



What Employers Need To Know As Kentucky Eases COVID-19 Restrictions

Insights

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Almost a year after issuing strict COVID-19 restrictions on businesses, including some tighter industry-specific requirements, Kentucky Governor Andy Beshear just issued new Minimum Requirements for All Entities to ease up on some of the requirements that had been in place. The April 19 release recognizes that the state has made promising strides toward controlling COVID-19, with a decreasing positivity rate and more than 1.5 million Kentuckians having received at least one dose of a COVID-19 vaccine. The new rules replace the May 2020 Minimum Requirements that initially installed occupancy requirements, face covering rules, and daily monitoring of employees for COVID-19 symptoms. What do Kentucky employers need to know about these new rules?

What Has Changed?

The new Minimum Requirements for All Entities are much simpler and less restrictive than the previous requirements and apply across all businesses. Though many of the requirements remain functionally the same, some of the previous requirements have been rescinded. No longer do employers have an obligation to create a testing plan, designate a Healthy-at-Work officer, or retain the responsibility of educating and training their employees on various measures. Moreover, no longer does the recommendation exist for employers to make special accommodations for employees and customers at higher risk for severe illness.

Keep in mind that, as they are used in the Minimum Requirements, “should” is a recommendation and “must” is a requirement. With that in mind, the new Minimum Requirements for All Entities include:

1. **Telework:** The most significant change: the new rules say that employees who are able to telework should still do so “as much as possible.” The previous Minimum Requirements for All Entities said employees who are able to perform their job duties via telework (phone or Internet) **must** continue to telework.
2. **Physical distancing:** The new guidelines still require businesses to ensure, to the extent practicable, that social distancing is observed in the workplace, “unless closer interaction is absolutely required to perform their job duties.”
3. **Facial coverings:** Face coverings are still required by Executive Order, and the new guidelines ask that employers continue to encourage mask-wearing.

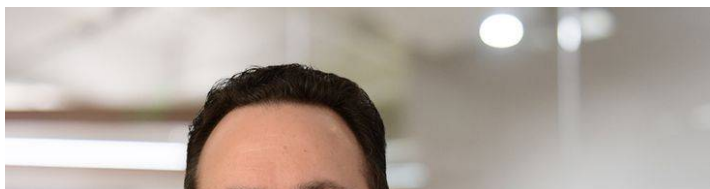
4. **Hand washing and sanitizing:** Employers must encourage routine and consistent hand washing and must provide hand sanitizer to employees and customers.
5. **Ventilation:** Businesses are encouraged to conduct events outside where possible and to maximize indoor ventilation and air filtration.
6. **Common areas:** Businesses should limit use of common areas or reconfigure them to maximize the amount of distance (at least six feet) between individuals.
7. **Sanitation:** Employers must routinely and consistently sanitize high-contact areas in accordance with CDC guidelines.
8. **Daily Temperature/Health Guidelines:** Entities should continue to require employees to undergo daily health checks, which need not be done on the premises. Employees who exhibit COVID-19 symptoms, including a fever, should be directed to a healthcare professional.
9. **Contact notification responsibilities:** Businesses must continue to assist public health officials if an employee tests positive or is exposed to COVID-19 at work.
10. **Industry and/or Activity-Specific Guidance:** All employers must comply with the above requirements and any supplemental, industry-specific guidance that may be relevant. The only businesses that now have supplemental requirements are the following: healthcare facilities; weddings, funerals, and memorial services; restaurants and bars; pools and bathing facilities; and gyms, sports, and exercise facilities.

What's Next for Kentucky Employers?

With the publication of the new Minimum Requirements for All Entities, together with Kentucky's decreasing number of COVID-19 cases, employers may finally begin to look forward to returning to normal business operations. As Kentucky's positivity rate continues to decrease and its vaccination rate continues to increase, you can likely expect to see restrictions lift even further in the coming months. Moreover, as customers continue to become more confident in venturing out and resuming their normal activities, you can expect to see an increase in traffic. Be sure, however, to continue complying with all applicable restrictions, including the state-wide mask mandate, and to enforce social distancing requirements among customers where applicable.

We'll monitor developments and provide updates as warranted, so make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information. For further information, contact your Fisher Phillips attorney or any attorney in our Louisville office.

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