

What Employers Need to Know About Executive Order 192 and New Jersey's New Workplace Health and Safety Standards

10/29/20

On October 28, 2020, Governor Murphy signed [Executive Order No. 192](#) which requires "every business, nonprofit, and governmental or educational entity...that permits its workforce, whether in part or as a whole, to be physically present at a worksite to perform work" to abide by a variety of mandatory health and safety measures to "protect all New Jersey's workers at work during the pandemic." [Read the State's press release here.](#)

According to the Executive Order, effective November 5 at 6 am, New Jersey employers are expected to comply with the following standards:

1. Require individuals to maintain at least 6 feet of physical distance from one another to the maximum extent possible. When the nature of an employee's work does not allow for 6 feet of distance, employers will ensure that each employee wears a mask and shall install "physical barriers between workstations wherever possible." Require all employees, customers, visitors, and other individuals entering the worksite to wear cloth or a disposable face mask while on the premises. Employers must also provide face masks at their own expense. An employer can deny entry to the worksite to any employee, customer or visitor who does not wear a face mask. Please note that reasonable accommodations under the [Americans with Disabilities Act](#) in New Jersey Law Against Discrimination still apply. An employer "may require employees to produce medical documentation supporting claims that they are unable to wear a face mask because of a disability." (This provision does not apply to employers subject to [Executive Order No. 175](#) - School Districts)
2. Provide sanitizing materials such as hand sanitizer that contains at least 60% alcohol and sanitizing wipes that are approved by the United States Environmental Protection Agency for SARS-CoV-2 virus.
3. Ensure that employees practice regular hand hygiene, and provide breaks for repeated handwashing throughout the workday. Employers must also ensure employee access to adequate handwashing facilities. Employers can adopt a policy that employees are required to wear gloves but they must provide these at their own expense.
4. Routinely clean and disinfect all high touch areas and "ensure cleaning procedures following a known or potential exposure are in compliance with CDC recommendations."
5. "Prior to each shift, conduct daily health checks of employees, such as temperature screenings, visual symptom checking, self-assessment checklists, and/or health questionnaires, consistent with CDC guidance, including latest CDC guidance regarding COVID-19 symptoms, consistent with the confidentiality requirements of the ADA, NJLADA and other applicable laws, and consistent with any guidance from the Equal Employment Opportunity Commission (EEOC) and the New Jersey Division on Civil Rights."
6. "Immediately separate and send home employees who appear to have symptoms, as defined by the CDC, consistent with COVID-19 illness."
7. "Promptly notify all employees of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the ADA and any other applicable laws, and EEOC guidance."
8. "Clean and disinfect the worksite in accordance with CDC guidelines when an employee at the site has been diagnosed with COVID-19 illness."

The Executive Order exempts the following first responders:

- Emergency management personnel,
- Emergency dispatchers,
- Healthcare personnel,
- Public health personnel,
- Court personnel,
- Law-enforcement and corrections personnel,
- Hazardous materials responders,
- Transit workers,
- Child protection and child welfare personnel,
- Housing and shelter personnel,
- Military employees, and
- Governmental employees engaged in emergency response activities.

The Order also exempts the United States government or religious institutions “to the extent that application of the health and safety protocols would prohibit the free exercise of religion.”

The order states that the [Department of Labor](#) (“DOL”) will oversee the investigation of complaints concerning alleged violations. Moreover, the DOL is tasked with creating training materials regarding the aforementioned.

Also note that [Executive Order No. 107](#) has not been rescinded, providing that “all businesses or nonprofits in the State, whether closed or open to the public, must accommodate their workforce, wherever practical, for telework or work-from-home arrangements.”

If you are an employer with a question or concern about this legal alert, please contact [Tracy Armstrong](#) or another member of the Wilentz [Employment Law team](#).

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