



New Jersey Continues To Reopen As Restrictions Eased For Food And Beverage Establishments And Non-Essential Retail Businesses

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 food, beverage, and retail sectors. Specifically, the order permits the provision of in-person, outdoor service at areas designated for food and/or beverage consumption and permits brick-and-mortar premises of non-essential retail businesses to reopen, subject to certain conditions. The order will go into effect at 6:00 A.M. on Monday, June 15. What do employers need to know?

Requirements For Food And Beverage Establishments Offering In-Person, Outdoor Service

Under the new order, food and beverage establishments (such as restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, bars, and all other holders of a liquor license with retail consumption privileges) may offer in-person service at outdoor areas (previously disallowed under the governor's [March 21 Order](#)) if they comply with the following requirements:

- Ensure areas designated for consumption conform with applicable local, state, and federal regulations;
- Limit capacity to a number ensuring patrons can remain six feet apart at all times (except for those sharing a table);
- Satisfy health and safety standards the Department of Health has been directed to issue consistent with this Order;
- Ensure tables seating individual groups are six feet apart and that individual seats in any shared area that is not reserved for individual groups (such as an outdoor bar area) are also six feet apart;
- Prohibit patrons from entering the indoor premises of the establishment, except to walk through when entering or exiting in order to access the outdoor area, or to use the restroom;
- Require patrons to wear a face covering while inside the indoor premises of the establishment, unless the patron has a medical reason for not doing so or is a child under two years of age; and
- Prohibit smoking in any outdoor areas designated for the consumption of food and/or beverages. The requirement that food or beverage establishments impose this prohibition shall

automatically sunset once food or beverage establishments are permitted to offer in-person service in indoor areas.

The Order permits customers seeking take-out (rather than table service) to enter the indoor premises to place an order, make payment, and pick up food or beverages.

Shared Outdoor Spaces

Municipalities can use their authority to allow food and beverage establishments to expand their footprint to outdoor areas, both within their property and among municipally governed areas, such as sidewalks, streets, and parks. Municipalities are instructed to equitably divide such outdoor shared spaces among establishments that can feasibly use them.

Non-Essential Retail Businesses

Also under the new order, brick-and-mortar premises of non-essential retail businesses closed to the public under the governor's March 21 Order can reopen provided they adopt policies that include, at a minimum, the requirements applied to essential retail businesses in the governor's March 8 Order:

- Limit occupancy at any one time to 50% of the stated maximum;
- Wherever possible, establish hours of operation that permit access solely to high-risk individuals, as defined by the federal Centers for Disease Control and Prevention (CDC);
- Install a physical barrier, such as a shield guard, between customers and cashiers/baggers where feasible, or ensure six feet of distance between those individuals, except at the moment of payment or exchange of goods;
- 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 work day (the order does not indicate whether such time must be compensated);
- Where feasible, provide contactless pay options, and pickup and delivery of goods, giving particular consideration to populations without internet access;
- Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to employees and customers;
- Require frequent sanitization of high-touch areas, such as restrooms, credit card machines, keypads, counters, and shopping carts;
- Place conspicuous signage at entrances and throughout the store alerting employees and customers to the required six feet of physical distance;
- Require workers and customers to wear cloth face coverings while on the premises, except where it would inhibit the individual's health or the individual is under two years of age, and require workers to wear gloves when in contact with customers or goods. Further:

- Businesses must provide, at their expense, such face coverings and gloves to their employees;
- If a customer refuses to wear a cloth face covering for non-medical reasons and the business cannot provide one at the point of entry, the business must decline entry to the individual, unless the business is providing medication, medical supplies, or food, in which case the business should provide alternate methods of pickup or delivery of such goods;
- Where an individual declines to wear a face covering due to a medical condition, neither the business nor its staff shall require the individual to produce medical documentation verifying the condition; and
- Workers and customers must be permitted to wear surgical-grade masks or other more protective face coverings, if they are already in possession of such equipment, or if the business is otherwise required to provide its workers with such equipment due to the nature of the work.

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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