



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

**IN THE MATTER OF:
MamaJuana Restaurant
Violations of Executive Orders and
RI Department of Health Regulations**

IMMEDIATE 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 20-79 (“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 MamaJuana Restaurant (“Respondent”) is in violation of applicable Executive Orders and/or the Safe Regulations, which violations require 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.”

GROUNDINGS FOR DETERMINATION OF VIOLATIONS

- I. Respondent is a restaurant, which maintains a bar/lounge area, located at 904 Main Street 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 October 17, 2020, at approximately 11:10 p.m., a Task Force inspector conducted a spot check of the Respondent to determine compliance with bar requirements. Upon entry, the inspector observed multiple violations of Executive Orders and the Safe Regulations as described below.
- IV. 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 immediate action is necessary to protect the health, welfare, or safety of the public.

VIOLATIONS

The following violations stem from the October 17, 2020 spot check.

- 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 physical distancing or an exception applies and requires establishments to deny entry to any employee who is not otherwise exempt from the requirement or who refuses to wear a cloth face covering when required. The inspector observed approximately four (4) employees in the establishment, of which three (3) were not wearing cloth face coverings. None claimed an exception to the requirement to wear a cloth face covering, nor were they able to maintain physical distancing.

The inspector also observed numerous patrons mingling within Respondent establishment without wearing any cloth face coverings.

- II. Respondent is in violation of Executive Order 20-61, which requires that all establishments open past 11:00 p.m. must, from 11:00 p.m. until closing, close their bar areas, including, but not limited to the bar counter and seating at the bar counter, and ensure that the bar area is not accessible to patrons. At or before 11:00 p.m. every night, all such bars, restaurants, and other establishments must rope off the bar area and make seating at the bar counter unavailable to customers. The inspector conducted the inspection at 11:10 p.m. and observed that the bar area was not roped off and that there were approximately eight (8) patrons standing at the bar and being served. The inspector concluded, therefore, that the bar remained accessible to customers after 11:00 p.m. (See "Exhibit A")
- III. Respondent is in violation of Section 7.4.2(A)(3) of the Safe Regulations, which prohibits service to standing customers. The inspector observed approximately eight (8) patrons standing at the bar area and being served. (See "Exhibit A")
- IV. 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 approximately eight (8) patrons at the bar being served without there being any physical, non-porous barrier of appropriate height installed between the bar work areas and customers.

- V. Respondent is in violation of Section 7.4.1.(A)(12) of the Safe Regulations, which prohibits congregating and/or mingling in an establishment or areas under the establishment's control. The inspector observed numerous patrons in the Respondent establishment who were not seated and were congregating and/or mingling. (See "Exhibits A and B")
- VI. Respondent is in violation of Section 7.4.1.(A)(11) of the Safe Regulations, which prohibits the use of hookah or waterpipes indoors. The inspector observed patrons using hookah indoors. (See "Exhibit B")

**ORDER
IMMEDIATE COMPLIANCE**

It is hereby **ORDERED**, that Respondent is to immediately close for a period of no less than fourteen (14) days. Respondent may not reopen until such time that all violations have been remedied to the satisfaction of the Director of RIDOH by fulfilling the conditions as set forth below:

- I. Respondent must develop and incorporate into its written control plan a strategy to prevent the violations listed above from reoccurring. Said written plan shall incorporate, but not be limited to, the following:
 - a. Respondent shall require all employees in its establishment to wear cloth face coverings unless physical distancing can be continuously maintained, or 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.

- b. Respondent shall instruct all patrons in its establishment to wear cloth face coverings unless physical distancing or an exception applies.
- c. Respondent shall ensure that from 11:00 p.m. until closing, it closes its bar area, including, but not limited to the bar counter and seating at the bar counter, and ensure that the bar area is not accessible to patrons. The Respondent shall also ensure that, at or before 11:00 p.m. every night, the bar area is roped off and seating at the bar counter is unavailable to customers.
- d. Respondent shall ensure that service is made only to seated customers and that no service to standing customers occurs.
- e. Respondent shall ensure that no congregating and/or mingling occurs within the establishment or any area under the establishment's control and that all patrons are seated.
- f. Respondent shall ensure that:
 - i. 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
 - ii. 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,

- iii. 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.
 - g. Respondent shall ensure that no hookah or waterpipes are used indoors.
- II. In addition to the conditions as set forth above, Respondent may not reopen until such time that the following conditions are met, to the satisfaction of the Director of RIDOH:
 - a. Email the following documents to: DBR.CovidTaskForce@dbr.ri.gov
 - i. An updated control plan which, in addition to addressing the matter set forth above in this ICO, must detail a strategy to ensure your employees and patrons are adhering to other applicable RIDOH regulations found here: <https://rules.sos.ri.gov/regulations/part/216-50-15-7>
 - ii. Your establishment's employee worklog, dating back two weeks from the date the violations outlined in the ICO were witnessed by a Task Force inspector.
 - b. Ensure all persons on the worklog are tested for COVID-19.
 - c. Once all employees have been tested AND their results are available, send confirmation of such to: DBR.CovidTaskForce@dbr.ri.gov
 - d. Respondent shall attend and participate in a meeting with the Rhode Island Department of Health to discuss health concerns. You will be emailed the contact information of the RI Department of Health (RIDOH) so you can schedule your meeting with RIDOH.
 - e. After you have met with RIDOH, please contact: DBR.CovidTaskForce@dbr.ri.gov to schedule an inspection of your establishment.

- f. Respondent establishment shall be completely cleaned and sanitized in accordance with applicable CDC guidance.
- g. All employees must be trained on, and comply with, Respondent's updated written control plan.
- h. Any area within Respondent establishment or under the Respondent's control where patrons can congregate and/or mingle, e.g., dance floors, shall be roped off or otherwise made inaccessible to patrons.
- i. Respondent shall determine its regular indoor seating capacity and shall limit the number of patrons allowed to enter the establishment at any one time to sixty-six percent (66%) of that indoor seating capacity. Such capacity limitation will be identified in the modified control plan described above.
- j. Respondent shall ensure that information be collected from all visitors and other entrants who have interacted with others present on site solely for the purposes of contact tracing. Said information must be maintained for a period of thirty (30) days and made available to the Department of Health upon request.

This order, as well as any other supporting information shall be provided by RIDOH to the local board of licenses/municipality which holds the Respondent establishment's liquor license.

Entered this 22nd Day of October 2020.

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

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

