



June 19, 2020

Dear Members of the Virginia Safety and Health Codes Board:

On behalf of the Hampton Roads Chamber, Virginia Peninsula Chamber, Greater Williamsburg Chamber & Tourism Alliance Business Council, Prince William Chamber of Commerce, Roanoke Regional Chamber, and ChamberRVA we are submitting the following comments related to your consideration of adopting an Emergency Temporary Standard/Emergency Regulation, Infectious Disease Prevention, SARS-CoV-2 Virus that causes COVID-19, §16 VAC 25-220, applicable to all employers and employees covered by Virginia Occupational Safety and Health (VOSH) program.

Our Chambers support public policies that strengthen free enterprise and regional collaboration efforts that promote economic development and conditions for businesses to succeed.

As we enter the 15<sup>th</sup> week of Virginia's State of Emergency related to containing the spread of COVID-19, Virginia businesses are doing everything in their power to protect their employees and customers from exposure to the coronavirus by following the guidance issued by OSHA and the CDC. These existing safety standards already provide reasonable guidance and enforcement for businesses. The last thing business owners need as they are trying to reopen their businesses during this critical time is additional one-size-fits-all, static government regulations and red tape.

The current approach is working—and no more standards are needed. To the contrary, mandatory one-size-fits-all standards such as the ones proposed to the Board could harm workers. It could quickly become outdated and constrain employers from pursuing the adaptable, innovative, data-driven, and effective approach to protecting worker health and safety that is proving crucial during this pandemic.

**Therefore, we respectfully request you reject the proposed emergency regulations.** Instead, we encourage the Department of Labor and Industry to continue their current approach to investigate claims, notify businesses of complaints, work with businesses to ensure they are following proper procedures and issue fair fines when appropriate.

There are broad issues with the proposed emergency regulations. They are as follows: the issue has already been adjudicated on the Federal Level, the existing OSHA standards are enough and



enforceable, the “One Size Fits All” regulations reduce flexibility to respond to the pandemic, and the proposal creates uncertainty and goes beyond OSHA recommendations.

**We ask the Board to reject any proposed amendments presented at the meeting on June 24<sup>th</sup> that do the following:**

- a) Change Virginia’s unemployment insurance laws to clarify that workers have good cause to quit -- and therefore should be eligible for unemployment insurance benefits -- if their employer requires them to work under conditions that they believe would threaten their health and safety.
- b) Change Virginia’s Workers Compensation laws to create a presumption that a worker who contracts COVID-19 is presumed to have an occupational disease arising out of and in the course of employment.
- c) Impose additional enforcement mechanisms beyond what is currently available to the Department or claimants such stop-work orders or business closures, enhanced fines, filing a private civil action, and awarding attorney fees.

**Process Moving Forward**

The Regulations lack a clear timeline for when employers must be in compliance and how long they have to react to regulatory changes.

Before Virginia’s small business owners must be in compliance, VOSH needs to provide online consultative services for helping employers develop COVID-19 infectious disease preparedness and response plans. Also, VOSH should prepare a standard curriculum for all employers to use in training employees.

Finally, should the Board approve emergency regulations, we believe any extension beyond 6 months needs to be addressed with the normal rulemaking process and provide an opportunity for the Board to evaluate the implementation of the emergency regulations and consider any new guidance issued by OSHA or CDC because of the changing science. This ensures the targets of the rulemaking receive due process and there’s an opportunity to review the implementation and impact of any approved emergency regulations.

While facing devastating economic conditions Virginia’s businesses continue to keep the safety and health of their employees as their top priority as they reopen and increase their business operations. ***Again, we respectfully request you reject the proposed emergency regulations.*** We believe the Department has sufficient authority and enforcement powers to address the concerns of unsafe work environments. This action will give Virginia’s small businesses an



opportunity to rebuild their businesses, restore their customer base and rehire their employees.

Best Regards,

Bryan Stephens, President & CEO, Hampton Roads Chamber

Bob McKenna, President & CEO, Virginia Peninsula Chamber of Commerce

Terry Banez, President & CEO, Greater Williamsburg Chamber & Tourism Alliance Business Council

Brian Anderson, President & CEO, ChamberRVA

Deborah Jones, President & CEO, Prince William Chamber of Commerce

Joyce Waugh, President & CEO, Roanoke Regional Chamber

Cc: Brian Ball, Secretary of Commerce and Trade  
Megan Healey, Chief Workforce Advisor to the Governor  
Clark Mercer, Chief of Staff  
Ray Davenport, Commissioner of the Department of Labor and Industry  
Members, Virginia General Assembly