Governor Murphy Signs Executive Order 152, Setting Forth Guidelines for Indoor and Outdoor Gatherings

Client Alert

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Nearly three months have passed since New Jersey Governor Phil Murphy issued his stay-at-home order that effectively closed down the state in an effort to stem the spread of the coronavirus. As of June 11, New Jersey has seen a confirmed statewide count of 165,816 COVID-19 cases with 12,443 confirmed fatalities. The number of cases and hospitalizations, however, have been steadily declining since mid-April, and indication that the Governor's actions have successfully flattened the curve to date.

As a result, on June 9, 2020 Governor Murphy issued Executive Order 152 (EO 152), which sets forth guidelines for the easing of the restrictions imposed by his March 9 declarations of a public health emergency and state of emergency, along with subsequent EOs imposing certain social mitigation strategies to reduce the rate of community spread of the virus. Through EO 152, the Governor is attempting to strike a balance by phasing in the reopening of public gatherings while limiting the potential for a second wave of COVID-19 cases.

The guidelines set forth in EO 152 are summarized below and take effect immediately:

- No ***indoor gathering*** may take place on public or private property, unless it adheres to all of the following rules:
  - The number of individuals is limited to 25% of the capacity of the room in which the gathering takes place, but regardless of the capacity of the room, is limited to no more than 50 persons or no less than 10 persons;
  - All attendees must wear face coverings at all times except where doing so would inhibit the individual's health or where the individual is under two years of age;
  - Individuals organizing or maintaining the gathering must wear face coverings whenever feasible, and must wear face coverings whenever they are within six feet of another individual, except when doing so would inhibit the individual's health;

- All attendees must stay six feet apart from other attendees at all times, excluding immediate family members, caretakers, household members, or romantic partners, as well as excluding a limited number of individuals organizing or maintaining the gathering;
- There may be no contact between attendees, excluding immediate family members, caretakers, household members, or romantic partners, and excluding a limited number of individuals organizing or maintaining the gathering;
- Where the number of individuals at the gathering is 10 persons or fewer, the gathering is not required to comply with the paragraphs for indoor gatherings above, but all individuals at the gathering should wear face coverings at all times, except where doing so would inhibit the individual's health or where the individual is under two years of age;
- Individuals organizing or maintaining the gathering should demarcate six feet of spacing in the area of the gathering to demonstrate appropriate spacing for social distancing, for example, through the placement of cones, flags, or other markings;
- Any physical items, including equipment, may not be shared by multiple attendees of the same gathering except for immediate family members, caretakers, household members, or romantic partners, unless such physical items are sanitized before and after use by different individuals; and
- If the gathering requires pre-payment, or seeks donations of any kind, contactless options for pre-payment or donation, such as online or by telephone, must be offered wherever feasible.

- No ***outdoor gathering*** may take place on public or private property unless it adheres to all of the following rules:
  - The number of individuals is limited to 100 persons or fewer;
  - All attendees must be six feet apart from other attendees at all times, excluding immediate family members, caretakers, household members, or romantic partners, as well as excluding a limited number of individuals organizing or maintaining the gathering;
  - There may be no contact between attendees, excluding immediate family members, caretakers, household members, or romantic partners, and excluding a limited number of individuals organizing or maintaining the gathering;
  - Individuals organizing or maintaining the gathering should demarcate six feet of spacing in the area of the gathering to demonstrate appropriate spacing for social distancing, for example, through the placement of cones, flags, or other markings;
  - Any physical items, including equipment, may not be shared by multiple attendees of the same gathering except for immediate family members, caretakers, household members, or romantic partners, unless such physical items are sanitized before and after use by different individuals;
  - Where the number of individuals at the gathering is 25 persons or fewer, the gathering is not required to comply with the paragraphs for outdoor gatherings above. In addition, where the outdoor gathering is a religious service or political activity, such as a protest, the gathering is not required to comply with the paragraphs for outdoor gatherings above;
  - Open-air rain tarps, tents, and other outdoor structures are allowed solely for the purpose of protecting against foul weather or for shade;
  - All individuals should wear face coverings at all times where other social distancing measures are difficult to maintain, in accordance with CDC recommendations, except where doing so would inhibit the individual's health or where the individual is under two years of age, and all attendees must wear such face coverings if required by another Executive Order; and

    - If the gathering requires pre-payment, or seeks donations of any kind, contactless options for pre-payment or donation, such as online or by telephone, must be offered wherever feasible.
- Individuals in a vehicle will not be considered in calculating the total number of attendees at an outdoor gathering so long as that vehicle is either: (1) closed, meaning that the windows, doors, sunroofs, and tops of the vehicle are all closed, or (2) more than six feet from any other vehicle or individual.
- Individuals at a gathering may come within six feet of another person, or come into contact with another person, going indoors, or leaving their vehicles, if done to protect their or another individual's health or safety.
- A person at a gathering may momentarily remove their mask to place or receive an item in their mouth, including food or beverage, if done for religious purposes or for their health or safety.
- Gatherings covered by EO 152 are permitted at State Parks and Forests, county and municipal parks, public and private beaches, boardwalks, lakes, and lakeshores; however, consistent with EOs 108, 133, and 148, counties and municipalities may impose additional restrictions at county and municipal parks in response to COVID-19.
- Available parking at all State Parks and Forests shall reopen to their full maximum capacity, and available parking at all county and municipal parks may reopen to their full maximum capacity.
- The provisions in paragraph 5 of Executive Order No. 107 (2020), paragraphs 3 and 7 of Executive Order No. 133 (2020), paragraphs 4 and 8 of Executive Order No. 142 (2020), and paragraphs 1 and 5 of Executive Order No. 148 (2020) are superseded by EO 152 to the extent inconsistent with this Order but all other provisions of those Eos that are not inconsistent with this Order remain in full force and effect.
- The State Director of Emergency Management, who is the Superintendent of State Police, is given the discretion to make additions, amendments, clarifications, exceptions, and exclusions to EO 152.
- Every person or entity in New Jersey or doing business in New Jersey, and every member of the governing body and every official, employee, or agent of every political subdivision in New Jersey, and each member of all other 11 governmental bodies, agencies, and authorities in New Jersey must cooperate fully in all matters concerning EO 152.
- Municipalities, counties, or any agency or political subdivision of New Jersey may not enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of EO 152, or which will or might in any way interfere with or impede its achievement.
- Violators or those aiding and abetting violators of the provisions of EO 152 may be subject to a disorderly persons offense and subject to imprisonment for a term not to exceed 6 months and/or a fine not to exceed $1,000.

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