

All New Jersey Employers Must Comply With Latest COVID-19 Executive Order

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Porzio Client Alert

In response to the surging number of COVID-19 infections throughout New Jersey, Governor Philip Murphy imposed new requirements for every employer (i.e. all businesses, non-profits, governmental and educational entities) pursuant to Executive Order #192. Effective November 5th at 6:00 AM EST, all employers with employees physically present in the workplace must enact new protocols, which include, but are not limited to, enforcing social distancing and mask usage of all individuals, conducting daily health checks of employees, and immediately sending home any employee that appears to have COVID-19 symptoms. Some employers may already be in compliance with these new requirements, but the Executive Order now imposes new fines and penalties on all individuals and employers who fail to comply. Below please find a breakdown of Executive Order #192 to help you effectively navigate this new law.

Pursuant to Executive Order #192, employers with employees present in the workplace must, at a minimum:

1. require masks and social distancing of all individuals present;
2. provide masks to employees and sanitation materials to all individuals;
3. enforce the practice of regular hand-hygiene;
4. clean and disinfect “high-touch areas”;
5. conduct daily health checks of employees;
6. immediately separate and send home “employees that appear to have COVID-19 symptoms”;
7. notify all employees of any known exposure to COVID-19 at the worksite; and
8. clean and disinfect the worksite if/when an employee has been “diagnosed with COVID-19.”

The Order permits almost all employers¹ to remove any employee, customer or visitor who refuses to wear a face mask unless the individual meets one or more of the limited exceptions (e.g., individual is under two years of age; individual is eating or drinking at the establishment; individual has a disability that prevents them from wearing a mask, etc.). However, the Order expressly prohibits those same employers from demanding medical documentation from a customer or visitor that claims to have a disability. All employers can now also adopt policies that require employees to wear gloves, but the gloves must be provided at the employer's expense.

The New Jersey Department of Labor and Workforce Development, in consultation with the New Jersey Department of Health, are now required to establish protocols to receive complaints and investigate employers who are alleged to be out of compliance with this new Order. Violations of the Order shall be considered disorderly persons offenses, which can result in fines up to \$1000.00 and up to six (6) months of incarceration. Moreover, any employer that fails to adhere to the Order may be subject to closure by the Department of Health.

Employers must act quickly to ensure they are fully compliant with this Order no later than November 5, 2020 at 6:00 AM EST. Should you require any assistance interpreting the new protocols, revising policies, or have any questions regarding the Order, the Porzio team would be happy to assist you.

¹ The provisions of Executive Order #192 related to requiring mask usage, denying entry to individuals without masks, and prohibiting employers from seeking medical documentation from visitors claiming to have disabilities do not apply to employers “subject to Executive Order No. 175” (i.e. all public, private, renaissance, and charter schools). However, the provisions of Executive Order #175 already require mandatory use of face coverings by all staff, students, and visitors except for those that meet the limited exceptions included in Executive Order #175.