

Insights, News & Events

GEORGIA EMPLOYERS RECEIVE GUIDANCE ON GOVERNOR'S BACK-TO-BUSINESS ORDER (UPDATED)

Insights
Jun 29, 2020

As expected, Governor Brian Kemp issued a detailed executive order to begin to re-open businesses throughout the state in the hopes that the worst of the COVID-19 crisis has passed.

[Ed. Note: The initial guidelines and requirements for businesses have been replaced as noted below by a series of very similar Executive Orders. The latest June 29 Executive Order is nearly identical to the June 11 Executive Order and remains in effect through July 15, 2020. We expect similar orders throughout the summer as Georgia adjusts to the new COVID-19 normal.] The order, which begins to take effect on April 27 and calls for staggered reopenings for various businesses through May 13. **[Ed. Note: The June 11 Executive Order, like prior orders, suspends enforcement of any county or municipal ordinance or order that is more or less restrictive than this Order. Therefore, the guidelines published by the City of Atlanta are only advisory.]** What do you need to know about this order, and what should you do to prepare for the reopening of your business?

DETAILS OF THE ORDER

[Ed. Note: The May 28 Executive Order allows bars to resume operations beginning June 1, and water parks, circuses, and carnivals to resume operations June 12, subject to certain requirements. The June 11 Executive Order continues the detailed list of requirements for bars, including limiting the number of total persons inside the

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bar to 50 persons or 35% of total listed fire capacity occupancy of the entire bar, whichever is greater. Moreover, the June 11 Executive Order contains requirements for Sports and Live Performance Venues and Conventions.]

The order begins by requiring social distancing, instructing Georgians to refrain from “Gathering” and forbidding non-Critical Infrastructure businesses from allowing “Gatherings of Persons.” **[Ed. Note: The June 11 Executive Order now defines “Gathering” as more than 50 persons physically present at a single location, if, to be present, persons are required to stand or be seated within six feet of any other person. Groups of 50 or more are allowed if they are incidental or transitory.]** The order encourages using face coverings while outside private residences and requires residents to adhere to CDC guidance on sanitation.

[Ed. Note: The June 11 Executive Order extends a partial shelter-in-place requirement for the medically fragile through June 30, 2020—eliminating from the list those over 65 without other conditions. Also, like past orders, the medically fragile may still undertake several activities including “engaging in gainful employment.”]

The order also encourages all businesses to provide certain coverings and personal protective equipment (PPE) particular to their industry for employees. **[Ed. Note: The June 11 Executive Order continues the requirement that restaurant workers, barbers, and hair stylists wear face coverings, but only when serving the public. It strongly encourages most other businesses to provide PPE “as available and appropriate to the function and location of the worker within the business location.” Bars, carnivals, and water parks must also require their workers to wear face coverings at all times.]**

The order again adopts the definition of what constitutes “Critical Infrastructure” as those sectors listed in the most current CISA [guidance](#) and incorporates businesses that supply essential goods to those sectors as well as legal services, home hospice, and certain non-profit mental health and food services in that definition. **[Ed. Note: As with previous orders, business that are Critical Infrastructure are encouraged, but not required, to undertake the list of precautions listed in the June 11 Executive Order, the contents of which have not changes since the previous Order on May 28. Similarly, schools**



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operating during the summer are covered under June 11 Executive Order , but the order merely makes recommendations for schools rather than requirements. By contrast, businesses not classified as Critical Infrastructure must comply with 20 requirements including screening workers, posting signage, and increasing cleaning and sanitization.]

FOOD SERVICE ESTABLISHMENTS

The order releases hotly anticipated guidance for restaurants and dine-in services, effective at 12:00 a.m. on Monday, April 27, 2020. Subject to these requirements, restaurants and private social clubs may once again provide dine-in services beginning April 27.

[Ed. Note: The June 11 Executive Order, like prior orders, requires food service establishments to take unique precautions. For example, the Order requires that workers in food service establishments self-isolate if they have a known or suspected COVID-19 case. These workers must follow Centers for Disease Control and Prevention guidelines to self-isolate for at least ten (10) days after onset of Symptoms of COVID-19 and end isolation only after Symptoms of COVID-19 have improved and the Worker has been fever-free and/or free of Symptoms of COVID-19 for three (3) consecutive days without medication before returning to work.

At the same time, however, like many of the businesses covered by the latest order, restaurants face less restrictions in operating in Georgia than under previous orders. For example, the June 11 Executive Order:

- **Removes the square-footage and capacity restrictions for restaurants;**
- **Removes the party-size limit for restaurants;**
- **Allows workers to take off their masks while not serving the public;**
- **No longer requires restaurants to enforce social distancing for non-cohabitating persons on restaurant property; and**
- **No longer requires restaurants to prioritize take-out and curbside services.**

GROCERY STORES

[Ed. Note: The June 11 Executive Order removes requirements for grocery stores entirely and instead makes recommendations for these businesses.]

GYMS, BARBERSHOPS, SALONS, THEATERS, BOWLING ALLEYS

[The June 11 Executive Order has reduced the requirements for these businesses. The May 12 Executive Order exempts gyms that have no employees present at the gym from the requirement to screen patrons for COVID-19 symptoms. It further allows for the resumption of group classes (with a 10 feet distance between participants) and facility childcare.]

Moreover, given the past criticism of the previous order allowing gyms and tattoo shops to open, the order also requires barber shops, salons, massage therapists, tanning salons, and nail salons to (1) only provide services by appointment-only; (2) only allow one patron per service-provider in the facility at a time (one parent for their child is excepted); (3) stagger workstations; (4) stagger work schedules; (5) increase sanitization and cleaning between patrons; and (6) provide PPE and training for all employees.

Movie theaters also got their own list of requirements, namely: (1) keeping seating of patrons six feet apart and enforcing with ushers in each auditorium; (2) increased sanitization and cleaning; (3) floor markings at concessions to enforce social distancing protocols; (4) food services areas must adhere to the list of requirements for restaurants and social clubs listed above; (5) party rooms must not be used for Gatherings; and (6) playgrounds and arcades within theaters must remain closed. **[Ed. Note: The May 12 Executive Order allows arcades within movie theaters and bowling alleys to reopen.]**

Bowling alleys are also covered in the order, and they are required to implement various safety measures, many of which are covered above, especially in the requirements for theaters. Notably, any food establishment in a bowling alley must adhere to the list of requirements for restaurants and social clubs listed above, and bowling balls and shoes will now be distributed to patrons by staff after a thorough sanitizing.

HEALTHCARE PROVIDERS

In terms of healthcare employers, the order mainly addresses recommendations or requirements for medical sectors that had elected not to operate to conserve medical resources during the height of the pandemic or ceased elective procedures. [Given the governor's prior order encouraging these businesses to begin operating again](#), the order requires that healthcare providers adhere to the recommendations for businesses operating as critical infrastructure.

It also requires dental practices to adhere to the [American Dental Association's interim guidance on minimizing risk of COVID-19 transmission](#), and [its mask and face shield guidance](#). Opticians should adhere to [CDC guidance on office disinfections](#). Ambulatory surgical centers should take steps to screen patients prior to the scheduled procedure, require staff to self-monitor for COVID-19 symptoms daily, [utilize PPE per CDC guidance](#), utilize spacing of patients in waiting rooms, use heightened disinfectant techniques, prioritize procedures as medically appropriate, provide COVID-19 testing where feasible, and use patient's COVID-19 status in determining whether to continue with a scheduled procedure.

[Ed. Note: The [June 11 Executive Order](#), like prior orders, also include a long list of requirements for Georgia Day-Camps, Overnight-Camps, and keeps in place certain requirements for Georgia childcare facilities.]

WHAT SHOULD EMPLOYERS DO?

As you begin the process of reopening, you should 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

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

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.