

NEW YORK STATE BUSINESSES MUST ADHERE TO STRICT COMPLIANCE REQUIREMENTS AS THEY REOPEN

To Our Clients and Friends:

Yesterday, New York Governor Andrew Cuomo announced that New York City and Long Island will proceed to the next phase of the State's reopening process. The City will enter Phase 2 on Monday, June 22, 2020, while Long Island will enter Phase 3 on Wednesday, June 24, 2020. Phase 2 and Phase 3 allow a far broader number of businesses to open than previously available:

Phase 2 – New York City

- Offices
- Real Estate
- Essential and Phase 2 In-Store Retail
- Vehicle Sales, Leases, and Rentals
- Retail Rental, Repair, and Cleaning
- Commercial Building Management
- Hair Salons and Barbershops
- Outdoor and Take-Out/Delivery Food Services

Phase 3 – Long Island

- Food Services (limited reopening, e.g., allowing establishments to utilize up to 50% of their maximum indoor capacity)
- Personal Care

The State has further directed that as businesses reopen, they must adhere to New York's safety compliance guidelines. Businesses that have continued to operate as essential must also adhere to safety guidelines. Those guidelines vary widely by industry, so it is crucial that each business complies with the specific requirements laid out by the state according to its type of business and, for "non-essential" businesses, the phase during which it will reopen. That said, there are several common actions that businesses must take regardless of when they reopen. These obligations include:

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- Reviewing the guidelines for their sector;
- Electronically affirming that they understand those state-issued industry guidelines and that they will implement them;
- Posting conspicuous signage to remind both customers and employees to adhere to proper hygiene and social distancing protocols; and
- Adopting and conspicuously posting safety plans on site based on New York's business-specific guidelines

Businesses in New York should ensure that they follow these general requirements as well as the regulations specific to their industry as they reopen. The industry-specific guidelines New York has established are comprehensive. We summarize those guidelines here but encourage businesses to review them in detail.

Take businesses operating out of offices, for example. Offices are permitted to reopen in Phase 2 so long as they comply with a set of mandatory and optional obligations as they reopen. Mandatory obligations include maintaining 6 feet of distance between employees, limiting the occupancy of any area to 50% of its maximum capacity, closing non-essential common areas, limiting the sharing of objects, providing consistent cleaning services and others. Optional obligations include staggering worker shifts, adding social distancing markers, and using screening tools at building entrances.

A second example of an essential New York sector about to reopen in Phase 2 in the City is real estate. Real estate, too, is expected to comply with mandatory and optional steps upon reopening. Examples of mandatory steps real estate businesses must take include ensuring that the combination of employees and customers do not exceed 50% of the maximum occupancy of a given space, maintaining social distancing and/or face coverings, limiting in-person gatherings, and closing non-essential common areas. For real estate showings, the guidelines require that showings occur only in properties where the current tenant is not present, that all participants have face coverings, that high-touch services be disinfected, and that showings be scheduled to avoid congregations among other things. Optional steps businesses should take include installing physical barriers in work spaces, prohibiting non-essential visitors, and providing face coverings and gloves.

Businesses planning to reopen and businesses that have operated during the pandemic as essential should all pay close attention to these requirements as businesses operating in New York State in a broad number of industries are required to affirm both that they have read and understand state guidelines before reopening and also commit to complying with them. Gibson Dunn is continuing to monitor developments relating to the restriction of non-essential business activity in various states. Additional developments can be expected to follow in the coming days and weeks.



Gibson Dunn lawyers regularly counsel clients on the issues raised by this pandemic, and we are working with many of our clients on their response to COVID-19. For additional information, please

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contact any member of the firm's Coronavirus (COVID-19) Response Team. Please also feel free to contact the Gibson Dunn lawyer with whom you usually work, any member of the firm's Public Policy Group, or the authors:

Mylan L. Denerstein – Co-Chair, Public Policy Practice, New York (+1 212-351- 3850, mdenerstein@gibsondunn.com)

Lauren J. Elliot – New York (+1 212-351-3848, lelliot@gibsondunn.com)

Andrew A. Lance – New York (:+1 212-351-3871, alance@gibsondunn.com)

Lee R. Crain – New York (+1 212-351-2454, lcrain@gibsondunn.com)

Stella Cernak – New York (+1 212-351-3898, scernak@gibsondunn.com)

Doran Satanove – New York (+1 212-351-4098, dsatanove@gibsondunn.com)

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