

## Ohio's New Stay-Safe Order Permits More Businesses to Reopen; Masks, Daily Symptom Checks Required

By Patrick O. Peters, Patricia Anderson Pryor and James P. Verdi

May 1, 2020

Ohio Governor Mike DeWine released a new "[Stay Safe Ohio](#)" Order that outlines the first phase in the state's "[Responsible Restart Ohio](#)" plan to fully reopen the state.

The Order allows more businesses to lawfully operate. Now, all manufacturing, distribution, construction, general office environments, and retail businesses that can provide curbside pickups may reopen, so long as these businesses comply with industry-specific mandates.

Business services that remain closed include:

- *Restaurants and bars* (except for takeout and delivery);
- *Personal appearance/beauty*, including hair salons, day spas, nail salons, barber shops, tattoo parlors, body piercing locations, tanning facilities, massage therapy locations, and similar businesses;
- *Adult day support or vocational habilitation services in a congregate setting*;
- *Older adult day care services and senior centers*;
- *Child care services*, except for facilities with a state-issued Temporary Pandemic Child Care License; and
- *Entertainment, recreational facilities, and gymnasiums*, including auditoriums, stadiums, arenas, parades, fairs, festivals, bowling alleys, health clubs, fitness centers, workout facilities, gyms, yoga studios, indoor trampoline parks, indoor water parks, movie and other theatres (excluding drive-in theatres), performance theatres, all public recreation centers, and indoor sports facilities. All places of public amusement, whether indoors or outdoors, including, but not limited to, locations with amusement rides, carnivals, amusement parks, water parks, aquariums, zoos, museums, arcades, fairs, children's play centers, playground, theme parks, bowling alleys, concert and music halls, and county clubs or social clubs.

### Employees Must Wear Facial Coverings, with Limited Exceptions

Following repeated modifications to applicable guidelines, the state now directs that employees *must* wear masks, except in these situations:

- Facial coverings in the work setting are prohibited by law or regulation;
- Facial coverings are in violation of documented industry standards;
- Facial coverings are not advisable for health reasons;
- Facial coverings are in violation of the business's documented safety policies;
- Facial coverings are not required when the employee works alone in an assigned work area; and
- There is a functional (practical) reason for an employee not to wear a facial covering in the workplace.

### Additional Sector-Specific Regulations

The Order also sets common and unique new safety standards for (1) manufacturing, distribution, construction; (2) general office environments; and (3) retail businesses.

These sectors must:

- Have employees perform daily symptom assessment that should include taking temperature

### Meet the Authors



[Patrick O. Peters](#)

Principal  
Cleveland 216-750-4338  
Email



[Patricia Anderson Pryor](#)

Principal and Office Litigation  
Manager  
Cincinnati 513-322-5035  
Email



[James P. Verdi](#)

Associate  
Cleveland 216-750-0404  
Email

- with a thermometer, monitoring for fever, and watching for coughing or trouble breathing;
- Ensure a minimum of six feet between people, and if not possible, install barriers;
  - Require regular handwashing;
  - Require employees to stay home if symptomatic;
  - Consider having customers, distributors, and guests wear face coverings at all times;
  - Establish maximum capacity;
  - Immediately isolate and seek medical care for any individual who develops symptoms while at work;
  - Contact the local health district about suspected cases or exposures; and
  - Shut down the shop/floor for deep sanitation if possible.

In addition, the Order provides other sector-specific requirements to address unique safety concerns in various businesses (see [our chart](#)).

### **Enforcement, Penalties**

The Order provides strengthened enforcement, including potential criminal charges.

Government officials who may enforce the Order include the city health district, health authorities or officials, officers of state institutions, police officers, and “other officers and employees of the state, county, city or township.”

A violation of the Order constitutes a second-degree misdemeanor punishable by a fine of not more than \$750, up to 90 days in jail, or both.

The Department of Health also maintains the right to order an essential business to shut down if it violates this Order.

### **Limited Appeal Rights**

Under the Order, an individual or a business may appeal a health department’s determination that a violation occurred to a Dispute Resolution Commission that will be established by the Ohio Director of Health.

The Dispute Resolution Commission’s decision will be final, but litigants may appeal administrative decisions to one of Ohio’s courts of common pleas. As these courts are operating on a reduced basis, it will be difficult to secure immediate relief if the Department of Health orders a business to shut down.

### **Stay Informed**

Jackson Lewis attorneys are monitoring [federal and state developments](#) resulting from the COVID-19 pandemic. If you need guidance, please contact a Jackson Lewis attorney. To keep on top of how COVID-19 may impact your workplace, [sign up to receive Jackson Lewis COVID-19 publications and webinar invitations](#).

©2020 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.’s 950+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients’ goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.