

NEWS & INSIGHTS

Governor Wolf's latest order imposes additional restrictions on Pennsylvania businesses

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The below information is current as of the publication date listed. Because COVID-19 response measures on all fronts are continually evolving, clients should stay alert to new developments and consult with counsel on any critical questions.

This week, Gov. Tom Wolf [signed an Order](#) mandating additional restrictions on business operations in response to

the increasing rate of COVID-19 cases across the Commonwealth. The Order goes into effect on Friday, November 27, 2020, implementing new mitigation and enforcement efforts as well as civil immunity.

Virtual or telework. Most significantly, the Order requires that “unless impossible,” all businesses must conduct their operations remotely. This mandate differs from the most recent “Green” phase guidance regarding reopening, which provided that employees must be permitted to telework where “feasible.” While the new Order does not define “impossible,” it seems reasonable that production or performance requirements (both manual and non-manual) for certain positions may render telework “impossible” for certain employees. However, for any other employee who previously engaged in telework, employers would be wise to determine whether, based on a production/performance standpoint, it is possible to return them to working from home.

In-person operations. For those businesses continuing in-person operations, employers must now implement temperature screenings for every employee prior to the start of his shift, or where the employee is not assigned a shift, before the employee starts work. Prior directives concerning mask wearing, social distancing, staggered work times, limitations on gatherings, the designation of a COVID-19 compliance officer and communicating policies to employees remain in effect.

Procedures for exposure or potential exposure. The Order also provides additional directives for businesses with employees exposed or potentially exposed to COVID-19. If an employee is diagnosed with or has tested positive for COVID-19, the employee may not continue to work at an in-person business and must quarantine in accordance with directives issued by the Pennsylvania Department of Health or the local health department. An employee who has been in close contact with a person either diagnosed with or who has tested positive for COVID-19 may not continue to work at an in-person business, and must quarantine in accordance with the directives issued by the same health authorities. The length of the employee’s quarantine and their return-to-work date may vary depending upon individual circumstances and/or the nature of the employer’s business.

Retail and restaurant establishments. Enhanced enforcement against retail establishments and restaurants is also addressed in the Order. Warning letters will be issued for initial instances of noncompliance. Citations, fines, 24-hour business closure and mandated deep cleaning may be ordered for second and subsequent violations.

Civil immunity. For the first time, the Order provides civil immunity to businesses in certain situations. All businesses, including not-for-profits, and restaurant owners and employees are immune from civil liability, with limited exceptions, for enforcement of the Pennsylvania [Secretary of Health’s Order](#) requiring universal face coverings.

Seek legal counsel

While this article highlights several of the key provisions of the Governor’s Order, it is not inclusive of all aspects. Business owners should review the updated guidance and be prepared to comply. Saxton & Stump’s team of attorneys, including [Rick Hackman](#) and [Steve Fleury](#), are available to discuss the impact of the new guidance and help ensure that your business is in compliance with all COVID-19 related requirements.

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