



**STATE OF RHODE ISLAND  
RHODE ISLAND DEPARTMENT OF HEALTH**

**IN THE MATTER OF:  
Buffalo Wild Wings - Warwick  
Violations of Executive Orders and  
RI Department of Health Regulations**

**IMMEDIATE COMPLIANCE ORDER AND  
NOTICE OF VIOLATION AND COMPLIANCE ORDER**

Now comes the Director of the Rhode Island Department of Health (“RIDOH”), as informed by the Chair (“Chair”) of the Rhode Island COVID-19 Enforcement Task Force (“Task Force”), and pursuant to R.I. Gen. Laws §§ 23-1-20 and 23-1-21, Executive Orders 20-32 and 20-50 (“Executive Orders”), and the RIDOH rules and regulations pertaining to Safe Activities By Covered Entities During the COVID-19 Emergency (216-RICR-50-15-7) (“Safe Regulations”), determines that there are reasonable grounds to believe that Buffalo Wild Wings (“Respondent”) is in violation of applicable Executive Orders and/or the Safe Regulations, and that, with respect to bar requirements, Respondent is in violation of applicable Executive Orders and/or the Safe Regulations, which violation requires immediate action to protect the health, welfare, and safety of the public.

**NEED FOR IMMEDIATE ACTION**

On March 9, 2020, Governor Gina M. Raimondo declared a state of emergency for the State of Rhode Island due to the dangers to health and life posed by COVID-19. The Safe Regulations were promulgated as an emergency rule, pursuant to R.I. Gen. Laws § 42-35-2.10, based on a finding that an imminent peril to the public health, safety, or welfare required immediate promulgation of the rule,

specifically that “[i]n order to prevent further spread of COVID-19 as individuals begin to leave their homes more frequently and establishments begin to reopen, protective measures must be followed and implemented for individuals and establishments to resume operations so that the public’s health and welfare is protected.”

#### **GROUND FOR DETERMINATION OF VIOLATIONS**

- I. Respondent is a dining establishment located at 400 Bald Hill Road, Warwick.
- II. Respondent is a covered entity, as defined in the Safe Regulations. As such, Respondent is required to comply with applicable Executive Orders and the Safe Regulations.
- III. On or about July 13, 2020, a Task Force inspector met with assistant general manager Chris Finer and conducted a Healthy Environment inspection of the Respondent. The inspector performed a checklist inspection based on the Safe Regulations and determined that Respondent scored an 10/11 for overall requirements, a 5/5 for dining requirements, and a 3/4 for bar requirements. In response, the inspector provided information and resources to the Respondent to help it achieve full compliance. This included a recommendation to the Respondent on how to access [www.ReopeningRI.com](http://www.ReopeningRI.com) and the relevant websites for the Executive Orders, rules, regulations, and guidance. The Respondent was also advised that a reinspection would take place in the near future.
- IV. On or about July 24, 2020, a different Task Force inspector conducted a reinspection of the Respondent. The inspector met with general manager Traci Belbin and again performed a checklist inspection based on the Safe Regulations. The inspector determined that the Respondent scored a 10/11 for overall requirements, 5/5 for dining requirements, and a 3/4 for bar requirements.
- V. Of note is the fact that the Respondent failed to ensure that if parties were seated at the bar, no staff were permitted to work in any areas behind the bar unless a physical, non-porous barrier of

appropriate height is installed between the bar work areas and customers; that even with physical barriers between the bar work areas and customers, staff may only serve seated customers drinks and food through a gap or opening in the barrier that is no more than eight (8) inches in size; and/or that working bar areas, such as drink making stations or glassware storage, must be located at least six feet from the gaps.

- VI. Based on the foregoing, and in the absence of any other information to rebut the allegations, the Director of RIDOH has determined that Respondent is in present violation of multiple provisions of applicable Executive Orders and/or the Safe Regulations and that, with respect to the bar requirements, immediate action is necessary to protect the health, welfare, or safety of the public.

#### **VIOLATIONS**

The following violations stem from the July 24, 2020 reinspection:

- I. Respondent is in violation of Section 7.4.1(A)(3) of the Safe Regulations, which requires all individuals in an establishment to wear cloth face coverings unless social distancing or an exemption applies. Of the approximately 5 employees observed in the establishment, the inspector observed 2 employees without mask. In particular, the inspector observed the bartender over the course of about 10 minutes, without a mask, serving customers and leaning over the bar in conversation.
- II. Respondent is in violation of Section 7.4.2(A)(6) of the Safe Regulations, which requires that:
  - a. when parties are seated at the bar, no staff are permitted to work in any areas behind the bar and all work areas behind the bar unless a physical, non-porous barrier (i.e., plexiglass) of appropriate height is installed between the bar work areas and customers; and

- b. even with physical barriers between bar work areas and customers, staff may only serve seated customers drinks and food through a gap or opening in the barrier that is no more than eight (8) inches in size; and,
- c. working bar areas (e.g. drink making stations or glassware storage) must be located at least six (6) feet from these gaps. Drinks and/or food may not be passed to customers under, over, or around such barrier by staff behind the bar.

The inspector observed that the Respondent did not have any physical barrier present between the bar work areas and customers. Although there was no seating at the bar itself, the Respondent had pushed tables up to the bar and was serving the customers seated at these tables from behind the bar in violation of the Safe Regulations.

#### **ORDER**

#### **IMMEDIATE COMPLIANCE**

It is hereby **ORDERED**, that Respondent is to immediately close its bar/bar area until such time as violations are remedied to the satisfaction of the Director of RIDOH by fulfilling the conditions as set forth below:

- I. Respondent shall ensure that:
  - a. when parties are seated at the bar, no staff are permitted to work in any areas behind the bar and all work areas behind the bar unless a physical, non-porous barrier (i.e., plexiglass) of appropriate height is installed between the bar work areas and customers; and
  - b. even with physical barriers between bar work areas and customers, staff may only serve seated customers drinks and food through a gap or opening in the barrier that is no more than eight (8) inches in size; and,

- c. working bar areas (e.g. drink making stations or glassware storage) are located at least six (6) feet from these gaps and that drinks and/or food is not passed to customers under, over, or around such barrier by staff behind the bar.

#### **NOTICE OF COMPLIANCE**

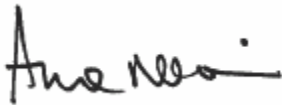
It is further **ORDERED**, that on or before the tenth (10<sup>th</sup>) day from service of this Notice of Violation and Compliance Order, Respondent shall remedy the above cited violations and come into full compliance with applicable Executive Orders and Regulations, by fulfilling the conditions as set forth below:

- I. Respondent shall require all employees in its establishment to wear cloth face coverings unless physical distancing can be continuously and easily maintained or an exemption applies.

**With respect to the Notice of Compliance, a written request for a hearing may be filed within ten (10) days of this notice.**

**Failure to comply with this ORDER may result in the imposition of civil penalties and/or any other action authorized by applicable law or regulation.**

Entered this 28th day of July 2020.



for

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Nicole Alexander-Scott, MD, MPH  
Director  
Rhode Island Department of Health  
Cannon Building, Rm. 401  
Three Capitol Hill  
Providence, RI 02908