



New Jersey Begins To Reopen As Restrictions Eased For Retail And Construction

Insights

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New Jersey Governor Phil Murphy just issued an executive order lifting some of the existing restrictions that were designated to limit person-to-person contact for the retail and construction sectors. Specifically, the order permits all non-essential construction projects to resume and non-essential retail businesses to reopen for curbside pickup, subject to certain conditions. The order – which also immediately permits certain car gatherings under strict rules – will go into effect at 6:00 A.M. on Monday, May 18. What do employers need to know?

Reopening Of Non-Essential Retail Businesses

The governor's new order permits the reopening of non-essential retail businesses closed by [his March 21 Order](#) for curbside pick-ups. Brick-and-mortar store premises and indoor portions of shopping malls must remain closed. Businesses that reopen must adopt policies that include, at minimum, the following:

- Permit customers to pick up pre-ordered goods outside of the store or mall;
- Limit in-store operations, wherever feasible, to those employees who are responsible for the operations required for curbside pickup;
- Handle customer transactions in advance by phone, email, facsimile, or other means that avoid person-to-person contact, wherever feasible;
- Require customers to notify them by text message, email, or phone once they arrive, whenever feasible, or make best efforts to schedule their arrival time in advance;
- Ask customers to remain in their vehicle, if arriving by car, until store staff delivers the purchase;
- Designate employees to bring goods outside of the retail establishment or outside the mall and place the goods directly in a customer's vehicle whenever feasible;
- Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;
- Provide employees break time for repeated handwashing throughout the workday;
- Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff;
- Require frequent sanitization of high-touch areas to which workers have access; and

- Require workers to wear cloth face coverings and gloves when interacting with other workers or customers and require workers to wear gloves when in contact with customers or goods.
- Businesses must provide, at their expense, such face coverings and gloves for their employees.

Nothing in the policy should prevent workers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the business is otherwise required to provide such worker with more protective equipment due to the nature of the work involved.

Construction Projects

Governor Murphy's new order also lifts the restrictions of his April 8, 2020 Order shutting down all non-essential construction projects. However, it mandates that "all businesses engaged in construction projects in the State, whether or not the projects were designated as essential," need to adopt policies that include certain minimum requirements. Four of the requirements are new or revised:

- Place conspicuous signage at entrances and throughout the worksite detailing all of the mandates required by the Order;
- Engage in appropriate social distancing measures when picking up or delivering equipment or materials;
- Where running water is not available, provide portable washing stations with soap and/or alcohol-based hand sanitizers that have greater than 60% ethanol or 70% isopropanol; and
- When the worksite is an occupied residence, require workers to sanitize work areas and keep a distance of at least six feet from the occupants.

The other requirements remain the same:

- Prohibit non-essential visitors from entering the worksite;
- Limit worksite meetings, inductions, and workgroups to groups of fewer than 10 individuals;
- Require individuals to maintain six feet or more distance between them wherever possible;
- Stagger work start and stop times where practicable to limit the number of individuals entering and leaving the worksite at the same time;
- Identify congested and "high-risk areas," such as lunchrooms, breakrooms, portable rest rooms, and elevators, and limit the number of individuals at those places at the same time where practicable;
- Stagger lunch breaks and work times where practicable to enable operations to safely continue while utilizing the least number of individuals possible at the site;
- Require workers and visitors to wear cloth face coverings, in accordance with CDC recommendations, while on the premises, except where doing so would inhibit the individual's

health or the individual is under two years of age, and require workers to wear gloves while on the premises;

- Businesses must provide, at their expense, such face coverings and gloves for their employees;
- If a visitor refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline entry to the individual;
- The order does not prevent workers or visitors from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the businesses is otherwise required to provide such worker with more protective equipment due to the nature of the work involved;
- Where an individual declines to wear a face covering on the premises due to a medical condition that inhibits such usage, neither the business nor its staff shall require the individual to produce medical documentation verifying the stated condition;
- Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;
- Limit sharing of tools, equipment, and machinery; and
- Require frequent sanitization of high-touch areas like restrooms, breakrooms, equipment, and machinery.

Car Gatherings Permitted

The governor's new order also partially amends his March 21 Order to immediately permit people to leave their homes for car gatherings so long as they adhere to a number of strict rules. Among these requirements, attendees must arrive in a vehicle and remain in that same vehicle during the entire gathering. The vehicle must remain entirely closed at all times, meaning that the windows, doors, sunroofs, and tops of the vehicle must be closed at all times, unless it is more than six feet from any other vehicle or individual.

The individuals organizing or maintaining the gathering who are not in closed vehicles must follow all applicable safety orders and must wear cloth face coverings or more protective face coverings in any settings where other social distancing measures are difficult to maintain. To the degree that a gathering requires pre-payment, or seeks donations of any kind, contactless options for pre-payment or donation, such as online or by telephone, must be offered wherever feasible.

Conclusion

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 New Jersey office, or any member of our Post-Pandemic Strategy Group Roster. You can also review our FP BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers and our FP Resource Center For Employers.

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.

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