

# Puerto Rico Expands COVID-19 Booster Requirement, Limits Operation Capacity of Certain Businesses

By Juan Felipe Santos & Carlos J. Saavedra-Gutiérrez

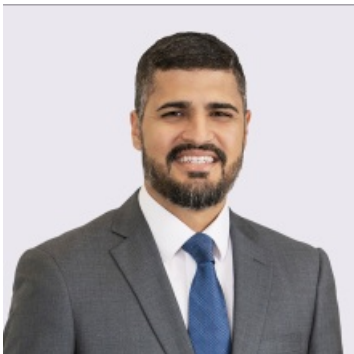
January 3, 2022

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A surge in positive COVID-19 cases in Puerto Rico has Governor Pedro R. Pierluisi issuing yet another round of executive orders, including one that expands the number of workers that must obtain COVID-19 booster shots.

Executive Order 2021-87 covers workers in the public safety and security settings (including police, firefighters, and other first responders) and certain commercial private commercial establishments (including restaurants, bars, fast food, food courts, cafeterias, supermarkets, and gas station markets). Covered workers must get a COVID-19 booster shot on or before January 31, 2022.

Similar to the [prior executive order](#), individuals are eligible for the booster shot, if they were:

- Vaccinated against COVID-19 using any of the two-dose FDA-approved or authorized vaccines and six months have passed their last dose
- Vaccinated against COVID-19 using the one-dose FDA-authorized vaccine and two months have passed since their dose

Individuals who are not eligible to get a booster shot as of the issuance of Executive Order 2021-87 (December 31, 2021), because of a medical condition or any other reason, must get their booster shot within 30 days after they become eligible to do so.

### Exceptions

Exceptions are provided for medical and religious reasons, but only to covered individuals in the public sector.

In the case of private sector covered workers, if they do not get a booster shot by the specified deadlines, they must comply with requirements from Executive Order [2021-75](#) by presenting a negative COVID-19 test result at least every seven days or certified proof of recovery from COVID-19 within the last three months. Workers who do not comply with the booster requirement or present one of the two acceptable alternatives cannot be allowed to work in-person.

In case of private sector commercial establishments, the term “employee” is to be interpreted liberally to include any person who physically works in a location, except suppliers. The term includes persons who provide services on a voluntary basis.

### Other Executive Orders

Finally, Governor Pierluisi also issued two additional executive orders that affect private sector establishments. Executive Order 2021-86 prohibits the operation of certain businesses from midnight to 5:00 a.m. Exceptions include supermarkets, operations that do not receive visitors, health services establishments, security and transportation services,

gas stations, among others. It also prohibits the sale and consumption of alcohol from midnight to 5:00 a.m. Executive Order 2021-86 went into effect on January 4, 2022, and expires on January 18, 2022.

Executive Order 2021-85 orders certain private commercial establishments to operate at reduced capacities. Covered establishments (including restaurants, bars, theaters, and cinemas) must operate at 50 percent capacity. If these establishments operate in an open-air setting, they must operate at 75 percent capacity. These requirements are in place regardless of the vaccination status of both workers and visitors, and establishments must [continue](#) to require visitors to present proof of vaccination or negative test results. Executive Order 2021-85 went into effect on December 30, 2021, and its capacity requirements expire on January 16, 2022.

### Violations

Failure to comply with some of these executive orders may result in fines of up to \$5,000, six months in jail, or both, at the discretion of a court.

Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance and are available to help employers weed through the complexities.

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our [COVID-19 team](#).

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