



New Jersey Governor Orders Partial Business Shutdown, Statewide Consistency of Anti-COVID-19 Efforts

Insights

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On Saturday March 21, New Jersey Governor Phil Murphy issued two executive orders, both of which went into effect at 9 p.m. the same day. The first commands citizens to stay at home, with some exceptions, and compels the shutdown or partial shutdown of certain businesses. The second invalidates conflicting county and municipal orders.

Residents to Stay at Home

New Jersey residents are to remain at home or at their place of residence unless they are “reporting to, or performing, their job.” Other exceptions permit leaving home to obtain goods or services from essential retail businesses (more on those below), or takeout food or beverages from restaurants and similar establishments; to obtain medical attention, essential social services, or assistance from law enforcement or emergency services; to visit family members, romantic partners, or persons for whom the individual is a caregiver; to engage in outdoor activities (while maintaining social distancing); for an educational, religious, or political reason, or because of a reasonable fear for one’s health or safety, or at the direction of law enforcement or other governmental agency.

Shutdown of Non-Essential Retail Businesses

The “brick-and-mortar premises” of non-essential retail businesses must close to the public. The order designates the following businesses essential and permits them to remain open during their normal business hours; the designation is subject to additions and exclusions by the State Director of Emergency Management (who is the Superintendent of State Police):

- Food stores
- Pharmacies
- Medical marijuana dispensaries
- Medical supply stores
- Gas stations
- Convenience stores
- Ancillary stores within healthcare facilities
- Hardware and home improvement stores
- Retail functions of banks and other financial institutions

- Retail functions of laundromats and dry-cleaning services
- Stores that principally sell supplies for children under five years old
- Pet stores
- Liquor stores
- Car dealerships, for the purpose of providing auto maintenance and repair services, and auto mechanics (it is not clear whether the order is designating as essential only auto mechanics employed at car dealerships)
- Retail functions of printing and office supply shops
- Retail functions of mail and delivery stores.

Partial Shutdown of Restaurants and Bars

All restaurants, cafeterias, dining establishments, and food courts – whether or not they have a liquor license – bars, and all other holders of a liquor license with retail consumption privileges may operate during their normal business hours, but only via food-delivery or takeout.

Shutdown of Recreational and Entertainment Businesses

All recreational and entertainment businesses must close to the public. The order provides a nonexhaustive list of examples:

- Casinos
- Racetracks
- Gyms and fitness centers
- Entertainment centers, such as movie theaters, performing arts centers, other concert venues, and nightclubs
- Indoor portions of shopping malls (though restaurants and other stores to the extent otherwise exempted from closure may remain open if they have a separate entrance)
- Places of public amusement, such as amusement parks, water parks, zoos, arcades, fairs, play centers, funplexes, theme parks, bowling alleys, family and children's attractions
- Personal care service businesses, such as cosmetology shops, beauty salons, barbershops, nail salons, spas, massage parlors, tanning salons, tattoo parlors, and social clubs
- Public libraries and all college and university libraries, whether private or public.

Shutdown of Educational Institutions

Public, private, and parochial preschools, elementary schools, and secondary schools must remain closed. The suspension of all in-person instruction at institutions of higher education must continue, though the Secretary of the Office of Higher Education may grant a waiver on a case-by-case basis if there is a “compelling rationale.”

Work-From-Home Mandate

Businesses and nonprofits must permit their workforce to work from home or telework wherever practicable. “Telework” means working from home or alternative locations closer to home through the use of technology that equips the individual to access necessary materials.

If a business or nonprofit has employees who cannot perform their functions at home or via telework, the business or nonprofit must make “best efforts” to reduce onsite staff to the “minimal number necessary” for “essential functions.” As examples of such employees the order lists law enforcement officers, firefighters, other first responders, cashiers, store clerks, construction workers, utility workers, repair workers, warehouse workers, lab researchers, information technology maintenance workers, janitorial and custodial staff, and “certain” (the word is undefined) administrative staff.

The governor emphasized in a tweet that “work at construction sites may continue, as can manufacturing, trucking, and transportation operations.”

Statewide Uniformity Order

Governor’s Murphy’s second order of the day invalidates every conflicting county or municipal restriction in the state. The sole current exceptions are restrictions on online marketplaces for arranging or offering lodging, and municipal and county parks. The State Director of Emergency Management has the discretion to make additions and exclusions to the list of exceptions.

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 Jersey 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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