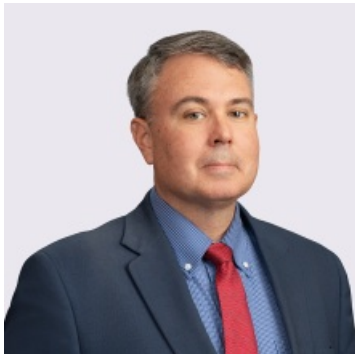


New Jersey Eases Restrictions on Construction, Non-Essential Retail

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Meet the Authors



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New Jersey Governor Phil Murphy has signed [Executive Order \(EO\) 142](#) to permit non-essential construction projects to resume and non-essential retail businesses to reopen for curbside pickup. Effective May 18, 2020, construction and non-essential retail businesses may resume operations under the new restrictions.

Non-Essential Construction

Construction projects [previously deemed non-essential](#) may resume operations, provided policies are adopted that:

- Prohibit non-essential visitors from entering the worksite;
- Engage in appropriate social distancing measures when picking up or delivering equipment or materials;
- Limit worksite meetings and workgroups to 10 individuals or fewer;
- Require individuals to remain six feet apart wherever possible;
- Stagger work start and stop times and lunch times where practicable;
- Identify congested and “high-risk areas” and limit the number of individuals in such areas where practicable;
- Limit the number of individuals in the worksite by staggering breaks and work times where practicable;
- Require workers and visitors to wear cloth face coverings while on the premises, and require workers to wear gloves while on the premises. *Businesses must provide, at their expense, such face coverings and gloves for their employees;*
- Require infection control practices;
- Limit sharing of tools, equipment, and machinery;
- Where running water is not available, provide portable washing stations with soap or alcohol-based hand sanitizers that have greater than 60 percent ethanol or 70 percent isopropanol;
- Require frequent sanitization of high-touch areas; and
- When the worksite is an occupied residence, require workers to sanitize work areas and keep a distance of at least six feet from the occupants.

Worksites also must place conspicuous signage at entrances and throughout the worksite detailing the above policy mandates.

Non-Essential Retail Businesses

[Certain non-essential retail businesses](#) may now operate under restrictions that generally require curbside pickup services to open. The restrictions include:

- Customers may not enter the physical premises, but may pick up goods outside of the establishment that they have already ordered (“curbside pickup”);
- In-store operations will be limited (where feasible) to those employees who are responsible for the operations required for curbside pickup;

- Customer transactions must be handled in advance by means that avoid person-to-person contact (*e.g.*, email, phone, and so on) where feasible;
- Customers must notify the retailer once they arrive or make best efforts to schedule their arrival time in advance;
- Customers must be instructed to remain in their vehicle until store staff delivers the purchase; and
- Designated employees must place the goods directly in a customer's vehicle wherever feasible.

All retail businesses in shopping malls are permitted to operate by curbside pickup, in accordance with the above requirements. The indoor portions of shopping malls remain closed to the public.

Protocols for Non-Essential Retail Businesses

All non-essential retail businesses reopening for curbside pickup also must:

- Require infection control practices;
- Provide employees break time for repeated handwashing throughout the workday;
- Provide sanitization materials to staff;
- Require frequent sanitization of high-touch areas in the workplace; and
- Require workers to wear cloth face coverings and gloves when interacting with other workers or customers, and gloves when in contact with customers or goods.

Any non-essential retail business that chooses to operate subject to the above restrictions must provide, at the expense of the company, face coverings and gloves for employees.

Status Quo

While the easing of restrictions will be welcomed by the business community, several restrictions in previous Executive Orders remain in place. The “stay-at-home” directive remains, albeit with modifications that permit individuals to leave their homes to participate in the activities authorized in EO 142. The restrictions, moreover, remain in place as to restaurants, entertainment, and personal care services.

To the extent a business continues to operate, the obligations to accommodate telework and work-from home arrangements remain in place. This includes the obligation to make “efforts to reduce staff on site to the minimal number necessary to ensure that essential operations can continue.” Accordingly, the return to normalcy likely will follow a path of phased easing of the restrictions.

Jackson Lewis has a dedicated team tracking and responding to the developing issues facing employers as a result of COVID-19. Please contact a team member or the Jackson Lewis attorney with whom you regularly work if you have questions or need assistance.

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