



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

**IN THE MATTER OF:  
Liberty Lunch  
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 § 23-1-21, 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 Liberty Lunch (“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 S FOR DETERMINATION OF VIOLATIONS**

- I. Respondent is a dining establishment located at 732 Central Avenue in Pawtucket.
- 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 August 7, 2020, a Task Force inspector met with owner Chuck Dakake 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 7/11 for overall requirements, a 4/5 for dining requirements, and a 3/6 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.
- IV. On or about August 11, 2020, the same Task Force inspector again met with owner Chuck Dakake to follow up on the initial Healthy Environment inspection of the Respondent. The inspector observed that many of the earlier deficiencies had been corrected to the satisfaction of the inspector. However, the Respondent still remained non-compliant with the 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 August 7, 2020 reinspection:

- I. Respondent is in violation of Section 7.4.2(A)(1) of the Safe Regulations, which requires that unless separated by a physical barrier of an appropriate height, tables must be separated by at least eight (8) feet from table edge to table edge or to allow six (6) feet spacing between seated customers at different tables. The inspector observed that there were several booths in use that were situated back to back. Although the Respondent made attempts to create a barrier by using plastic shower curtain material, this barrier does not meet the requirements of the State Fire Safety Code and is therefore non-compliant with the Safe Regulation.
- 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 had hung plastic shower curtain material from the ceiling at the bar area to the inside edge of the bar counter. However, this barrier does not meet the requirements of the State Fire Safety Code and is therefore non-compliant with the Safe Regulation.

### **ORDER**

#### **IMMEDIATE COMPLIANCE**

It is hereby **ORDERED**, that Respondent is to immediately close its 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 ensure that unless separated by a physical barrier of an appropriate height, tables must be separated by at least eight (8) feet from table edge to table edge or to allow six (6) feet spacing between seated customers at different tables.

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

Entered this 11<sup>th</sup> day of August 2020.



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Nicole Alexander-Scott, MD, MPH  
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**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.**

# EXHIBIT 1

