

WHAT EMPLOYERS NEED TO KNOW ABOUT KENTUCKY'S NEW COVID-19 RESTAURANT RESTRICTIONS (UPDATED)

Insights
Nov 19, 2020

As the pandemic rages through Kentucky and the holidays right around the corner, Governor Beshear just issued an executive order mandating significant restrictions on businesses to slow down the escalating spread of COVID-19 – with restaurants and bars being one of the hardest-hit industries. However, the order contains a financial path forward for businesses impacted by the new round of closures. What do Kentucky hospitality employers need to know about these new developments?

RESTAURANTS RECEIVE FINANCIAL REPRIEVE WITH RESTRICTIONS

Effective at 5:00 pm this Friday, November 20, and extending through December 13, all indoor dining or drink services are prohibited. Carryout, delivery, and outdoor dining services will be allowed. Beshear, however, warned that non-compliance with current guidelines and overcrowded outdoor dining will result in further restrictions.

In an effort to ease the significant financial burden on bars and restaurants, the governor's office has established \$40 million in CARES Act funding for eligible businesses. Businesses can receive up to \$10,000, or a maximum of \$20,000 if they have multiple locations, to help them through these difficult times.

Businesses that derive over 50% of their pre-pandemic business through drive-thru sales will not be eligible. The governor's office emphasized that the focus is alleviating the financial burdens for locally owned businesses, so

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businesses owned by publicly traded companies are not eligible for the funds. Applications are scheduled to open November 30 and close on December 18. Funds will be awarded until they are exhausted on a first-come, first-serve basis. Details on applications are forthcoming.

[Ed. Note (11/24): The state has indicated that the application portal ([which can be accessed here](#)) will open as scheduled on November 30. Businesses are required to submit a signed certification of eligibility, proof of liquor and/or food service licenses, and other verifying documents. The funds will be paid as a lump sum payment to the owners for all documented eligible expenses. All businesses must supply and maintain documentation demonstrating that the award was spent on eligible expenses for a period of five years. Eligible expenses include the purchase of PPE and other safety measures taken to protect employees and/or patrons from COVID-19, utility, mortgage, or rent payments for the business, and salary, wages, and business equipment including inventory. Payments are anticipated to be dispensed to owners no sooner than December 8, 2020. [Further details can be found here.](#)]

Businesses that receive these funds will be required to remain in compliance with all public health orders. This includes limiting the table size of patrons to a maximum of eight people from a maximum of two households.

[Ed. Note (11/24): The state has indicated that businesses that do not comply with the terms of the program may be required to return the funds.]

CONCLUSION

For months, restaurants and bars have been operating at 50% capacity and been subject to a statewide curfew to limit hours of operation. In late October, Beshear tried to avoid these additional restrictions by issuing “red zone recommendations” which were a non-mandated set of guidelines for counties in the “red zone.” These recommendations called for the public to avoid indoor dining and encouraged takeout or delivery. Unfortunately, these were not effective and Beshear noted the significant role that he believes restaurants and bars have played in the spread of the virus in Kentucky.

These are temporary restrictions and will likely change depending on the number of cases we see reported in the coming weeks. Fisher Phillips will continue to monitor the rapidly developing situation and provide updates as appropriate.

Make sure you are subscribed to [Fisher Phillips' Alert System](#) to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, any attorney in our [Louisville](#) office, or any member of [our Post-Pandemic Strategy Group Roster](#).

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