



Kentucky Employers Face New COVID-19 Restrictions Heading Into The Holiday Season

Insights

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In an attempt to curb the rapid community spread of COVID-19 in the Commonwealth, Kentucky Governor Andy Beshear just issued [new restrictions](#), effective November 20, that will impact employers across the state. While the governor specified that the new restrictions were not a “shutdown,” certain businesses will certainly feel the squeeze more than others as the new executive order further limits certain specific industries. What do Kentucky employers need to know about this latest development?

Industry-Specific Restrictions To Take Effect

Before we examine the new industry-specific restrictions imposed by this new executive order, it is critical for employers to recognize that all previous COVID-19 restrictions on businesses remain in place except as expressly changed by yesterday’s order. If you have questions about your current obligations, you should seek immediate guidance from your legal counsel.

Specific industries impacted by yesterday’s order include: bars and restaurants; gyms, fitness centers, pools, and other recreational facilities; indoor venues, event spaces, and theaters; and professional services. Those notably omitted (for now) include retail businesses, manufacturing facilities, and hospitals. Notably, the order also addresses social gatherings, which will not be addressed in this alert.

First, the order requires restaurants and bars to cease indoor food and beverage consumption, and it further limits outdoor food service. [You can find a more detailed analysis of the new restrictions on bars and restaurants here.](#)

Next, gyms and fitness centers are now restricted to 33% occupancy, down from the 50% occupancy originally ordered in July 2020. Indoor group classes are also prohibited, whereas groups of up to 10 participants were permitted before. Another change from the July order is that individuals must wear masks while exercising; previously, those actively engaged in exercise could remove their facial covering as long as they were six feet away from the nearest person.

The new guidance for indoor venues, event spaces, and theaters restricts indoor gatherings to 25 people per room. These new restrictions specifically include, but are not limited to, weddings and funerals. Previous indoor event space restrictions limited attendance, excluding employees, to 50% of the venue’s maximum occupancy. As the weather gets colder, fewer events will be practical to

hold outside, so these new rules will greatly impact upcoming events. Notably, this restriction exempts houses of worship.

Another change comes for professional services and other office-based businesses. Like venues, office-based employers were previously permitted 50% capacity but are now limited to 33%. The new order requires that businesses “mandate that all employees who are able to work from home do so.” While many office-based employees have been consistently working from home for months, the new occupancy rule means that more employees will be required to do so, starting on November 20.

What Does This Mean For Employers?

As we noted in a recent [Legal Alert](#), the Health Department in Louisville recently announced it would be cracking down on COVID-19 compliance in the Metro area. With this new order in place, employers can expect an uptick in statewide enforcement. In fact, during his daily briefing, Governor Beshear stated these new restrictions would be easier to enforce than before. For example, since no indoor dining is permitted under the new order, restaurants not following this new rule will be easy to identify.

The new order will remain in effect until December 13, 2020. However, employers should be aware that, like other orders, it could be extended if Kentucky’s numbers remain at their record high levels.

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