

By Legislators Brew and Delehanty

Intro. No. ____

MOTION NO. ____ OF 2021

PROVIDING THAT LOCAL LAW (INTRO. NO. ____ OF 2021), ENTITLED "BUSINESS CLOSURE TRANSPARENCY ACT" BE TABLED

BE IT MOVED, that Local Law (Intro. No. ____ of 2021), entitled "BUSINESS CLOSURE TRANSPARENCY ACT," be tabled.

File No. 21-0081.LL

ADOPTION: Date: _____

Vote: _____



Monroe County Legislature

Office of the President

DR. JOE CARBONE

PRESIDENT

March 8, 2021

To the Honorable
Monroe County Legislature
407 County Office Building
Rochester, New York 14614

Subject: Enact a Local Law Entitled, "Business Closure Transparency Act," to Require Report of County Forced Business Closures

Honorable Legislators:

The COVID-19 pandemic has impacted local economies across the World. In New York, COVID-19 imposed shutdowns have left businesses temporarily shuttered, revenue curtailed, and even permanently closed them. From spas and salons to insurance companies to restaurants and bars, businesses have been forced to change or seize their operations.

These restrictions and closures are not the choice of the businesses themselves, but rather the use of government authority to close or curtail their operations. While the government authorities who have ordered these closures have claimed to do so out of public health and may be correct in the necessity for these closures and curtailments, the transparency regarding these decisions is simply inadequate. The use of government authority to close or curtail the ability of a private entity to conduct business should not be taken lightly and must be reasonably justified, subjected to public oversight and consistent with the rules, regulations, and laws promulgated to protect the public.

Therefore, the purpose of this legislation is ensuring any Monroe County imposed business closure in Monroe County meets the aforementioned criteria. This is imperative for the Legislature to perform its responsibility and duty of County oversight, as well as the community to perform its responsibility of public oversight. This would require the production and issuance of a Report of Justification in any instance of any Monroe County Administrative Head, Agency, Employee, or official, elected, appointed, or otherwise, utilizing any power granted to them to close a place of business for any reason or any length of time within forty-eight (48) hours of the ordered closure via email or hardcopy to the Clerk of the Legislature.

This Report of Justification would be circulated, by the Clerk of the Legislature, to every Monroe County Legislator and ensure the report is entered into the Legislature's official record. This report would be required to include the following: a detailed written report that provides justification for the decision to order the closure, signed by the Monroe County Administrative Head, Agency, Employee, or official, elected, appointed, or otherwise, ordering the closure; a copy of the official order or communication closing the place of business; and any and all evidence in the possession of Monroe County on which the closure is based.

OFFICIAL FILE COPY

No. **210081**

Not to be removed from the
Office of the
Legislature Of
Monroe County

Committee Assignment

AGENDA/CHARTER -L

The residents of Monroe County deserve transparency, clarity and justification for government-imposed business closure and curtailment of private businesses. This legislation will ensure our community, and this Honorable Body, has the information needed to make informed decisions and perform oversight of such government actions.

The specific legislative actions required are:

1. Schedule and hold a public hearing.
2. Adopt the local law as attached.

This is a Type II Action pursuant to 6 NYCRR 617.5(c) (26) ("routine of continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment") and is not subject to further review under the State Environmental Quality Review Act.

This action will have no impact on the revenues or expenditures of the current Monroe County budget.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Joe Carbone, D.D.", is written over the printed name.

Dr. Joe Carbone
Monroe County Legislature
President

By Legislator _____ and _____

Intro No. _____

LOCAL LAW NO. __ OF 2021

ENACTING A LOCAL LAW ENTITLED "BUSINESS CLOSURE TRANSPARENCY ACT"

BE IT ENACTED BY THE LEGISLATURE OF THE COUNTY OF MONROE, as follows:

Section 1. Title. This local law shall be known as the law "Business Closure Transparency Act."

Section 2. Legislative Intent. The use of government authority to close or curtail a business's operations should not be taken lightly. It is the intent of this law to ensure that any decision made by Monroe County resulting in the closure of a business is transparent, subject to reasonable public oversight, and consistent with the rules regulations and laws promulgated to protect the public. To that end, it is the decision of this body to require the creation and publication of a "Report of Justification" detailing the County's legal reasoning and justification for the closure.

Section 3. Requirement to Report Closures.

A. Should any Monroe County Administrative Head, Agency, Employee, or official, elected, appointed, or otherwise, use any power granted to them to close a place of business for any reason or any length of time, that official shall be responsible for delivering a Report of Justification to the Clerk of the Legislature within forty-eight (48) hours of the ordered closure via email or hardcopy. It shall be incumbent upon the Clerk to forward a copy of the Report to every Legislator and ensure the report is entered into the Legislature's official record. If receipt of said Report occurs outside of operating hours of the Monroe County Legislature, the Clerk shall forward the Report to every Legislator and submit it to the legislative record as soon as practicable, but in any event no later than 10:00am the next business day. A copy of the Report of Justification shall also be delivered to the owner(s) of the impacted business within the same timeframe via Certified US Mail, Return Receipt Requested.

B. The Report of Justification shall include:

1. A detailed written report that provides justification for the decision to order the closure, signed by the Administrative Head, Agency, Employee, or official, elected, appointed, or otherwise, ordering the closure;
2. A copy of the official order or communication closing the place of business; and
3. Any and all evidence in the possession of Monroe County on which the closure is based.

Section 4. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. Effective Date. This local law shall take after filing with the Secretary of State pursuant to Section 27 of the New York State Municipal Home Rule Law.

_____ Committee; April __, 2021 - CV: ____-____
_____ Committee; April __, 2021 - CV: ____-____

File No. 21-____.LL

ADOPTION: Date: _____ Vote: _____

ACTION BY THE COUNTY EXECUTIVE

APPROVED: _____ VETOED: _____

SIGNATURE: _____ DATE: _____

EFFECTIVE DATE OF LOCAL LAW: _____