

**Congress of the United States**  
**Washington, DC 20515**

November 10, 2020

The Honorable Lawrence J. Hogan Jr.  
Governor of Maryland  
100 State Circle  
Annapolis, MD 21401

Dear Governor Hogan,

We write on behalf of our Maryland constituents, including hundreds of thousands of essential workers, to request your immediate action in addressing the need for an emergency state-wide temporary workplace standard to prevent, contain, and mitigate community spread of COVID-19. Specifically, we urge you to issue an executive order directing the Maryland Occupational Safety and Health (MOSH) program to develop and implement an enforceable emergency temporary standard (ETS) that would protect our state's workers, businesses, and their customers from the COVID-19 pandemic.

As the country and our state respond to a lethal resurgence of COVID-19 cases and hospitalizations, it is critical that we put into use lessons learned during the first surge of the pandemic. We now have a better scientific understanding of how the virus is transmitted and what precautions individuals must take to prevent infection in both outdoor and indoor settings. We know that wearing masks and social distancing are effective towards combatting this virus and that data modeling projects 100,000 lives in the United States can be saved if 95% of the population wears a mask.<sup>1</sup> In addition, the Centers for Disease Control and Prevention (CDC) and the U.S. Occupational Safety and Health Administration (OSHA) have issued dozens of industry-specific guidelines, informational health and safety recommendations on adequate personal protective equipment (PPE), sanitation, and workplace communication policies that can prevent the spread of the virus.<sup>2</sup> Unfortunately, the COVID-19 federal guidelines recommended by OSHA are voluntary for employers and not enforceable through penalties and citations.

However, given that Maryland is one of only 22 states with its own occupational safety agency (MOSH) responsible for both the public and private sector, it is well-situated to leverage its authority to save lives by issuing an ETS. Several states have issued comprehensive COVID-19 workplace protections based on OSHA recommendations that include blanket requirements (such as protections from retaliation), and industry-specific requirements (such as providing appropriate PPE in addition to masks and adequate social distancing when possible).<sup>3</sup> Our

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<sup>1</sup> <https://www.nature.com/articles/s41591-020-1132-9> \l "Sec2

<sup>2</sup> [https://www.osha.gov/SLTC/covid-19/news\\_updates.html](https://www.osha.gov/SLTC/covid-19/news_updates.html)

<sup>3</sup> <https://www.nelp.org/blog/which-states-cities-have-adopted-comprehensive-covid-19-worker-protections//>

neighboring state of Virginia was the first state<sup>4</sup> to issue its own ETS requiring employers to create policies for workers experiencing COVID-19 symptoms and for communicating workplace exposure to COVID-19.<sup>5</sup> Virginia's ETS is considerably more comprehensive than Maryland's updated executive order from October 16, 2020.<sup>6</sup> The October 16th executive order includes some best practices for businesses in the retail and service industry that serve the general public, but it fails to outline broader workplace protections such as worker rights to proper COVID-19 trainings, communications about possible exposure to the virus, safe staffing operations, and sanitation of all worksites.

In the absence of enforceable standards for COVID-19 workplace protections, the health and safety of many workers and their families will continue to depend solely on the discretion of their employers. While many employers have taken this responsibility seriously, others have failed to provide employees with adequate PPE and cleaning supplies, not enforced social distancing requirements, or otherwise failed to protect their workers. Almost eight months into the pandemic, it is unacceptable to not provide adequate PPE, cleaning supplies, or answers to technical questions by employees. Similarly, employees should not have to continue to weigh the decision of whether to report their employer for inadequate workplace protections - and possibly lose their jobs out of retaliation during a pandemic - or risk their health and their families' health working in unsafe conditions. Given that many of our most essential workers during this pandemic are also those most vulnerable to workplace abuse and discrimination, it is critical for an ETS to be issued to empower all workers to understand their rights during this pandemic and establish an efficient and trustworthy system for reporting concerns of inadequate COVID-19 protocols.

Without a comprehensive state ETS, our constituents who contact MOSH to report inadequate workplace protections are often referred to their local health departments. Although Maryland has authorized local health departments to determine whether a business is "unable or unwilling to operate in a manner that does not pose an unreasonable risk of exacerbating the spread of COVID-19,"<sup>7</sup> county health departments have differed in their interpretations of what poses an "unreasonable risk" and in interpreting their own enforcement authority. Rather than leaving significant room for interpretation in the enforcement of life-saving precautions, MOSH should be required to issue an ETS that is inclusive of industry-specific guidelines (as OSHA has provided), that requires employers to work with MOSH to implement COVID-19 exposure control plans, and that requires MOSH to work collaboratively with health departments to enforce such standards uniformly across all counties.

We hope that you will act to meet the needs of Maryland workers with urgency and expediency as we are once again depending on their sacrifice to keep our economy and health system running during a second intensifying wave of this pandemic. Although we are hopeful for a vaccine soon, there is no question that workers will continue to face the threat of COVID-19 infections until such vaccine is widely available to the public sometime next year. In the meantime, our workers deserve peace of mind knowing that they have the backing of state resources to

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<sup>4</sup> <https://www.washingtonpost.com/business/2020/07/15/coronavirus-workplace-regulation-safety-virginia/>

<sup>5</sup> <https://www.doli.virginia.gov/wp-content/uploads/2020/07/RIS-filed-RTD-Final-ETS-7.24.2020.pdf>

<sup>6</sup> <https://governor.maryland.gov/wp-content/uploads/2020/10/Gatherings-15th-AMENDED-10.16.20.pdf>

<sup>7</sup> <https://governor.maryland.gov/wp-content/uploads/2020/04/Delegation-to-County-Health-Officials-4.5.20.pdf>

advocate for a safe workplace. Again, we urge you to adopt an emergency temporary standard to protect our state's frontline workers and help prevent the spread of COVID-19 in our state.

Very truly yours,



Jamie Raskin  
Member of Congress



Benjamin L. Cardin  
U.S. Senator



Chris Van Hollen  
U.S. Senator



Steny H. Hoyer  
Member of Congress



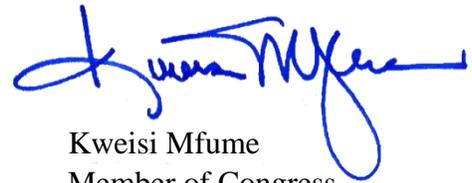
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