



June 2021

## New York State Lifts COVID-19 Restrictions for Restaurants, Most Industries

By Alexander Bogdan

Governor Andrew Cuomo announced on June 15, 2021 that New York State's COVID-19 restrictions and guidelines would be immediately lifted across commercial industries in the state, including restaurants, bars and nightclubs. Therefore, commercial establishments will no longer have to follow the COVID-19 restrictions that have been in place for the past 15 months.

According to the [Governor's announcement](#), the State's restrictions concerning social gathering limits, capacity restrictions, social distancing, cleaning and disinfection, health screening and the collection of contact information for tracing are no longer mandatory. As a result, restaurants will no longer need to, for example, take the temperatures of guests or employees, maintain distance between tables or erect physical barriers separating guests, or shut down areas for extensive cleaning and disinfecting if the restaurant learns an employee or customer tested positive for COVID-19.

Unvaccinated individuals "continue to be responsible for wearing masks," according to the Governor's announcement. The Governor's announcement, however, does not place any such responsibility on businesses to ensure that unvaccinated people wear masks – only responsibility on the individuals themselves. It remains to be seen whether further guidance from the State will be issued, but for now, most businesses are not required to enforce mask guidelines.

New York's COVID-19 guidelines and restrictions remain in place for a limited number of industries,

including large-scale indoor event venues, pre-K to grade 12 schools, public transit, homeless shelters, correctional facilities, nursing homes and health care settings per CDC guidelines.

Large-scale indoor event venues—now defined as indoor venues that can hold more than 5,000 attendees—can operate at full capacity without social distancing requirements if all attendees provide proof of vaccination or a recent negative COVID-19 test. Unvaccinated attendees, or attendees whose vaccination status is unknown, must continue to wear masks in the venue.

Businesses may voluntarily continue to follow the State's prior COVID-19 guidelines or implement their own health precautions for employees, customers and guests. Businesses may also require their employees and customers to wear masks and/or observe social distancing regardless of vaccination status. Any requirements that businesses may choose to implement must be in compliance with all relevant federal, state, and local anti-discrimination laws, including the Americans with Disabilities Act and the New York State and New York City Human Rights Laws.

If restaurants and other businesses elect to eliminate mandatory mask policies for their employees, they must permit employees to wear masks if those employees are not vaccinated, or if the employee may require the use of a mask as a reasonable accommodation for a disability. In particular, OSHA has updated its [COVID-19 guidance](#) to state that employers (except in healthcare) no longer need to take steps to protect workers from exposure to COVID-19 if all

employees have been vaccinated. However, employers still have an obligation to take steps to protect unvaccinated or other at-risk employees in the workplace from COVID-19. OSHA recommends that employers continue to provide employees who are not vaccinated or at risk with face coverings and that those employees wear face coverings in the workplace.

*For more information about this alert, please contact Carolyn D. Richmond at 212.878.7983 or [crichmond@foxrothschild.com](mailto:crichmond@foxrothschild.com), Glenn S. Grindlinger at 212.905.2305 or [ggrindlinger@foxrothschild.com](mailto:ggrindlinger@foxrothschild.com), or Alexander Bogdan at 212.878.7941 or [abogdan@foxrothschild.com](mailto:abogdan@foxrothschild.com), or any member of Fox Rothschild's New York Labor and Employment Group.*

Attorney Advertisement

© 2021 Fox Rothschild LLP. All rights reserved. All content of this publication is the property and copyright of Fox Rothschild LLP and may not be reproduced in any format without prior express permission. Contact [marketing@foxrothschild.com](mailto:marketing@foxrothschild.com) for more information or to seek permission to reproduce content. This publication is intended for general information purposes only. It does not constitute legal advice. The reader should consult with knowledgeable legal counsel to determine how applicable laws apply to specific facts and situations. This publication is based on the most current information at the time it was written. Since it is possible that the laws or other circumstances may have changed since publication, please call us to discuss any action you may be considering as a result of reading this publication.  
[www.foxrothschild.com](http://www.foxrothschild.com)