



Shelby County (TN) Health Department Orders Stronger COVID-19 Requirements Amid Rising Spread

Insights

11.25.20

In a new effort to temper the rising COVID-19 spread, the Shelby County Health Department just issued a new health directive imposing new restrictions on “high risk settings,” including restaurants, bars, and gyms, which took effect on November 23. To account for the financial impact that Health Directive No. 15 may have on businesses, the Health Department announced a new program that will provide grants of at least \$5,000 “for any business that faces closures of at least 30 days that is substantially related to Health Directive No. 15.” What do area employers need to know about this latest development?

What New Requirements Are Imposed On Businesses?

Designating bars and restaurants as “high-risk settings” for the transmission of COVID-19, the new Health Directive allows all restaurants and bars, including businesses that allow customers to bring their own alcoholic beverages for onsite consumption, to remain open with the following restrictions:

- **Seating Restrictions:** Guests must be seated while eating or drinking, and customers may not stand, sit, gather, or order at bar counters (bar counters must be closed for seating). Additionally, no more than six customers (four adults maximum) may be seated at the same table, guests seated together must be members of the same household, and guests at one table must be spaced at least six feet away from any person at another table.
- **Mask Requirements:** All bars and restaurants must require customers to wear masks or face coverings at all times, except when “the customer is actually eating a bite of food or drinking a beverage.”
- **Occupancy Limits:** All indoor seating must be limited to 50% capacity.
- **Service Curfews:** All food and beverage services must close at 10:00 p.m.; however, any guests who are already receiving services by 10:00 p.m. may remain in the restaurant until 10:30 p.m. to complete payment arrangements. Curbside, drive-through, and delivery services may continue after 10:00 p.m. (food and non-alcoholic beverages only). Additionally, only staff needed to close, open, clean, or operate curb-side/delivery services may be in any establishment between the hours of 10:30 p.m. and 5:00 a.m.

In addition to bars and restaurants, the above requirements also apply to clubs, bowling alleys, adult entertainment venues, movie theaters, family entertainment venues, club houses, and any

adult entertainment venues, movie theaters, family entertainment venues, club houses, and any other establishment that allows for on-site consumption of food and/or alcoholic beverages.

The new Health Directive also requires other businesses (those that do not serve food/alcohol for on-site consumption) to comply with the following requirements:

- **Consumption of Food/Beverages Prohibited.** Any business that does not have a permit to sell food and/or alcoholic beverages for onsite consumption cannot allow customers to engage in onsite consumption of food and/or beverages.
- **Mask Requirements:** All businesses must require customers to wear a mask or face covering *at all times*, unless showering or using a pool.
- **No Smoking:** Smoking indoors in any establishment is prohibited, including in businesses that have onsite hookah, cigar, or vaping activities.
- **Large-Scale Events Prohibited:** No festivals, parades, or large-scale sporting or community events may occur without prior Health Department approval of a site-specific plan.

Additionally, the Directive reiterates previously issued health and safety requirements, including prohibiting customers and employees from entering the building if experiencing COVID-19 symptoms; conducting health screenings and temperature checks of employees prior to each shift; routine cleaning and disinfection of surfaces, equipment, and work areas; mask requirements; and social distancing measures. The full list of requirements may be found in the [Health Directive](#).

What Are The Penalties For Non-Compliance?

The Health Department is authorized to close, for a minimum of 14 days, any business that refuses to comply with the current safety measures, creating an unsafe environment for members of the public. If this occurs, the business will be required to submit a safety reopening plan for the review and approval by the Health Department prior to resuming operations.

Additionally, non-compliant businesses may lose state or local licenses or permits that allow them to serve the public and a misdemeanor fine of up to \$2,500 *per incident* may be assessed.

What Should Employers Do?

- **Create a Policy.** If you have not already done so, you should create and distribute a mask/face covering policy applicable to all employees. The policy should be specific as to when employees and customers are required to wear masks and proper mask usage.
- **Train Your Employees on Your Policy and Other COVID-19 Related Concerns.** If you have not already, you should train your employees regarding COVID-19, preventive measures you are taking regarding COVID-19 and imposed safety measures. You should also educate your employees on proper protocol for requiring patrons to wear mask, imposing social distancing requirements, seating restrictions, limiting groups, building occupancy, and service hours.
- **Put Up Signs.** You should post signage at the entrance of your business and in high-traffic areas informing employees and members of the public of the requirement to wear a mask while inside

informing employees and members of the public of the requirement to wear a mask while inside the business and, if applicable, reduced operational hours and seating/capacity restrictions.

- **Consider Applying For A Grant.** If your business faces a closure of at least 30 days, you should consider applying for one the grants established by the county authorities to assist you through this crisis. At this time, it is unclear what criteria will be used in determining which business will qualify for the grant. Additional details on the grant program are expected soon.

Conclusion

Fisher Phillips will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. For a more thorough analysis of the many issues you may encounter from a labor and employment perspective, we recommend you review our [FP BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers](#) and our [FP Resource Center For Employers](#).

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 [Memphis](#) office, or any member of [our Post-Pandemic Strategy Group Roster](#).

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