



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

**IN THE MATTER OF:  
Positive Vibes Nutrition  
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 20-95 (“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 Positive Vibes Nutrition (“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 which maintains a bar/countertop area located at 1173 Social Street in Woonsocket.
- 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 28, 2020, a Task Force inspector met with owner Nina Hayes (“Owner”) 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 a 6/11 for overall requirements. After the inspection, 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 an inspector would conduct a reinspection in the near future.
- IV. On or about October 2, 2020, a different Task Force inspector met with the Owner 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 a 9/12 for overall requirements and a 4/6 for bar requirements. After the inspection, the inspector provided the Respondent with specific information on the requirement for employees to wear cloth face coverings and the requirement to have a non-porous barrier separating the customers seated at the bar/countertop from the bar/countertop work areas.

- V. On or about November 17, 2020, a different Task Force inspector met with the Owner 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 8/12 for overall requirements, a 3/5 for dining requirements, and a 2/7 for bar requirements.
- VI. 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.
- VII. 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**

### **ALLEGED VIOLATIONS**

The following alleged violations stem from the November 17, 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 an exception applies and requires establishments to deny entry to any employee, who is not otherwise exempt from the requirement, who refuses to wear a cloth face covering when required. The inspector observed that there were three (3) employees present, none of which was wearing a cloth face covering.

None claimed an exception to the requirement to wear a cloth face covering. Additionally, the inspector observed that none of the five (5) customers who entered and exited the establishment wore a cloth face covering. At no time did the inspector observe the Respondent instruct the customers to wear a cloth face covering.

- II. Respondent is in violation of Section 7.4.1(A)(1)(f) of the Safe Regulations, which requires the designation of a point of contact who is familiar with the applicable Executive Orders and the Safe Regulations, and who will work with RIDOH on testing, contact tracing, case investigation, isolation and quarantine follow up. Based on the Owner's statements that she was unaware that "masks were a requirement" and that "she was unfamiliar with the dining regulations" the inspector concluded that there was no point of contact who is familiar with the guidance and regulations.
- III. Respondent is in violation of Section 7.4.1(A)(8) of the Safe Regulations, which requires all covered entities to maintain an employee work log that identifies the full name, phone number, and the date and time of all shifts worked by each employee. This work log must be maintained for at least thirty (30) days. Upon request, Respondent could not produce an employee work log.
- IV. Respondent is in violation of Section 7.4.2(A)(1)(a) of the Safe Regulations, which requires that tables 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 unless separated by a physical, non-porous barrier of an appropriate height. The inspector observed that a table near the bar was not separated by a barrier of any kind and was neither spaced at least eight (8) feet from table edge to table edge nor allowed six (6) feet of spacing between seated customers at different tables. (See "Exhibit A")

- V. Respondent is in violation of Section 7.4.2(A)(2) of the Safe Regulations, which prohibits self-service seating. The inspector observed that patrons could seat themselves without assistance by the Respondent.
- VI. Respondent is in violation of Section 7.4.2(A)(5) of the Safe Regulations, which requires that all parties seated at a bar be separated by at least 6 feet, unless separated by a physical, non-porous barrier of an appropriate height. The inspector observed customers sitting at the bar within six (6) feet of another and without separation by a physical non-porous barrier.
- VII. 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 of appropriate height and made of a material which complies with the interior finish requirements of the State Fire Code, 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 customers were allowed to sit at the bar/countertop while employees worked from the work areas behind the bar/countertop without a non-porous physical barrier in place. (See "Exhibit A and B")

## ORDER

### IMMEDIATE COMPLIANCE

It is hereby **ORDERED**, that Respondent is to immediately close its bar/countertop 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 and made of a material which complies with the interior finish requirements of the State Fire Code 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.
- II. Respondent shall require all employees in its establishment to wear cloth face coverings unless an exception applies. In accordance with Section 7.4.1(3)(a) of the Safe Regulations, Respondent shall deny access to its establishment to any employee who refuses to wear a cloth face covering when required by the Safe Regulations unless an exception applies.
- III. Respondent shall instruct all customers in its establishment to wear cloth face coverings unless an exception applies.

## 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 designate a point of contact who is familiar with applicable Executive Orders and the Safe Regulations, and who will work with RIDOH on testing, contact tracing, case investigation, isolation and quarantine follow up.
- II. Respondent shall maintain an employee work log that identifies the full name, phone number, and the date and time of all shifts worked by each employee. This work log must be maintained for at least thirty (30) days.
- III. Respondent shall ensure that tables are situated to allow separation of at least eight (8) feet from table edge to table edge or to allow six (6) feet spacing between seated customers at different tables unless separated by a physical, non-porous barrier of an appropriate height.
- IV. Respondent shall ensure that all parties are seated by the Respondent and that no self-seating occurs.
- V. Respondent shall ensure that all parties seated at a bar be separated by at least 6 feet, unless separated by a physical, non-porous barrier of an appropriate height.

**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 20th day of November 2020.

SIGNATURE APPEARS ON NEXT PAGE

A handwritten signature in black ink, appearing to read "Nicole Alexander-Scott". The signature is fluid and cursive, with a large initial "N" and "A".

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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



# EXHIBIT A



# EXHIBIT B

