



## Major Points from Governor Kemp's 04.30.21.01 and 04.23.21.01 Executive Orders

On April 23, 2021, Governor Kemp issued Executive Order 04.23.21.01 which extends Georgia's Public Health State of Emergency through May 30, 2021. On April 30, 2021 the Governor also issued Executive Order 04.30.21.01 hereinafter ("the Order") which will be effective May 1, 2021 through May 30, 2021, and which lays out detailed provisions to govern the ongoing Public Health State of Emergency.

***(New provisions are bolded and italicized).***

### Summary of Key Points

General highlights: The Order –

- 1. Modifies the social distancing and sanitation requirements for residents and visitors to "strongly encouraged."***
- 2. Eliminates the restaurant and bar table distancing requirements and workers mask requirement.***
- 3. Eliminates all specific requirements for gyms and fitness centers, movie theaters, body art studios, estheticians, hair stylists, and massage therapy.***
- 4. Reduces the requirements for Conventions.***
- 5. Eliminates the requirement that childcare facilities prohibit all unnecessary visitors.***
- 6. Provides that Live Performance Venues, regardless of seating capacity, are only required to follow the guidelines for all Organizations, and such venues may implement additional measures in conjunction with the performer or organizer of an event.***
- 7. Maintains that professional, collegiate, and high school sports organizations and events shall operate pursuant to the rules or guidelines issued by their respective league, conference, or association.***
- 8. Clarifies that graduation ceremonies are only required to follow the guidelines for all Organizations.***

The previous Executive Order 03.31.21.03 had already loosened restrictions in the following ways:

1. Eliminated the ability of law enforcement to close an organization for failure to comply with the Executive Order provisions
2. Eliminated the ban on "Gatherings" of any size
3. Eliminated Shelter-in-Place requirements
4. Removed the critical infrastructure distinction and collapsed all suggested measures into one main list, with a small number of additional industry-specific requirements
5. Reduced any remaining distance requirements (i.e. distance between parties at restaurants, bars, and movie theaters, and between patrons of group fitness classes)

***Everyone is still strongly encouraged to wear a face mask when outside of their homes (except for when eating, drinking, or exercising outdoors).***

***Everyone is still strongly encouraged to practice social distancing.***

***Everyone is still required to practice sanitation in accordance with the guidelines published by the Centers for Disease Control.***

#### Definitions (pp. 8-10)

Definitions of terms used in the Order such as “Bar”, “Convention”, “Post-Exposure Quarantine Protocol”, “Live Performance Venue”, and “Fully Vaccinated” are found here. ***The definition for “Live Performance Venue” has been amended in this Order.***

#### Provisions Specific to Governments (pp. 20-25) and Enforcement (pp.26 - 27)

Although it is vital that Local Government entities acquaint themselves with the complete substance of the order, some of the highlights for local governments are as follows:

1. **The former provision that any law enforcement officer may, after providing reasonable notice and at least 2 citations for violations of O.C.G.A. § 38-3-7 mandate the closure of any business, establishment, corporation for failure to comply with the provisions of the Order has been removed.**
2. **Pursuant to the Order no Organization shall be mandated to close for failure to comply with the provisions of the Order.**
3. Municipalities must continue to abide by their obligations to conduct public auctions through the statutory levy processes and otherwise enforce writs of fieri facias.
4. Other than orders issued pursuant to the authority of Code Section 38-3-60 et seq. (Judicial Emergencies), local ordinances or resolutions requiring people to wear face coverings, masks, face shields, or any other Personal Protective Equipment while in places of public accommodation or on public property are suspended to the extent that they are more restrictive than this Executive Order **unless specifically allowed in the Order. Local Option Face Covering Requirements are permitted as provided for in the Order.**
5. The Order includes language providing that non-citizen legal residents can apply for temporary 120-day driver’s permits or identification cards “if they have a valid Georgia license or ID that expired on March 14, 2020 or later”. It can also be requested by those who “have a pending application for an extension of legal residence” with the federal government. They can also request additional 120-day permits if they have already been granted one previously.
6. Applications for renewals of such weapons carry licenses and renewal licenses will be considered to be for a renewal license if the holder of the weapons carry license or renewal license applies within 120 days after the expiration date on the license.
7. For the purposes of Code Section 48-5-311(e)(6A), "in-person" appearances before county boards of equalization may occur via remote communications. This provision shall be implemented consistent with Ga. Comp. R. & Regs. r. 560-11-12-.02, which requires hearings before county boards of equalization to "only be as formal as is necessary to preserve order and be compatible with the principles of justice." This provision does not abrogate the requirement that county boards of equalization comply with the Georgia Open Meetings Act. Further,

decisions of county boards of equalization may be transmitted electronically if all parties consent at the time of the hearing.

8. Can enact ordinances for emergency management purposes and to supplement the carrying out of the Order – but cannot be more or less restrictive **unless specifically provided for in the Order**. “More or less restrictive” is not defined in the Order.
9. The Order provides “[t]hat any purported requirement under the laws of this state requiring original signatures and raised corporate seals related to construction surety bonds required under Code Sections 13-10-40- 65, 32-2-70, 36-91-1, 36-91-2, 36-91-50 and 36-91-70-93 and commercial surety bonds required or permitted under numerous other statutes are suspended for the limited purpose of providing that public procurement officers shall accept electronic signatures and electronic corporate seals as provided by the provisions of Code Sections 10-12-2 et seq. and 33-24-14 and any construction surety bond or commercial surety bond may be executed electronically if all the following requirements are met:
  - a. The document is notarized pursuant to the requirements of Executive Order 04.09.20.01; and
  - b. If requested by the procurement officer, the original shall be provided within seven (7) business days.

#### Local Option Face Covering Requirement (pp. 22-23)

In the 08.15.20.01 order the Governor issued specific provisions concerning local face covering requirements. **Those provisions were renewed in the subsequent orders and are provided for in the Order.** Local governments may impose such Face Covering Requirements as follows:

1. Local governments which had met the Threshold requirement (as defined in the Order as being in a county having a prevalence of 100 cases per 100,000 people over the past 14 days) are allowed to impose a Local Option Face Covering Requirement but are not required to do so. **(Case numbers can change daily so we advise cities monitor this closely to ensure they remain in compliance.)**
2. If a local government decides to impose a face covering requirement it has to comply with the following:
  - a. The requirement cannot be applied to people who are eating or drinking, who have difficulty putting on or taking off a face covering without assistance, those who have a religious objection, and those who have a medical reason for not wearing a face covering.
  - b. Penalties (criminal or otherwise) cannot be imposed on any private business, establishment, corporation, non-profit corporation, or organization.
  - c. The maximum penalty cannot be larger than \$50 per offense.
  - d. Enforcement can only be against individuals, people who operate businesses and the businesses themselves cannot be held liable for failures of their customers to comply.
  - e. The requirement cannot be enforced at any Polling Place.
  - f. The requirement cannot be enforced against individuals on residential property.
  - g. The requirement can be enforced against people on private property when the owner or occupant of the private party consents to enforcement. Such businesses, etc. can be required to post a reasonable public notice stating whether they consent to enforcement or does not consent to enforcement on its property.

3. Local governments imposing a face covering requirement must warn noncompliant individuals about the health risks of not wearing a face covering prior to issuing a citation and shall make good faith efforts to distribute free masks to those who cannot afford a mask. If an individual is found in violation and cannot afford a mask, the local government must provide them a mask at the local government's expense.
4. Local governments have the authority to control the terms of entry onto property owned or leased by the local government regardless of whether the Threshold Requirement is met or not.

#### Specific Businesses (pp. 10-11)

*Restaurants, and Bars, dining Rooms, banquet facilities, private event facilities, and private reception venues where food is served*

Businesses allowing in-person service:

1. Shall implement the 7 measures of the Order intended to mitigate the spread of COVID-19.
2. Some of the significant measures are:
  - a. Require Workers who exhibit Symptoms of Covid-19 to not report to work.
  - b. Require Workers to wear face coverings while interacting with patrons.
  - c. Maintain a regular cleaning schedule for the entire facility.
  - d. Post signage at entrances that no one with symptoms of Covid-19 may enter.
  - e. Use technological solutions where possible to reduce person-to-person interaction.
3. These requirements do not apply to dine-in services at hospitals, healthcare facilities, nursing homes, or other long-term care facilities.

#### *Industry, Commerce, and Organizations (pp. 12-13)*

All Organizations that continue in-person operations during the effective dates of the Order shall implement the 12 measures provided in the Order to mitigate the exposure and spread of Covid-19.

Such measures may include among other measures:

1. Any measures that have proven effective to control the spread of Covid-19
2. Screening and evaluating Workers who exhibit Symptoms of Covid -19
3. Requiring Workers who exhibit Symptoms of Covid -19 to not report to work
4. Enhancing sanitation as appropriate
5. Increasing space between workers

***The Order provides that Live Performance Venues, regardless of seating capacity, are only required to follow the guidelines for Organizations, and such venues may implement additional measures in conjunction with the performer or organizer of an event.***

***The Order eliminates all specific requirements for gyms and fitness centers, body art studios, estheticians, hair stylists, and massage therapy, and theaters and cinemas. These businesses must abide by the restrictions for all Industry, Commerce, and Organizations.***

#### *Conventions (p. 13)*

***In addition to the Industry, Commerce, and Organizations measures above, Conventions operating during the effective dates of the Order must implement the 5 measures contained in this section. This includes requirements, among others, that:***

1. **All individuals exhibiting Symptoms of Covid-19 while at the Convention be isolated and leave the facility as soon as possible.**
2. **Isolation areas must be provided for individuals experiencing symptoms of Covid-19 that are unable to immediately vacate the area.**
3. **Training must be provided to workers to help them identify individuals exhibiting the symptoms of Covid-19.**

#### *Outdoor Workers*

**This section has been removed.**

#### *Healthcare Providers (pp.13 - 17)*

Long-Term Care Facilities must comply with the Department of Public Health's Long-Term Care Facility Administrative Order (this provision will be strictly enforced) and must implement additional measures and protocols to prevent the spread of Covid-19 in line with the Centers for Disease Control and Prevention, and the Department of Public Health's, guidance. The Department of Public Health may assume management of any Long-Term Care Facilities that fail to follow the protocols.

This Section also allows the National Guard to assist in the enforcement of such provisions.

This Section contains language regarding the lifting of limitations on the numbers of pharmacy interns permitted, provision permitting licenses dentists to administer Covid-19 vaccinations.

#### *Education and Children (pp.17 - 20)*

In addition to the Industry, Commerce, and Organizations measures discussed above and the standard hygiene, sanitation, and disinfection licensing rules promulgated by the Georgia Department of Early Care and Learning, all Childcare Facilities that operate during the effective dates are required to follow the **3** measures laid out on pages 19. Such measures shall include:

1. Children must be screened for Symptoms of Covid-19 prior to entry
2. Entry must be prohibited if the child shows Symptoms of Covid-19
3. Allowing only bedding that can be washed. Each child's bed must be kept separate and should be stored separately. Any bedding that touches the child's skin should be washed regularly

**The former requirement that unnecessary visitors be prohibited has been removed from the Order.**

This section contains language that relates to the HOPE and Zell Miller Scholarship programs.

No provision of the Order shall infringe upon any custodial arrangements.

#### *Governments (pp. 20 – 25) – See section above*

#### *Sports & Live Performance Venues (pp. 25 – 26)*

**Sports & Live Performance Venues operating during the effective dates of the Order must follow the Industry, Commerce, and Organizations measures above. Restrictions based on Capacity have been removed.**

**Professional, collegiate, and high school sports organizations and events shall operate pursuant to the rules or guidelines issued by their respective league, conference, or association.**

*Enforcement (pp.26 - 27)*

1. **The provisions that any law enforcement officer may, after providing reasonable notice and at least 2 citations for violations of O.C.G.A. § 38-3-7 mandate the closure of any business, establishment, corporation for failure to comply with the provisions of the Order has been removed.**
2. **Pursuant to the Order no Organization shall be mandated to close for failure to comply with the provisions of the Order.**
3. Violation of the Order is a misdemeanor under O.C.G.A. § 38-3-7.
4. No Judicial Order is affected by the Executive Order.