

New Pennsylvania Restrictions: Mandatory Telework, Limits on Restaurants, Bars, Nightclubs, and Fitness Centers

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Pa. Gov. Tom Wolf and Secretary of Health Rachel Levine jointly announced new COVID-19 mitigation restrictions in an Order released Wednesday, July 15. The Order became effective July 16, 2020 at 12:01 a.m. and mainly impacts bars, restaurants, nightclubs and gyms. However, for other Pa. businesses, the Order also limits indoor events and gatherings to 25 persons and outdoor events and gatherings to 250 persons. Furthermore, the Order mandates telework for all businesses where possible, essentially moving back to the "Yellow Phase" restriction on in-person operations. The Order from Gov. Wolf and Secretary Levine can be found here:

- [Governor Order](#)
- [Secretary of Health Order](#)

Wolf was cited saying a "new surge is in the offing" as his Administration's reasoning for these latest restrictions. A summary of the new restrictions are below:

Requirement to Telework

- Unless not possible, all businesses are required to conduct their operations in whole or in part remotely through individual teleworking of their employees.
- Where telework is not possible, employees may conduct in-person operations, so long as the businesses comply with all existing and future public health and safety orders.

Prior to this new Order, Pennsylvania's guidelines for employers during the "Green Phase" of the Governor's Phased Reopening Plan was that telework was "*strongly encouraged*." This new Order takes a much stronger stance and is akin to the restrictions in place during the "Yellow Phase." The Governor has also updated the ["Plan for Pennsylvania" website](#) to reflect that "telework must continue where feasible" during the Green Phase.

Restaurants, Bars and Private Catering

- All businesses in the retail food services industry, including restaurants, wineries, breweries, private clubs and bars, are permitted to provide take-out and delivery sales of food, as well as dine-in service in both indoor and outdoor seating areas so long as they strictly adhere to the requirements of the Order and current safety guidance applicable to the industry.
- All bars are prohibited from conducting in-person operations unless they offer sit-down, dine-in meals or take-out sales of alcoholic beverages.
- Alcohol only can be served for on-premises consumption when in the same transaction as a meal.

- All service must be at a table or booth. Bar service and bar seating is prohibited.
- Take-out sales of alcohol for the purposes of off-site consumption are permitted.
- Occupancy is limited to:

Nightclubs

- All nightclubs, as defined by the Clean Indoor Air Act, 35 P.S. 637.2, are prohibited from conducting operations.

Other Events and Gatherings

- Other events and gatherings must be limited as follows:
- Indoor events and gatherings of more than 25 persons are prohibited.
- Outdoor events and gatherings of more than 250 persons are prohibited.
- The maximum occupancy limit includes staff.

The Order specifically defines "event and gathering."

Gyms and Fitness Facilities

- All gyms and fitness facilities, while permitted to continue indoor operations, must prioritize outdoor physical fitness activities.
- Outdoor activities must follow masking requirements and social distancing requirements of persons being at least 6 feet apart, as well as being limited by the "Other Events and Gatherings" restrictions noted above.

Businesses failing to comply can face enforcement action, including the risk of losing state-issued licenses. The Governor's Order also calls upon local officials to assist in the Commonwealth's enforcement efforts. Therefore, restaurants, bars, and other indoor facilities where gatherings are being scheduled should ensure compliance and, if necessary to avoid noncompliance, issue postponement or cancellation notices to customers. Businesses where employees are able to telework should notify their employees immediately.

Barley Snyder's attorneys continue to monitor the situation and are able to assist with compliance questions, remote work policies and other closure-related concerns. If you have questions, please contact any of our attorneys.

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