

Insights, News & Events

GEORGIA ELIMINATES MANY COVID-19 MITIGATION MEASURES AS OSHA RAMPS UP ENFORCEMENT

Insights
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Georgia Governor Brian Kemp issued an [March 12 Executive Order](#) — effective through March 31 — that eliminates many of the requirements for businesses that were present in past executive orders but keeps in place an assortment of the provisions from the [executive orders](#) issued the last few months of 2020. What do employers need to know about this new order, and what should you do as you reopen and operate your business?

[Ed. Note: Georgia Governor Brian Kemp issued a [March 31 Executive Order](#), effective April 8 through April 30, that, like the [March 12 Executive Order](#), further eliminates many of the requirements for businesses that were present in [past executive orders](#). The [March 31 Executive Order](#) takes away administrative authority in Georgia to close a business for failure to comply with the [March 31 Executive Order](#) and eliminates the following state-specific COVID-19 mitigation measures:

- All limits on the number of persons in a single location (previously termed as “Gatherings” and limited to 50 people);
- The shelter-in-place requirement for the medically fragile and those in long-term care facilities;
- The requirement that restaurant and bar seating be six feet apart or separated by partitions (that requirement is now 42 inches or partitions);

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- Certain sanitation requirements for restaurants and bars, including no longer requiring hand sanitizer for patrons' use;
- Critical-infrastructure specific measures (those have been combined with current requirements for all businesses);
- The spatial and capacity restrictions for barbers, salons, tanning facilities, and similar businesses;
- All movie theater-specific requirements except that the six-foot rule of separation for movie theater patrons is now reduced to three feet;
- All specific requirements for bowling alleys, circuses, water parks, schools, camps, long-term care facilities (long-term care facilities must now comply with [more specific orders](#) from [Georgia's Department of Public Health](#));
- Most childcare-specific requirements; and
- The patron-screening requirement and other sanitation measures for Live Performance Venues.]

Differences Between Latest Order And Past Orders

The [March 12 Executive Order](#) eliminates many of the requirements from past orders as vaccines are rolling out nationwide. For example, bars in Georgia if licensed according to O.C.G.A. § 3-1-2(2.1) no longer have a 50-person or 35% limit on occupancy, no longer fall under their own category of COVID-19 mitigation measures, and now must merely comply with the Georgia requirements for restaurants.

The [March 12 Executive Order](#) also greatly reduces the requirements for restaurants (and bars), eliminating the explicit requirement that employee workstations be six feet apart, the prohibition on handshaking, limits on the number of persons in breakrooms, the emphasis on reservation-only and call-ahead service, and general social distancing guidelines, though seating must still be six feet apart or separated by partitions. Other businesses in an office setting and most other businesses not named in the [March 12 Executive Order](#) also see the elimination of distancing requirements between employee workstations.

What Should Employers Do?

[As we advised employers to do when the CDC eased its COVID-19 guidance](#), employers should still follow the stricter guidance from the Occupational Safety and Health Administration (OSHA) applicable to their workplaces — even as more workers and members of the public get vaccinated. [As discussed in detail here](#), OSHA just adopted a [National Emphasis Program](#) (NEP) on COVID-19. Given the increased resources OSHA will use under the NEP to enforce existing safety standards and the Occupational Safety and Health Act's [general duty clause](#), employers should follow a [five-step plan now](#) to prepare for a visit from OSHA, **including adopting a written COVID-19 Policy**. The [model Virginia COVID-19 response plan](#) is a good starting point for preparing a COVID-19 plan that would comply with Fed-OSHA's guidance.

Conclusion

Despite Georgia eliminating certain state-specific requirements related to COVID-19 mitigation, the pandemic is not over, and all employers should continue to monitor and improve worker safety as they continue to bring more employees back to the workplace in the coming months. Fisher Phillips will continue to monitor the rapidly developing COVID-19 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 [Atlanta](#) office, or any member of [our Post-Pandemic Strategy Group Roster](#).

This Legal Alert provides an overview of a specific developing situation. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.