



What Employers Need To Know As Florida Begins To Reopen

Insights

5.22.20

This week, Governor Ron DeSantis and many of Florida's largest counties issued orders carefully detailing if and how businesses across the state may re-open. Fisher Phillips has reviewed the relevant orders, which are summarized below.

On May 18, Florida Governor Ron DeSantis's executive order bringing all Florida counties into Full Phase 1 of his plan for re-opening Florida's economy went into effect. The new order provides that virtually all businesses and services may reopen, subject to certain restrictions, with further loosening in Phases 2 and 3 to follow. Employers should be aware of their current obligations and keep a close eye on them as they change with the next phases of the Governor's plan.

For now, the Governor's order provides that:

- Restaurants may serve dine-in customers, but occupancy must be limited to 50%, excluding employees. There must be a six-foot separation between parties, unless there is appropriate partitioning. Bar counters are closed to seating. Outdoor seating remains available;
- In-store retail sales can open, up to 50% occupancy and subject to CDC and OSHA safety guidelines;
- Museums and libraries may open, up to 50% occupancy; however, local public museums and libraries may only do so if permitted by their local government;
- Gyms may operate up to 50% occupancy, so long as there is appropriate social distancing and sanitation supplies;
- Sports venues may host training, games, and events;
- Amusement parks may submit a re-opening plan to the State of Florida outlining their proposed reopening date and plan, which must include an endorsement letter from the County Mayor or other appropriate local official in the absence of a county mayor; and
- Counties may seek approval to operate vacation rentals.

Additionally, numerous Florida counties have implemented orders to curtail the spread of the coronavirus, which means there may be additional requirements depending on your location. For example, the following counties have instituted additional requirements:

Miami-Dade County (effective May 18)

- Masks or facial coverings must be worn, with few, specific exceptions;
- Must allow County officials onto the property to inspect for compliance;
- Must post CDC signage in public locations informing of responsible behavior, train all personnel in new operating protocols, and reduce seating in common areas to ensure physical distance of six feet;
- Must post a contact email address and/or phone number for employees and customers to raise questions or concerns;
- Must immediately report the infection of on-site personnel to the Florida Department of Health;
- Must enhance sanitation of common areas and touch points;
- Must place trash containers near exits, entrances, and other common areas;
- Must comprehensively clean establishments each night, including disinfecting touch points and emptying all trash containers using solid waste bags that are double-bagged and securely sealed;
- Must install hand sanitizer at entry points and throughout the property;
- Must use reasonable efforts to ensure that on-site persons maintain social distancing (e.g., marking floors, other signage);
- Gatherings must be of fewer than 10 people;
- Must maintain a minimum of six feet between people; and
- Must frequently wash hands and/or use hand sanitizer.

Miami-Dade County has also issued an accompanying “Handbook” to this order, detailing specific guidelines to follow that vary by industry. While much of it is merely recommendation, text in **bold** is considered an order that must be followed. The Handbook is intended to be a dynamic document that is frequently edited to reflect current trends in cases and the risk in loosening restrictions. Significantly, if any establishment has an on-site employee or contractor who tests positive, ***the employer must close*** for the shorter of:

- The time needed for all staff to be tested and the establishment to be deep-sanitized; or
- 14 days from the date the employee or contractor was last onsite.

Broward County (effective May 18, 2020)

- All persons *must* adhere to CDC guidance;
- Professional services and businesses located in multi-business office buildings must restrict public access only to the extent the business is an essential service;

- Non-essential, retail establishments must limit occupancy to no more than 50% of their maximum occupancy;
- If telework is not possible, consider how the workplace can be reconfigured by installing physical barriers or implementing other measures to allow for social distancing;
- Develop a plan for monitoring employees' health, with a focus on COVID-19 symptoms;
- Establish contingency plans for handling a positive case of COVID-19 in your workplace;
- Develop or update your employee contact system (e.g., phones, texting);
- Require customers, clients, and other visitors to the business to wear facial coverings;
- Limit the number of employees simultaneously using employee common areas;
- Implement regular, more intensive cleaning, focusing on high-traffic areas such as bathrooms, kitchens, escalators, elevators, etc.;
- Provide hand-sanitizing stations or supplies throughout the workplace;
- Establishments using shopping carts or baskets must implement sanitation protocols to disinfect between customer uses;
- Enforce CDC guidelines when employees return to work and provide employee training on such measures;
- Communicate all plans and policies developed regarding personal protective equipment, social distancing, and employee health monitoring;
- Display signs setting the rules and the establishment's expectation that all persons comply with those rules; and
- Social distancing requirements do not apply to members of the same household.

Broward County issued a second emergency order effective Friday, May 22, providing even more guidelines for businesses to re-open. It provides some new, or more specific, guidelines that all businesses must follow, such as:

- Any business must consent to the entry of County and municipal personnel into areas open to the public to inspect for compliance with State or County orders;
- Whenever *feasible*, businesses must allow employees to telework or establish a rotation or staggered schedule to reduce the number of employees on site;
- Requiring employees to wear facial coverings in the workplace;
- Deep clean the establishment at least once every 24 hours; and
- Although facial coverings are generally required, specific exceptions are listed.

This new order provides significant detail and guidance that certain industries must follow. Some of these pertain to:

- Restaurants;
- Retail establishments;
- Personal services;
- Movie theaters;
- Museums; and
- Parks in Broward County.

Palm Beach County

Palm Beach County has promulgated few mandates restricting businesses and has largely followed the lead of the governor's office. However, the County has recently:

- Recommended, not required, the use of facial coverings in most businesses (effective May 16);
- Issued an order restricting parks, golfing, and such marine activities as boating, fishing, water sports, and related operations (effective May 18); and
- Issued an order opening beaches, with restrictions (effective May 18).

Hillsborough County

Hillsborough County has lifted the County's safer-at-home order. Thus, Hillsborough County has no additional restrictions other than those promulgated by the governor.

Orange County (effective May 4, 2020)

- All persons, employees, patrons, and participants must be at least six feet apart;
- Both employees and patrons of businesses that require employees and patrons to be within six feet must wear a face mask or covering, unless the wearing of the face mask or covering would impede the patron's service, in which case only the service provider must wear a mask or covering;
- Business meetings, workshops, and training programs must ensure appropriate social distancing;
- Checkout points and staging areas must be monitored for social distancing requirements (by marking floors or other similar actions);
- Signage must be posted reminding patrons and employees to observe social distancing;
- Retail sales establishments may only open storefronts if they operate at no more than 25% of their building capacity, excluding employees;
- Restaurants may allow on-premises dining so long as they adopt appropriate social distancing measures and limit their indoor occupancy to no more than 25% of their occupancy, excluding employees. Seating areas, counters, doorknobs, and bathrooms must be frequently disinfected; and

- Museums may operate at no more than 25% of their occupancy, excluding employees. But interactive or child play areas must remain closed.

What Does This Mean for Employers?

Employers with operations in Florida should review the governor's orders and any orders issued by their respective local governments for additional restrictions. Additionally, employers should have a plan in place to establish a safe workplace and communicate that plan to employees. Employees will likely have concerns about returning to work and will want assurances that it is safe to do so. Where possible, state and county orders have encouraged telework.

Employers should also assess what existing policies such as work-from-home, attendance, and sick leave policies should be revised to accommodate the needed operational changes. Finally, employers should re-familiarize themselves with the leave entitlements under the [Families First Coronavirus Response Act](#), as we anticipate more claims for leave as additional industries begin to reopen.

Because the situation is rapidly changing, it is critical that employers continue to monitor for new guidance and requirements from the Governor and their local governments.

As you begin the process of reopening, you should also familiarize yourself with our alert: [5 Steps To Reopen Your Workplace, According To CDC's Latest Guidance](#). You should also keep handy our [4-Step Plan For Handling Confirmed COVID-19 Cases When Your Business Reopens](#) in the event you learn of a positive case at your workplace. For a more thorough analysis of the many issues you may encounter from a labor and employment perspective, we recommend you review our [FP BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers](#) and our [FP Resource Center For Employers](#).

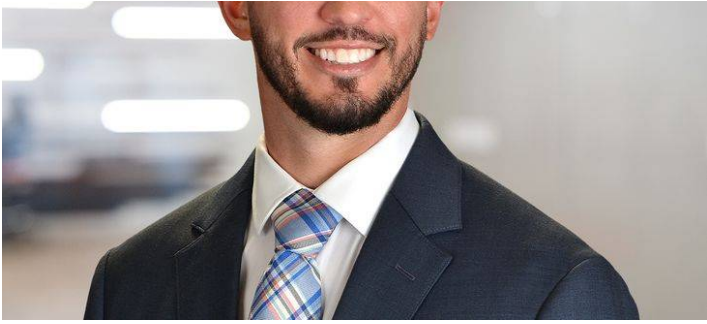
Conclusion

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 any of our [Florida offices](#), or any member of our [Post-Pandemic Strategy Group Roster](#).

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

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