

Latest Update: New Jersey & New York Governors Issue New, Expansive COVID-19 Executive Orders

Article By:

Jill Turner Lever

New Jersey Governor Phil Murphy and New York Governor Andrew Cuomo each recently issued new, sweeping executive orders that have effectively forced both states' non-essential businesses to grind to a halt in an effort to stem the spread of pandemic COVID-19. Below, we summarize key components of each state's newly-issued executive orders, which alter or expand upon previous orders from last week discussed in our [March 20 alert](#).

New Jersey's Executive Order

Over the weekend, Governor Murphy issued an executive order closing to the public non-essential retail businesses, requiring businesses to employ "social-distancing" best practices, and invalidating any county or municipal restriction that in any way conflicts with that order. Through his order, Governor Murphy further directed New Jersey residents to stay at home until further notice with exceptions for certain activities, such as obtaining essential goods or services, seeking medical attention, visiting family or close friends, reporting to work, or engaging in outdoor activities. Virtually all group social events and public outings have been cancelled, unless granted a specific exemption, including conferences, large gatherings, meetings, parties or festivals, parades, concerts, sporting events, and weddings.

While all businesses may continue on-line operations, non-essential retail businesses must close brick-and-mortar operations to the public.

New Jersey has established a [COVID-19 FAQ](#) website to provide the latest updates and information on the pandemic. It includes examples of what essential retail businesses are. Pursuant to same, "To the extent a business or non-profit has employees that cannot perform their functions via telework or work-from-home arrangements, the business or non-profit should make best efforts to reduce staff on site to the minimal number necessary to ensure that essential operations can continue." The website provides the following examples, among others, of employees who need to be present at their worksite: cashiers, store clerks, warehouse workers, janitorial and custodial staff, and certain administrative staff.

New York's Executive Order

On March 20, Governor Cuomo signed an executive order which increased prior workforce reduction mandates for non-essential businesses to 100%. As of now, this order remains in effect through April 19.

The new order specifies that failure by an employer to comply with its provisions constitutes a violation of the state's Public Health Law, which provides for civil penalties of up to \$2,000 per violation (\$5,000 for repeat offenders) and injunctive relief. Workers are encouraged by the Attorney General's office to file complaints with New York's Labor Bureau if they believe their employer is not complying with the governor's directives.

Takeaways

Given the gravity of the Executive Orders of Governors Murphy and Cuomo, employers should seek the advice of counsel immediately to determine whether they are an essential business and, even if they are, commence efforts, to the extent possible, to reduce their in-person workforces to the bare minimum required to operate. For employees who are permitted under these orders to travel into work in either New Jersey or New York, it may be useful for employers to send them a letter explaining the reasons why they are expected to report, in the event local law enforcement authorities question why they are travelling to work. With the COVID-19 landscape continuing to evolve rapidly, employers are encouraged to reach out to legal counsel regarding how they can navigate challenging regulatory compliance questions concerning these and other emergency mandates.

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