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Ordinance Amending the Eleventh Bavarian Ordinance on Protective Measures Against Infectious Diseases

Verordnung zur Änderung der Elften Bayerischen Infektionsschutzmassnahmenverordnung (11. BayIfSMV)

dated 12 February 2021

Pursuant to § 32 Sent. 1 in conjunction with § 28 (1) Sent. 1, §§ 28a, 29, 30 (1) Sent. 2 of the Law on Protection Against Infectious Diseases [*Infektionsschutzgesetz/IfSG*] dated 20 July 2000 (Federal Law Gazette I p. 1045), last amended by Art. 4a of the Law dated 21 December 2020 (Federal Law Gazette I p. 3136) in conjunction with § 9 No. 5 of the Delegation Ordinance [*Delegationsverordnung/DelV*] dated 28 Jan 2014 (Bavarian Statutory and Regulatory Gazette [GVBl.] p. 22, Compilation of Bavarian Laws 103-2-V), last amended by § 14a of the Ordinance dated 2 February 2021 (Bavarian Gazette p. 26), the Bavarian State Ministry of Health and Care decrees the following:

§ 1

The Eleventh Bavarian Ordinance on Protective Measures Against Infectious Diseases (11. BayIfSMV) dated 15 December 2020 (Bavarian Ministerial Gazette No. 737, Compilation of Bavarian Laws 2126-1-15-G), last amended by § 1 of the Ordinance dated 28 January 2021 (Bavarian Gazette No. 75), is amended as follows:

1. § 3 is changed as follows:
 - a) The wording becomes Sentence 1 and the words “Bavaria-wide” and “between 2100 hours to 0500 hours” are replaced by the wording “in districts and independent cities in which the number of new infections with the SARS-CoV-2 coronavirus has exceeded the value of 100 per 100,000 population even only on one day within last seven days (7-day incidence) as per § 28a (3) Sentence 12 IfSG is replaced by 2200 hours to 0500 hours”.
 - b) The following Sentences 2 thru 4 are added:

“As soon as the prerequisites of Sentence 1 are fulfilled, then the responsible district administrative authorities have to officially pronounce the immediate effectiveness for the following day. If the incidence rate as per Sentence 1 falls below the value on seven consecutive days, the responsible district administrative authorities have to make an immediate announcement. In such an instance the curfew is lifted. Notwithstanding Sentence 2, the State Ministry of Health and Care shall identify on 14 February 2021 those districts and independent cities which are subject to Sentence 1 as of 15 February 2021. This announcement continues to apply until an official announcement as per Sentence 3 has been made by the responsible district administrative authority.”
2. In § 10 Para (3) Sentence 2, the word “remains” is replaced by the words “and § 18 remain”.
3. § 12 is changed as follows:
 - a) Paragraph (1) is changed as follows:

aa) In Sentence 1, after the word “is”, insert the words: “for trade, service industry and craft businesses”.

bb) In Sentence 2, after the word “savings banks”, insert the words “pawn shops”.

b) Paragraph (2) is changed as follows:

aa) The wording becomes Sentence 1 and “beauty parlors, barber shops” are deleted.

bb) Sentence 2 is added as follows:

“In deviation from Sentence 1 and Paragraph (1) Sentence 1, hairdressing services may be offered. In this regard, Paragraph (1) Sentence 4 applies accordingly under the proviso that the staff must wear surgical face masks within the scope of occupational health and safety provisions and customer access may be allowed on appointment basis.”

4. § 18 is changed as follows:

a) Paragraph (1) is changed as follows:

aa) Sentence 5 is defined as follows:

“In districts and independent cities where the 7-day incidence rate does not exceed 100 (in deviation from Sentences 1 and 2),

face-to-face teaching is permitted, provided that the 1.5m minimum distance can be reliably maintained at all times, or rotating in-person school schedules:

1. Grades 1 thru 4 of elementary schools
2. Grades 1 thru 4 of special needs centers, including special education preparatory facilities as well as additional grades at special needs centers with focus on emotional and social development, mental development, physical and motoric skills development, vision and other intervention needs as well as hearing and other intervention needs
3. Schools for sick person in coordination with hospitals and
4. Students in graduating classes of all other schools as per Sentence 1.”

bb) The following Sentences 6 thru 8 are added:

“As soon as the prerequisites of Sentence 5 are fulfilled, then the responsible district administrative authorities have to immediately make an official announcement. If the incidence rate as per Sentence 5 is exceeded again, then the responsible district administrative authorities have to immediately make an official announcement. In this instance there will only be remote learning in the respective district or independent city on the day after the official announcement. In accordance with § 18 Paragraph (1) Sentence 5 of this Ordinance in the version valid until 21 February 2021, the admission of high school students taking their final exams in 2021 and vocational school students with imminent final exams remains unaffected thereby.”

b) Paragraph (2) is changed as follows:

aa) In Sentence 1, after the wording “face coverings is mandatory”, the words “, furthermore, teachers are required to wear a surgical face mask within the scope of occupational health and safety provisions”.

bb) In Sentence 2, sentence segment before No. 1, the words "excepted from this duty" are replaced by the words "excepted from the mask requirement".

cc) Sentence 4 is added as follows:

"The respective legal guardians must ensure that the students comply with mask requirement."

5. § 19 Paragraph (1) is supplemented by Sentences 3 thru 5:

"In districts and independent cities where the 7-day incidence rate does not exceed 100, the operation of child development centers and curative daycare centers are permitted under the following conditions in deviation of Sentences 1 and 2:

1. The respective sponsors have to prepare a protection and hygiene concept on the basis of the conceptual framework on hygiene designed by the State Ministry for Family, Labor and Social Affairs and the State Ministry of Health and Care and present this concept to the responsible district administrative authorities on demand, whereby the specific requirements of facility and on-site circumstances must be taken into account.
2. Childcare will take place in fixed groups.

As soon as the prerequisites of Sentence 3 are fulfilled, then the responsible district administrative authorities have to immediately make an official announcement. If the incidence rate as per Sentence 3 is exceeded again, then the responsible district administrative authorities have to immediately make an official announcement. In this instance the facilities as per Sentence 1 will be closed in the respective district or independent city on the day after the official announcement."

6. § 20 is changed as follows:

a) The heading is worded as follows:

"§ 20
Vocational training, continued education and advanced training, informal
education, music schools, driving schools"

b) Para (1) is defined as follows:

"(1) Prohibited are face-to-face offers of vocational training, continued education and advanced training, notwithstanding Paragraph (3). In districts and independent cities where the 7-day incidence rate does not exceed 100, face-to-face teaching is permitted in deviation from Sentence 1, provided that the 1.5m minimum distance can be reliably maintained at all times. Paragraph (3) Sentences 2 thru 4 apply accordingly. As soon as the prerequisites of Sentence 2 are fulfilled, then the responsible district administrative authorities have to immediately make an official announcement. If the incidence rate as per Sentence 2 is exceeded again, then the responsible district administrative authorities have to immediately make an official announcement. In such instance, face-to-face training offers as per Sentence 1 are no longer permitted in the respective district or independent city on the day after the announcement. In accordance with § 20 Paragraph (1) Sentence 2 of this Ordinance in the version valid until 21 February 2021, the admission of graduating vocational school students and required off-site practical training parts in preparation of the imminent chamber exams remains unaffected thereby."

c) After Paragraph (1), the following Paragraph (2) is added:

"(2) Prohibited are face-to-face adult education offers, unless governed by Paragraph (1), in accordance with the Bavarian Adult Education Promotion Act and comparable offers from different providers as well as other informal education offers, notwithstanding Paragraph 1."

d) The previous Paragraphs (2) and (3) are changed to Paragraphs (3) and (4).

e) The previous Paragraph (4) is changed to Paragraph (5) and worded as follows:

“(5) At face-to-face driving theory classes, retraining and driver fitness seminars and theory driving examinations the instructors are required to wear a surgical face mask within the scope of occupational health and safety provisions and, furthermore, there is a FFP2 mask requirement. Paragraph (3) Sentence 4 applies accordingly. For practical driving lessons and practical examinations, there is a FFP2 mask requirement for the instructors within the scope of occupational health and safety provisions and also for all other occupants of the motor vehicle.”

7. Paragraph (2) is changed as follows:

a) The previous text becomes Sentence 1.

b) Sentence 2 is added as follows:

“If there are indications that the increased incidence rate can also be attributed to infections brought into the country from neighboring risk areas as per § 2 No. 17 IfSG , then the responsible district administrative authorities must impose additional movement restrictions on frontier workers or cross-border commuters and also order additional protection and hygiene measures for companies employing frontier workers.”

8. § 28 is changed as follows:

a) In No. 7, the citation “or 22” is replaced by “,20 or 22”.

b) No. 17 is supplemented with the text “for failure to comply with the duties set forth in § 18 (2), or for failure to ensure the compliance with the mask requirement as per § 18 (2) at such a school, or contrary to § 18 (2) Sent. 4, as legal guardian, for repeated and persistent failure to ensure compliance with the mask requirement.”

9. In § 29, the date “14 February 2021” is replaced by “7 March 2021”.

§ 2

This Ordinance becomes legally effective on 15 February 2021.

In deviation from Sentence 1:

1. § 1 No. 9 becomes legally effective on 13 February 2021.

2. § 1 No. 4 Letter (a), Letter (b), double letters (cc), Numbers 5, 6 and 8 become legally effective on 22 February 2021.

3. § 1 No. 3 Letter (b) becomes legally effective on 1 March 2021.

Munich, 12 February 2021

Bavarian State Ministry of Health and Care

Klaus Holetschek, Minister of State

END OF TRANSLATION

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