



NEW YORK STATE SENATOR

Robert G. Ortt

Senate Democrats' Executive Power Repeal Is A Sham

ROBERT G. ORTT April 19, 2021

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ALBANY, NY -- Senate Republican Leader Robert Ortt today penned a letter to Governor Cuomo's Counsel demanding the Executive publicly post the need for the extension of his arbitrary executive orders -- in particular the restaurant curfew and the mandate that food be purchased along with alcoholic beverages -- as is required by law.

On March 5th, the Majorities in the Legislature -- with great fanfare -- passed legislation that supposedly curtailed the Governor's emergency pandemic powers. Chapter 71 of the laws of 2021 requires the Governor's office to post the need for any extension or modification of any

emergency directives on their website. However, on April 6th, the Governor quietly issued Executive Order 202.101 that extended all previously issued directives for 30 days and only posted the “need” for extension for seven out of 175 directives on his website.

“As my colleagues and I said when this law was passed -- it did nothing to curtail the Governor’s emergency powers. We continue to have one man calling all the shots -- and by extending the arbitrary curfew and food mandate, he is continuing to inflict more damage on our small businesses while the legislative majorities stand by and let it happen. This blatant failure to comply with the law is another slap in the face to transparency, and the latest example of the Governor thinking he is above the law,” said Leader Ortt.

In addition, Leader Ortt submitted a FOIL request for records related to the Department of Health’s certifications of Executive Orders 202.98, 202.99, 202.100 and 202.101, as required under Chapter 71 of the Laws of 2021, as well as a copy of the Governor’s notifications to the relevant legislative committee chairs and the Speaker of the Assembly and Temporary President of the Senate.

Senate Republicans have put forward an amendment 35 times that would have stripped the Governor’s emergency powers and restored the Legislature as a co-equal branch of government. Every Senate Democrat has voted against it every single time, and instead passed a sham bill they claimed removed the Governor’s powers -- but in reality, nothing has changed.

During the debate on the Democrat-negotiated emergency powers bill, a point of contention raised by Senate Republicans were arbitrary Executive Orders that were harming small businesses. On the bar and restaurant curfew, Senator Mike Gianaris stated on the floor, if “there is no real good reason why to set an arbitrary time limit, then that directive will not be able to be issued.” Also during the March 5 debate, Senator Gianaris stated, “if there is

something in there you don't like, put it in a resolution and call for its repeal. We have the ability to do that with a simple majority.”

Senate Republicans last month introduced a concurrent resolution (J541) to rescind the curfew for bars and restaurants and a separate resolution (B477) to rescind Governor Cuomo's mandate that prohibits bars and restaurants from serving alcoholic beverages to patrons who do not order food. While both of these directives were scheduled to expire on April 30th, both of these onerous mandates have now been extended, and so far, the resolutions have not been taken up by Senate Democrats.

“Senate Republicans have said all along these mandates are completely arbitrary, with absolutely no scientific data to back them up. Yet, Senate Democrats continue to stand back and let the Governor cause further harm to our small businesses while he flouts the very law they claimed would rein in his powers. These businesses, and the public, deserve answers,” concluded Leader Ortt.

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