



Frequently Asked Questions for Executive Order No. 131

April 9, 2020

This Frequently Asked Questions (“FAQ”) document provides guidance for the implementation of Executive Order No. 131 (“Order”). On Thursday, April 9, 2020, Governor Roy Cooper issued an Executive Order that provides new required and recommended policies for retail establishments, addresses COVID-19 mitigation measures for long-term care facilities, and expedites the processing of unemployment insurance claims by expanding availability of the attached claims process.

This information is subject to change in light of new CDC guidance and additional Executive Orders or local government declarations.

Required and Recommended Policies for Retail Establishments

Which retail businesses are covered by this Executive Order?

This Executive Order (“the Order”) applies to any business in which customers enter to purchase goods or services, including, but not limited to, grocery stores, big box retail stores, pharmacies, ABC stores, banks, hardware stores, and vehicle dealerships. The Order does not apply to outdoor farmers markets. Retail businesses that have been closed by previous Executive Orders or by orders of their local governments are not permitted to reopen.

What is the occupancy limit imposed on retail establishments by the Order?

The Order limits retail establishments to no more than 20 percent of the business’s stated fire capacity, counting customers but not employees, or five customers for every one thousand square feet of the retail location’s total square footage. Retail locations may choose which of the two calculations on which they base their maximum occupancy. For the square footage calculation, it includes the full footprint of the interior building, and all retail- and non-retail space.

What other requirements does the Order place on retail establishments?

The Order requires retail establishments to clearly mark six feet of spacing in lines at cash registers and in other high-volume areas to ensure proper social distancing. It also requires businesses to perform frequent and routine cleaning of high-touch areas.

What recommendations does the Order make for retail establishments?

The Order recommends that all open retail establishments:

- Supply and encourage the use of cloth face coverings for employees if it is not possible to stay at least 6 feet apart, and provide education for employees on the use of cloth face coverings.
- Place hand sanitizer at entry and exit points, and to have wipes or sprays available to sanitize carts and baskets, and have their employees wash their hands or use hand sanitizer between each customer interaction;
- Designate exclusive shopping times for seniors and other high-risk groups;
- Post signs to remind customers and employees about social distancing; and
- Establish systems for online, email or phone ordering, no-contact curbside or drive-through pickup or home delivery, and contact-free checkout.

The Order also recommends that high-volume retail establishments use shields at cash registers, clearly mark designated entry and exit points, and provide store routing guidance.

Who will enforce the Order?

The Governor expects retail establishments will comply with the Order to ensure the safety of their employees and customers and believes that most of them will. If necessary, the Order will be enforced by local law enforcement.

Does this executive order preempt similar orders put in place by local jurisdictions?

Where local emergency prohibitions or restrictions directly contradict the Order in regard to maximum occupancy requirements, social distancing markings, and cleaning and disinfection, the Executive Order amends any prohibitions or restrictions imposed by local emergency declarations by amending any language that directly conflicts with this Section (Section 1, A-C) of the Executive Order. For these three areas specifically, the Order creates a statewide standard for retail establishments. Local emergency prohibitions or restrictions that regulate other aspects of retail establishments are not affected by this Order.

Long Term Care Risk Mitigation Measures

At what point can a sick staff person come back to work?

Long-term care facilities must remind staff to stay home while they are sick. Employees should follow CDC guidelines on returning to work, including: having no fever for three full days without the use of medicine that reduces fevers; other symptoms that have improved; and at least 7 days having passed since symptoms first appeared. The CDC guidelines can be found at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/return-to-work.html>.

Employers may also consider requesting that employees who have tested positive for COVID-19 obtain a note from a qualified healthcare professional indicating that the employee is fit to return to work and that it is safe for that person to be in the workplace.

What if my facility runs out of face masks?

If you do not have a face mask, the CDC recommends wearing cloth face coverings in areas of significant community-based transmission such as long-term care facilities. Please refer to the CDC's guidance on wearing cloth face coverings at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>.

Do I have to wear a face mask at all times even when I am on break or not in the presence of residents?

Yes. Skilled Nursing Facility staff should always wear a face mask.

I just discovered that an employee/resident is suspected of having COVID-19. What should I do?

Contact your local health department immediately. Your health department will provide guidance regarding what action to take next.

I work in an independent living apartment complex, correctional facility, or another facility that is not listed in the Order. Does this Order apply to me?

These provisions only apply to the long-term care facilities listed explicitly in the Order. However, other facilities must abide by the applicable directives in other COVID-19 statewide executive orders. In addition, these facilities are encouraged to follow the COVID-19 guidance issued by the North Carolina Department of Health and Human Services at <https://www.ncdhhs.gov/divisions/public-health/covid19/covid-19-guidance>.

Are visitors allowed in long-term care facilities?

Consistent with Executive Order Nos. 120 and 121, no one should visit a nursing home, skilled nursing facility, residential care facility, or any other long-term care facility unless it is an end-of-life visit.

Expediting Processing of Certain Unemployment Insurance Claims

How will this Order assist North Carolinians who have lost their jobs as result of the COVID-19 pandemic?

This Order enables the North Carolina Division of Employment Security, the division of the North Carolina Department of Commerce which processes unemployment claims (the "Division"), to more quickly process certain claims filed by North Carolina employers as a result of the COVID-19 pandemic and to expedite the availability of financial relief to employees.

Which unemployment claims does this Order apply to?

The Order applies to those claims submitted through the “attached claims” process. This Order applies to those attached claims which are filed by an employer on behalf of an employee in the event of the employee’s partial unemployment and which are submitted through the Division’s automated process.

This Order enables the Division to exercise more flexibility with respect to processing and issuing relief for attached claims filed by employers on behalf of their employees who have suffered partial unemployment as a result of the COVID-19 pandemic.

What flexibility does this Order give to the Division with regard to processing attached claims?

Under normal circumstances, the attached claims process is only available to employers if they meet certain conditions, including that the employer have a positive credit balance with the Division at the time the claim is filed, and that the employer immediately pay to the Division the full amount of the benefit payable to the employee at the time the claim is filed. In addition, benefits issued by the attached claims process are only available for six weeks a year and an employer may only utilize the attached claims process with respect to an employee once per benefit year.

The Governor recognizes that many North Carolinians have felt the economic consequences of the COVID-19 pandemic, and wishes to lift barriers to the attached claims process to more quickly get unemployment insurance checks into the hands of North Carolinians in need.

Accordingly, the Order will enable the Division to not require that an employer filing an attached claim pay the full amount of the benefit payable to the employee at the time the claim is filed, and the Order will also enable the Division to accept those claims by employers who do not have a positive credit balance at the time the claim is filed. In addition, the Order will enable the Division to not reject claims if they are in excess of six weeks and if they are filed on behalf of employee more than once in a benefit year.

What other actions has the Division taken to get much-needed financial relief into the hands of North Carolinians more quickly?

The Division has taken a number of steps to more expediently process unemployment claims. These actions include:

- Hiring 50 new staff;
- Adding 100 staff from Division of Workforce Solutions Career Centers;
- Contracting with an additional 200-person call center;
- Adding computer servers to ensure capacity for large number of people filing online;
- Doubling printing and mail capacity to ensure timely delivery of documents; and
- Purchasing more than 500 new computers and other equipment so employees in the office and at home can work to process claim.

For more information, visit: <https://des.nc.gov/news/press-releases/2020/04/03/des-working-immediately-expand-capacity-response-surge-covid-19>.

I am a North Carolina employer seeking to file an attached claim on behalf of my employees. How do I get more information on the process and begin a claim?

To obtain information on how file an attached claim on behalf of your employees, visit: <https://des.nc.gov/need-help/covid-19-information/covid-19-information-employers>. This page will be updated with the new process following the signing of the Order.

I am a North Carolina employer seeking to file attached claims on behalf of my employees; how will this impact my 2020 first quarter unemployment payment to the Division?

The Order allows for employers seeking to file attached claims to submit their claims in advance of their 2020 first quarter unemployment payment. The 2020 first quarter unemployment payment remains due and payable to the Division.