

LEGAL ALERT

Executive Orders 2020-38 and 2020-39

On May 29, 2020, Governor Pritzker issued a fourth consecutive disaster proclamation in response to the COVID-19 pandemic, and issued Executive Orders 2020-38 (“EO 2020-38”), implementing Phase 3 of the “Restore Illinois” Plan and initiating the first loosening of restrictions since March, and 2020-39, extending his previous Executive Orders.

EO 2020-38 continues to require social distancing and facial coverings in public spaces, but contains many other changes in requirements for individuals and businesses as Illinois begins to reopen. EO 2020-38 references and incorporates guidelines promulgated by the Department of Commerce and Economic Opportunity (“DCEO”), which contain specific minimum guidelines, best practices and other recommendations tailored to specific business types. The current DCEO guidelines and toolkits can be found [here](#).

Requirements for Individuals

Individuals may now gather socially in groups of 10 or less with members of other households. Individuals are recommended to continue to limit in-person contact as much as possible and to conduct activities outdoors where possible.

Requirements for Businesses, Nonprofits, Manufacturers, and other Organizations

Businesses must ensure that employees and visitors practice social distancing in all spaces, including locker rooms and lunchrooms, and wear facial coverings if social distancing is not always possible. Businesses must also post guidance from the Illinois Department of Public Health and the Illinois Attorney General regarding workplace safety, and are encouraged to continue to facilitate work from home. Manufacturers must also stagger shifts or reduce line speeds to the extent necessary to allow for social distancing and a safe workplace.

Requirements for Retail Stores

Retail stores are required to provide face coverings to all employees not able to adequately social distance, and must cap occupancy at 50% of store capacity or at the DCEO limits based on square footage. Businesses must also communicate with customers through signage and announcements regarding social distancing and facial covering requirements, and cannot use reusable bags.

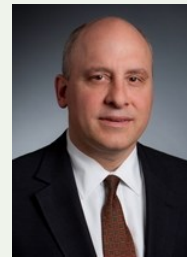
For any questions or comments you might have regarding this newsletter, please feel free to contact:

Authored By:

Name: Michael T. Jurusik

Email: mtjurusik@ktjlaw.com

Phone: 312-984-6432



Name: Thomas P. Bayer

Email: tpbayer@ktjlaw.com

Phone: 312-984-6422



Name: Anne M. Skrodzki

Email: amskrodzki@ktjlaw.com

Phone: 312-984-6413



Requirements for Restaurants and Bars

In one of EO 2020-38's biggest changes, restaurants and bars may now offer on-site consumption of food and beverages, as long as the seating is outdoors. Indoor on-site dining remains prohibited, but pick-up, delivery and drive through is permitted.

Fitness and Exercise Gyms

Fitness and exercise gyms may reopen for personal training sessions involving one trainer and one customer, and outdoor training in groups of no larger than 10 with social distancing, and onsite filming or streaming of remote classes.

Salons, Spas, Tattoo Parlors and other Personal Services Facilities

Salons and other personal services facilities may reopen, but must use face coverings, adhere to social distancing requirements, and reduce capacity. Personal services facilities must also remove shared items (i.e. magazines, etc.) and eliminate beverage service.

Places of Public Amusement

Places of public amusement, including but not limited to carnivals, amusement parks, water parks, aquariums, museums, arcades, bowling alleys, movie theaters, and concert and music halls, remain closed.

Exemptions

EO 2020-38 proclaims that it does not limit the free exercise of religion, and encourages rather than mandates houses of worship to follow guidelines implementing social distancing, facial coverings, and limitation of indoor services to 10 people or less.

EO 2020-38 also contains an exemption for emergency functions, exempting all first responders, emergency management personnel, and other essential governmental employees working to support the emergency response. Despite the exemption, affected employees are encouraged to practice social distancing and follow other public health guidelines.

Finally, EO 2020-38 does not apply to the federal government and does not affect State or municipal services needed to ensure the continuing operation of the government or to provide for or support the health, safety, and welfare of the public.

Executive Order 2020-39

Executive Order 2020-39, also issued on May 29th, 2020, addresses the extension and modification of various provisions of the previously issued Executive Orders. Generally, Executive Order 2020-39 provides that most of the provisions of the previous orders, if not superseded by new terms contained in EO 2020-38, remain in effect through June 27, 2020, or the enactment of pending legislation into law, whichever occurs first. (For a summary of pertinent provisions of prior Executive Orders, see our previous E-Notes on [Executive Order 2020-10](#), [Executive Order 2020-15](#), and [Executive Order 2020-32](#).

Several sections of previous Executive Orders may be superseded, if legislation that has passed both the Illinois House and Senate is signed into law by the Governor. HB 2455 codifies the suspension of the waiting period prior to filing for unemployment benefits; HB 2096 allows townships to postpone an annual meeting during a disaster declaration; SB 1569 modifies the School Code regarding chronic absences and e-learning; and SB 2135 amends the Open Meetings Act by implementing new rules governing attendance and participations at remote meetings. Executive Order 2020-39 provides that those specific sections will expire if and when the corresponding legislation is signed by the Governor and takes effect.

For any questions or comments you might have regarding this newsletter, please feel free to contact:

Chicago Office

20 N. Wacker Drive, Ste. 1660
Chicago, IL 60606

T: (312) 984-6400

F: (312) 984-6444

Orland Park Office

15010 S. Ravinia Ave., Ste. 10
Orland Park, IL 60462

T: (708) 349-3888

F: (708) 349-1506

Streator Office

7 Northpoint Drive
Streator, Illinois 61364

T: (815) 672.3116

F: (815) 672.0738

Lincolnshire Office

250 Parkway Drive, Ste. 330
Lincolnshire, Illinois 60069

T: (312) 984-6400

F: (312) 984-6444

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Senate Bill 2135

Senate Bill 2135, amending the Open Meetings Act, brings significant changes to public bodies' ability to conduct meetings remotely in the event of a disaster. The legislation provides procedures for remote participation in meetings, including mandatory roll call voting; notice requirements for remote meetings held under these rules as well as alternate notice requirements for bona fide emergencies; and minimum requirements for public observation and participation. When and if SB 2135 is signed by the Governor, Klein, Thorpe, and Jenkins will issue a full E-Note summarizing the new legislation.

Executive Order 2020-38 can be found [here](#), and Executive Order 2020-39 can be found [here](#).

If you have any questions regarding the content of this E-Note, please feel free to contact one of the authors.