

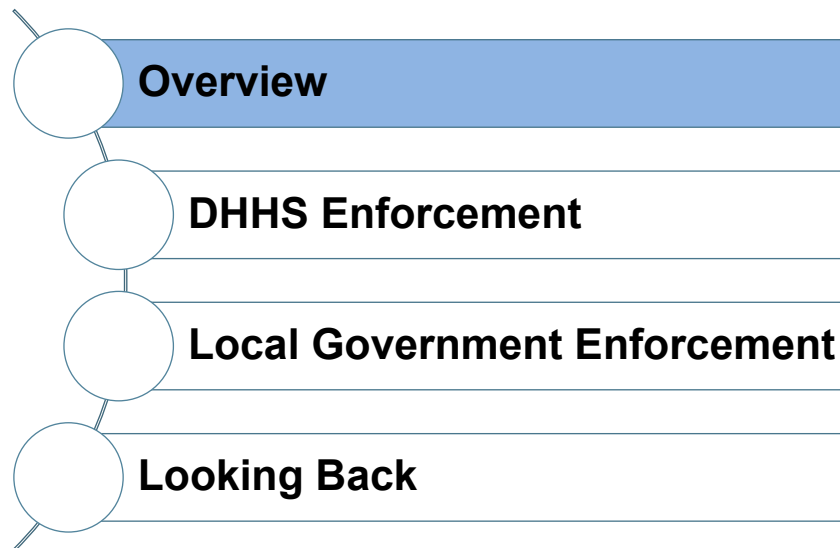


Enforcing COVID-19 Requirements

April 19, 2021

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How did we get here?

- January 30, 2020 World Health Organization (WHO) determines Public Health Emergency of International Concern.
- January 31, 2020 DHHS Secretary Azar declares U.S. Public Health Emergency.
- **March 10, 2020** Governor Cooper declares a State of Emergency in Executive Order 116.
- March 11, 2020 WHO declares COVID-19 a global pandemic.
- March 13, 2020 POTUS declares a National Emergency under the National Emergencies Act and the Stafford Act.
- March 14, 2020 Governor Cooper issues Executive Order 117 which was first mass gathering limitations and closed schools
- March 17, 2020 Governor Cooper issues Executive Order 118 limits operations of restaurants and closes bars
- March 23 Governor Cooper issues Executive Order 120 and adds additional restrictions on mass gatherings (50), closes, gyms, barber shops, salons, entertainment facilities and movie theaters and restrictions on long term care facilities
- March 25, 2020 POTUS declares a major disaster declaration for North Carolina under the Stafford Act.
- **March 27, 2020** Governor Cooper issues Executive Order 121, the Stay at Home order and lowers mass gathering limits to 10 indoor and 25 outdoor.
- April 9, 2020 Governor Cooper issues Executive Order 131 which requires new social distancing policies for open retail stores and enacted a limited preemption for retail space to create statewide uniformity.

This is not exhaustive list. For all the COVID-19 Executive and Secretarial orders go to: <https://www.nc.gov/covid-19/covid-19-orders>

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Dimmer Switch Approach to Reopening

- **May 5, 2020** Governor Cooper issues Executive Order 138 (Phase One) eases some restrictions but keeps Stay at Home order in place and removes distinction on essential/non-essential businesses and face coverings recommended.
- **May 21, 2020** Governor Cooper issues Executive Order 141 (Phase Two) ends Stay at Home order and eases additional restrictions. Refines mass gathering language for protected first amendment activities and exempts certain businesses from these requirements as those classes of retail, restaurants and other spaces have their own occupancy rules.
- June 24, 2020 Governor Cooper issues Executive Order 147 extends Phase 2 and implements face covering requirement.
- July 16, 2020 Governor Cooper issues Executive Order #151 extends Phase 2 again and provides clarification on indoor gym usage and parties and receptions.
- **July 28, 2020:** EO 153 imposes a curfew on alcohol sales after 11 p.m. at night, but bars remained closed.
- **September 1, 2020:** EO 163 (Phase 2.5) and revises prohibitions and restrictions to move the state into Safer at Home measures. Reopens gyms and moves mass gathering limits to 25 indoor and 50 outside.
- **September 30, 2020:** EO 169 (Phase 3) revises prohibitions and restrictions that move the state into Phase 3 measures. Mass gathering limits remain same, but reopens bars to outdoor limited service and capacity, allows for large outdoor venues to have 7 percent capacity of facility capacity.
- October 21, 2020: EO 170 extends Phase 3 until November 13, 2020.
- November 10, 2020: EO 176 extends Phase 3 until December 4, 2020.
- **November 23, 2020:** EO 183 increases face covering requirements to any public place and any indoor settings to prevent rapid spread of COVID-19. Extends Phase 3 until December 11, 2020
- **December 8, 2020 EO 183** extends Phase 3 and implements a Modified Stay at Home order; requires nighttime closure for certain businesses and activities during overnight hours.
- January 6, 2021 EO 188 extends Phase 3 and Modified Stay at Home
- January 27, 2021 EO 189 extends Phase 3 and Modified Stay at Home

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Easing Restrictions to Reopen

- **February 24, 2021:** EO 195 lifts the Modified Stay at Home and increases the mass gathering limit for indoor gatherings, increases the capacity limits for certain businesses and permits alcohol sales for on-site consumption until 11 p.m.
- **March 23, 2021:** EO 204 further increases the mass gathering limit for indoor and outdoor gatherings, increases the capacity limits for certain businesses, and lifts the restriction on alcohol sales for on-site consumption.
 - **Face Masks and Social Distancing still required.**
 - **Current EO Expires on April 30, 2021 at 5:00 PM**

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Emergency Management Act

- **NCGS 166A-19.30(d) Violation.** - Any person who violates any provision of a declaration or executive order issued pursuant to this section shall be guilty of a Class 2 misdemeanor in accordance with G.S. 14-288.20A
- **NCGS 166A-19.31(h) Violation.** - Any person who violates any provision of an ordinance or a declaration enacted or declared pursuant to this section shall be guilty of a Class 2 misdemeanor in accordance with G.S. 14-288.20A.
- **NCGS 14-288.20A. Violation of emergency prohibitions and restrictions.**
 - Punishment 1-60 days in jail depending on prior criminal history
 - \$1000.00 fine.
- **Enforcement: Relies upon local law enforcement and prosecution**

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Who has authority to enforce?

DHHS

- **Environmental Health Services:** restaurants, camps, pools
- **DCDEE:** child care
- **Medicaid/DPH/DHSR:** health care settings, long term care facilities
- **Public Health:** Isolation and quarantine orders, imminent hazard abatement

Outside DHHS

- **Local health departments:** provide education, conduct site visits, refer to law enforcement, issue abatement orders, isolation and quarantine orders, refer to the State
- **ALE & ABC Commission:** can take permitting action on bars, breweries, restaurants
- **Dept. of Public Safety:** coordinates but does not supervise local law enforcement
- **Dept. of Labor:** can issue citations and seek penalties against violators of Occupational Safety Act

Settings with little to no regulation

- Non-public schools
- Public schools (State Board of Ed. can extend recesses/adjoin schools)
- Religious settings
- Private social gatherings
- First Amendment Activities (protests, religious activities)
- Farms/agriculture (Dept. of Ag. has limited enforcement ability)

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Overview of Enforcement

DHHS Enforcement

Local Government Enforcement

Looking Back

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Early months of the pandemic

- Little enforcement work by DHHS during Stay at Home
- During the summer of 2020, focus turned to high-risk activities (ex: large events/gatherings)
- Flagrant offenders

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Established a State-level enforcement process

- **State Letter for Egregious Violations:** Focus on business establishments that are public accommodations (such as bars/night life, restaurants, retail, movie theaters, indoor entertainment) and Mass Gathering Events (concerts, parades, festivals, sporting events, etc.)
- **Plan:**
 - DHHS to issue letter to establishments after evaluating complaint; Refer complaint to LHD if state letter not warranted.
 - Request establishment to complete Attestation Form within 7 days;
 - DHHS will continue monitoring and communicating with LHD



News article that names specific establishments (example)

OR



3+ complaints from different individuals to state/local officials

OR



1+ complaint with photographic/video evidence showing violations of social distancing, no face covering, mass gathering limits/capacity

OR

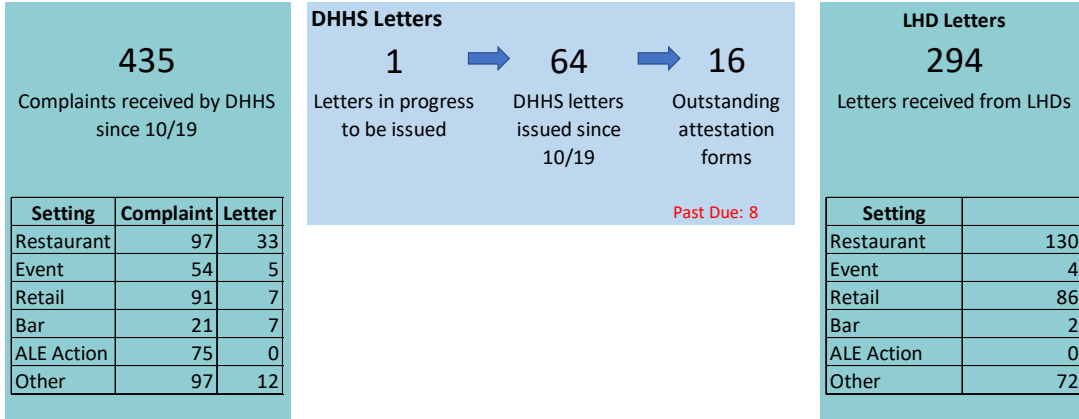


Request by LHD to intervene

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Enforcement Dashboard



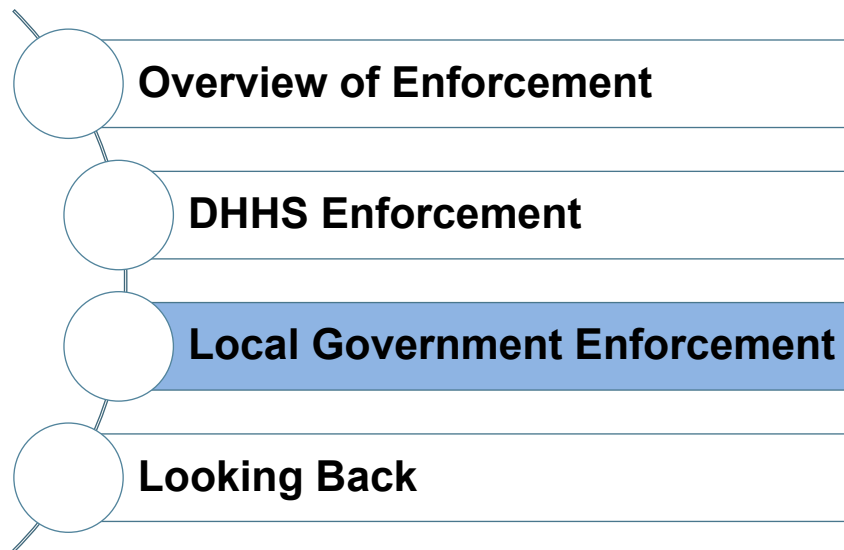
****As of April 12, 2021**

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Enforcement Focus: Protecting the public health

- **For continued violations, no signed attestation, or repeat offenders, we aim to educate and communicate with the owners before escalating or taking legal action**
- **Worked closely with ALE where appropriate**
- **Imminent Hazard Abatement and the relation to Executive Order violations – There is a difference!**

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Enforcement Coordination with LHDs

- Provide easily customizable templates for LHDs to use for EO-associated complaints
- Refers complaints received at state level to LHD to assist with follow up at local level
- If violations continue, DHHS will help coordinate a state-level response.
- Weekly or Bi-weekly "Office Hours"

LHDS Issuing Letters	
Alexander	1
Beaufort	1
Buncombe	25
Camden	3
Carteret	3
Chowan	2
Craven	4
Cumberland	22
Currituck	2
Davidson	62
Duplin	2
Forsyth	132
Gaston	3
Hertford	4
Lenoir	1
New Hanover	3
Onslow	1
Pasquotank	10
Stanly	2
Union	6
Watauga	2
Wilkes	10

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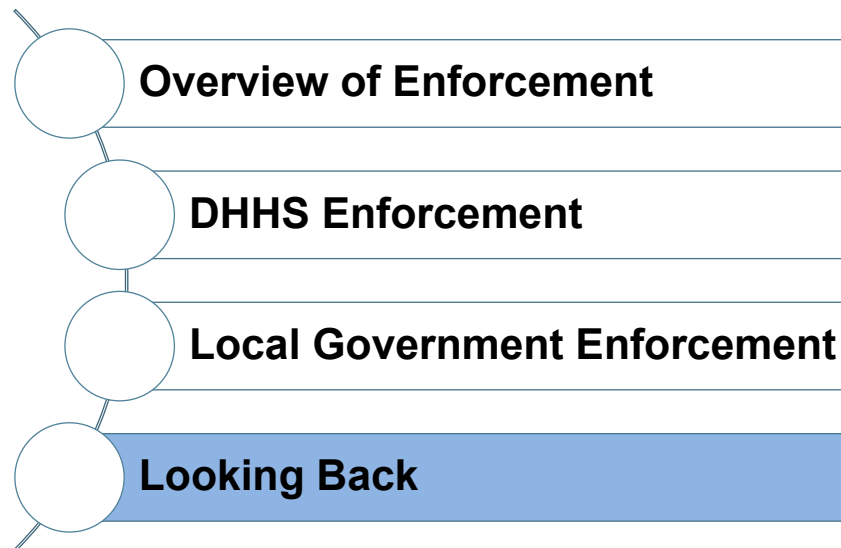
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Working with Local Governments

- Over the summer of 2020, some municipalities began adopting stricter ordinances (e.g., Orange County alcohol curfew, MGL) but no large cities or counties in NC had adopted ordinances tying civil penalties (i.e., fines) to violations of EO
- DHHS and DPS letter to local governments in targeted counties encouraging to adopt local ordinances with penalties for violating EO provisions, including sample ordinance language on specific topic areas (e.g., fines, curfews, high-risk areas)
- Follow up letter sent by Governor to all local government officials also encouraging the adoption of local ordinances with penalties for violating EO provisions.

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Lessons Learned?

- **What Worked (Is working)?**
 - Education was the key to compliance – Carrots before Sticks
 - Technical assistance to businesses and organizers in advance of events – Proactive Communication
- **Room for Improvement**
 - Resources, Staff and Time
 - Building and Flying the Plane at the same time

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Complaint Form– State Scan

State	Launch Date	Receiving Entity	Business Type	Violation Type	Online/ Phone
Washington	March 30		Only for Essential Businesses, but does not use a drop down list	Open when it should be closed, no masks, not distancing, violating capacity	Online
New York	Apr. 1	'NY on Pause' COVID-19 Enforcement Task Force	Choose from list of 30+ businesses	No distancing, violating capacity or MGL	Online
Arizona	Aug. 26	Department of Health	Drop down: Indoor Gym & Fitness, Restaurant/Bar Providing Dine-In Services, Bar & Nightclub Not Operating as Restaurant, Water Park & Tubing Operator, Indoor Theater, Other	9+ violations, including masks, distancing, capacity, hygiene, cleaning, sick employees, PPE, congregation of large groups, not teleworking	Both
New Jersey	Sep. 4	Emergency Management	Any business, no dropdown	Distancing, not telework, violating capacity (indoor 25+, outdoor 500+)	Online
Pennsylvania	Jun. 28	Department of Health	Can choose from list of 27 business types, including Health Care, Restaurant, Grocery Store, Salon, Industrial Occupations (not Bars)	12+ violations to choose from	Online
Virginia	Jul. 16	Department of Health		No masks, not distancing, violating capacity	Online

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Other Enforcement Approaches from Other States

- [PA](#), [NJ](#), [CT](#) have complaint forms to report businesses not distancing, indoor/outdoor gathering exceeding MGL – No public posting
- [NY](#) has publicly named posted 1,300+ establishments with suspensions and charges
- [NY](#) – Governor Cuomo also announced the state is increasing the maximum fine for violations of the state's social distancing protocol from \$500 to \$1,000 to help address the lack of adherence to social distancing protocols. The Governor reminded localities that they have the authority to enforce the protocols.
- [NY](#) – “[Three Strikes and You’re Closed](#)” – any establishment with 3 violations will be closed for business; egregious violations can result in immediate loss of liquor license or closure before third strike; any establishment facing disciplinary charges by State Liquor Authority will have its name and location publicly posted and updated on weekly basis
 - As of August 29, 168 businesses’ liquor licenses have been suspended
- [MN](#) – In July, in response to [120 complaints](#) about restaurants/bars, assigned staff to respond, check in a few days later, issue warning if non-compliant, issue cease-and-desist if non-compliant
- **Other:** UNC working on crowdsourcing app for people to report crowds, mask usage

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