

NEW YORK NON-ESSENTIAL BUSINESSES MUST KEEP 75% OF THEIR WORKFORCE AT HOME

Insights
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In response to the continued surge of COVID-19 coronavirus cases in New York State, Governor Andrew Cuomo announced at a press conference this morning that non-essential businesses must decrease their in-office workforce by 75%. This comes on the heels of an Executive Order Governor Cuomo issued just yesterday directing non-essential businesses to decrease their in-office workforce by 50%. **[Ed. Note: The Executive order requiring the 50% workforce deduction takes effect March 20 at 8 p.m.; the 75% reduction is effective March 21 at 8 p.m.]**

Businesses providing the below essential services are excluded from the mandate and do not need to reduce their in-person workforce:

- essential health care operations, including research and laboratory services;
- essential infrastructure, including utilities, telecommunication, airports, and transportation infrastructure;
- essential manufacturing, including food processing and pharmaceuticals;
- essential retail, including grocery stores and pharmacies;
- essential services, including trash collection, mail, and shipping services;
- news media;

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- banks and related financial institutions;
- providers of basic necessities to economically disadvantaged populations;
- construction;
- vendors of essential services necessary to maintain the safety, sanitation, and essential operations of residences or other essential businesses; and
- vendors that provide other essential services or products.

Other businesses may be deemed essential after requesting an opinion from the Empire State Development Corporation, which will be responsible for reviewing and granting such requests. **[Ed. Note: The Empire State Development Corporation's has provided guidance as to whether a business is essential and thus exempt from the workforce reduction orders, and has prepared a form for other companies to use to request to be deemed an essential business.]**

Governor Cuomo continues to implore all non-essential businesses to close their doors during the COVID-19 pandemic, and to let workers telecommute whenever possible.

This latest density reduction effort is on top of other measures state and city-wide, including:

- On March 15, Mayor Bill de Blasio announced that New York City would close all bars and restaurants, except for delivery and pickup services. The Mayor also ordered the closings of nightclubs, movie theaters, small theater houses, and concert venues, thereby forcing a shutdown of iconic New York staples, including Broadway theater. The Mayor also shut the City's public schools through at least April 20.
- On March 16, Governor Cuomo announced the closure of all casinos, gyms, movie theaters, bars and restaurants (except for takeout and delivery). Governor Cuomo also announced the closure of all schools in New York through at least April 1. On March 18, Governor Cuomo expanded this shutdown to include closure of amusement parks, bowling alleys and indoor portions of shopping malls. **[Ed. Note: Governor Cuomo has added barbershops, hair salons tattoo and piercing parlors, nail salons, and**

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similar personal care service providers to be shut effective March 21 at 8 p.m.]

Additional closures may be forthcoming as the state and local government continue to respond to the COVID-19 pandemic. Employers also need to comply with [a new state law](#) guaranteeing job protection and wages for New York workers who have been quarantined as a result of the COVID-19 coronavirus outbreak.

CONCLUSION

For now, we 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 [New York City office](#), or [any member of our COVID-19 Taskforce](#). You can also review our nationwide [Comprehensive and Updated FAQs for Employers on the COVID-19 Coronavirus](#) and our [FP Resource Center For Employers](#), maintained by our Taskforce.

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

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