

Governor Extends Phase Two of COVID-19

COVID-19 Response Resource Center: Timely Counsel for your Business

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Governor Roy Cooper this week issued Executive Order 147). The Order extends until 5:00 p.m. on July 17 the “Safer at Home” Phase 2 of the State’s plan to respond to the COVID-19 virus. Cooper cited a number of metrics, including an increase in the number of new virus cases and people hospitalized due to the virus, as reasons to extend Phase 2.

The new Executive Order extends and amends Executive Order 141, which had targeted June 26 for a move to Phase 3. Instead of moving to Phase 3, EO 147 maintains current Phase 2 restrictions on the opening of facilities such as public playgrounds, bars, nightclubs, gyms, and entertainment venues. In addition, his Order institutes a new face covering requirement.

Highlights of the New Face Covering Requirement:

- **Face coverings** are required for use in all public settings, including grocery stores, pharmacies and other retail businesses, whether inside or outside, where physical distancing of six feet is not possible unless an exception is applicable.
- **Retail businesses** must have all workers wear face coverings when they are or may be within six feet of another person. Retail businesses must also have all customers wear face coverings when they are inside the establishment and may be within six feet of another person, unless the customer meets an exception.
- **Restaurants** must have all workers wear face coverings when they are or may be within six feet of another person. Restaurants must also have all customers wear face coverings when not at their table, unless the customer meets an exception.
- **Personal care, grooming, and tattoo businesses** must have workers wear face coverings when they are or may be within six feet of another person. These businesses must also have all customers wear face coverings when they are inside the establishment and may be within six feet of another person, unless an individual meets an exception. Customers may take off their face coverings if they are receiving a facial treatment, shave, or other services on a part of the head which the face covering covers or by which the face covering is secured.
- **Child care, day camps, and overnight camps** must have workers, all other adults, and children 11 years or older wear face coverings when they may be within six feet of another person unless they meet an exception.

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- **State government agencies headed by members of the Governor's Cabinet** must have their on-site workers wear face coverings when they are or may be within six feet of another person. Other state and local government agencies are strongly encouraged to adopt similar policies.
- All workers and riders on public or private **transportation** regulated by the State, as well as all people in North Carolina airports, bus and train stations or stops, must wear face coverings when they are or may be within six feet of another person. Passengers will not be denied access to public transportation for failure to use face coverings. This provision does not apply to people traveling alone with household members or friends in their personal vehicles, but does apply to ride-shares like Ubers and Lyfts, cabs, vans, and shuttles, even if the vehicles are privately owned.
- Covered **manufacturing, construction, and agriculture businesses or operations** must require workers to wear face coverings when they are or may be within six feet of another person.
- All workers in any **meat or poultry processing plants, packing plants, or slaughterhouses** must wear face coverings when they are or may be within six feet of another person. The coverings must be surgical masks if available.
- All workers in **long term care facilities**, including skilled nursing facilities, adult care homes, family care homes, mental health group homes, and intermediate care facilities for individuals with intellectual disabilities, must wear face coverings while in the facility. The coverings must be surgical masks if available.

Exceptions to the Face Covering Requirement

Face coverings do not have to be worn by a worker, customer, or patron in certain circumstances. These include people with medical or behavioral conditions or disabilities, under eleven (11) years of age, actively eating or drinking, strenuously exercising, working at home or in a personal vehicle, or if defined as "at risk," from wearing a face covering at work, as determined by local, state, or federal regulations or workplace safety guidelines.

Under the Order, North Carolinians will be on the honor system about whether or not there is a reason why they cannot wear a face covering. If a customer states that an exception applies, a business may choose to offer curbside service, provide home delivery, or use some other reasonable measure to deliver its good or services.

Enforcement of Face Covering Requirements

Law enforcement can cite businesses that do not require their staff and encourage their customers to wear masks and can charge customers who refuse to comply after being asked with trespass and remove them from a business. Criminal enforcement of the requirement against individual

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workers, customers, or patrons is not authorized.

Operators of businesses and organizations are entitled to rely on their customers' or patrons' statements about whether or not they are excepted from the face covering requirements, and businesses and organizations do not violate the Order if they rely on such statements.

FAQs for Executive Order No. 147 may be accessed at this link: <https://files.nc.gov/governor/documents/files/EO-147-FAQ.pdf>

For more information about the new Executive Order, please contact Alex Elkan or Ed Turlington, linked below.

Brooks Pierce is dedicated to keeping our clients fully informed during the COVID-19 crisis. For more information, please visit our COVID-19 Response Resources page.

Tags: Masks, phase 2