reopened beginning May 8, 2020. This framework was developed by a diverse set of retail industry representatives from clothing stores, bookstores, department stores, gift shops, furniture stores and shopping malls. Numerous state and national plans, as well as State and local orders, were reviewed in detail to develop this framework.

Executive Order 121 was issued on March 27, 2020, and classified retailers as either essential or non-essential, with those deemed essential allowed to remain open and those deemed as non-essential forced to close their businesses. Subsequently, Executive Order 131 issued on April 9, 2020, implemented new requirements on occupancy, social distancing, and sanitation for essential retailers.

NCRMA strongly believes that all retailers operate essential businesses and those previously deemed non-essential are better classified as “discretionary retailers.” These discretionary retailers have suffered great economic harm since March 27, 2020 with many forced to lay off employees and scrape for revenue in order to be in position to reopen their business when the time comes. Over the past month, these discretionary retailers have learned a great deal from the essential retailers that have remained open and have implemented both voluntary and required measures to ensure a safe shopping experience for their customers and employees. Similarly, discretionary retailers are prepared to responsibly implement the following measures to ensure North Carolina citizens can safely return to their store locations thereby creating jobs and generating revenue and hopefully allowing these businesses that are the fabric of their community to again thrive.

NCRMA proposes that, effective May 8, 2020, Phase 1 of your reopening plan be implemented allowing discretionary retailers to reopen under the following requirements:

- 1) Six-foot delineations at point-of-sale and other high traffic areas to ensure social distancing is maintained (Executive Order 131)
- 2) Sanitation in accordance with CDC recommendations including frequent and thorough cleaning of counters, pin pads and other high touch areas. (Executive Order 131)

- 3) Signage requesting customers to not enter the retail location if they have symptoms and requesting customers to maintain social distancing while shopping
- 4) Occupancy requirements/Emergency Maximum Occupancy – Customers cannot exceed twenty percent of stated fire capacity OR five customers for every one thousand (1,000) square feet of the retail location’s total square footage, including non-customer facing portions. (Executive Order 131). Beginning with Phase 2, customers cannot exceed fifty percent (50%) of stated fire capacity OR ten customers for every one thousand (1,000) square feet of the retail location’s total square footage, including non-customer facing portions
- 5) Six-foot delineations on the exterior of the building to ensure social distancing in the event emergency maximum occupancy is met
- 6) When it is determined by the business that proper social distancing cannot be maintained between employees, or between employees and customers, employees should wear a face-covering
- 7) Hand sanitizer should be provided for customers at the store entrance, when available
- 8) Employers should regularly check with employees regarding their health and wellness including asking whether the employee has respiratory issues, shortness of breath, coughing or sore throat
- 9) Social Distancing requirements (Executive Order 121)

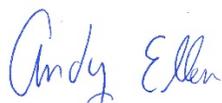
Additionally, we would request the following as part of any reopening of discretionary retail in North Carolina:

- 1) For consistency purposes, similar to the approach taken in Executive Order 131, these requirements be applied statewide, preempt any contradicting local orders and enforcement of these new requirements should be delegated to state officials
- 2) Language be included in the Executive Order stating these requirements do not create a private right of action or constitute negligence per se against any retailer

NCRMA’s members are focused on providing a safe shopping experience for both customers and their employees. This week, NCRMA launched a thirteen-week statewide radio campaign to encourage North Carolinians to maintain social distancing and shop smart as well as to support the state’s brick and mortar retailers when they are allowed to reopen their store locations. More details on the campaign and audio of the public service advertisements can be found on our website at <https://www.ncrma.org/ncrma-launches-radio-campaign/>.

Thank you for your consideration of this proposal on what NCRMA believes to be a reasonable and responsible pathway for reopening of discretionary retail locations in North Carolina at the outset of Phase 1 as described in Executive Order 135. Please do not hesitate to contact me with any questions or for additional information.

Sincerely,



Andy Ellen
President and General Counsel
NC Retail Merchants Association