

## TENNESSEE – Back to Business Orders – COVID-19 – (Issued 4/28/20 through 7/6/20)

---

### All Executive Orders

<https://sos.tn.gov/products/division-publications/executive-orders-governor-bill-lee>

### Executive Orders Covered by This Summary:

EO 38: <https://publications.tnsosfiles.com/pub/execorders/exec-orders-lee38.pdf>

EO 53: <https://publications.tnsosfiles.com/pub/execorders/exec-orders-lee53.pdf>

EO 54: <https://publications.tnsosfiles.com/pub/execorders/exec-orders-lee54.pdf>

### Additional Orders Referenced:

EO 30 <https://publications.tnsosfiles.com/pub/execorders/exec-orders-lee30.pdf>

EO 35 <https://publications.tnsosfiles.com/pub/execorders/exec-orders-lee35.pdf>

### Tennessee Pledge for Reopening

<https://www.tn.gov/governor/covid-19/economic-recovery.html>

### Economic Recovery Group Guidelines (ERG Guidelines)

<https://www.tn.gov/governor/covid-19/economic-recovery.html>

GENERAL TOPIC	SUMMARY	SECTION #
Effective Dates	EO 38 (as extended): May 22, 2020 until August 29, 2020 EO 53: July 1, 2020 until July 31, 2020 at 11:59 CT EO 54: July 6, 2020 until August 3, 2020 at 11:59 CT  [EO 30 was issued 4/28/20, effective 4/29/20, and EO 35 was issued 5/7/20, effective 5/8/20. Both have been superseded by EO 38.]	Signature page of each respective Order
General	Tennessee had closed all nonessential businesses. It has implemented reopening of businesses in phases, in accordance with the Tennessee Pledge for Reopening, and the ERG Guidelines. Reopenings commenced under EOs 30 (effective 4/29/20) and EO 35 (effective 5/8/20). Those orders are superseded by EO 38. EO 38: Continues the business reopenings that were commenced under prior EO's 30 and 35. <b>[Major changes made by EO 38 shown in blue.]</b> EO 53: Establishes limited COVID-related liability for health care providers.	

Disclaimer: The information provided in this handout is general information and not designed to be and should not be relied on as your sole source of information when analyzing and resolving a specific legal issue. Each fact situation is different; the laws are constantly changing. If you have specific questions regarding a particular fact situation, we urge you to consult with legal counsel.

All product and company names are trademarks™ or registered® trademarks of their respective holders. Use of them does not imply any affiliation with or endorsement by them.

# Holland & Knight

	EO 54: Addresses the authority of local governments regarding face coverings.	
Shelter in Place/Individuals/Return to Work	<p>Prior stay at home order (EO 22) was previously repealed.</p> <p>Persons, businesses, and organizations are encouraged to return to work consistent with the provisions of Order 38, while following to the greatest extent practicable, the Health Guidelines and ERG Guidelines (see Appendix).</p> <p>All persons are still strongly encouraged to continue to stay at home and to minimize in-person contact with people not in the same household, except when engaging in <u>Critical Activities</u> (see Appendix).</p> <p>Persons with COVID-19 or COVID-19 symptoms must stay at home.</p>	<p>EO 38-1</p> <p>EO 38 – 4</p> <p>EO 38 – 9</p>
All Businesses	<p>The prior order restricting all nonessential businesses (EO 22) was previously repealed, effective 4/29/20.</p> <p>All employers continue to be strongly urged to take steps to the greatest extent practicable to equip, require and permit employees to work remotely or via telework from home. Employees and customers should practice good hygiene and observe the Health Guidelines.</p> <p>All venues, employers, and businesses are expected to operate in accordance with, and to fulfill the spirit of, applicable operational guidance and measures adopted and/or issued by the <a href="#">ERG Guidelines</a>. These include specific guidance for specific sectors, including Restaurants, Retail, Manufacturing, Exercise, Close Contact Businesses, Lodging, Recreation.</p> <p>An employer shall not require or allow an employee who the employer knows has tested positive for COVID-19 to report to work until that employee has satisfied the conditions for discontinuing home isolation under CDC guidelines.</p>	<p>EO 38 – 1(a)</p> <p>EO 38 – 1(b)</p> <p>EO 38 – 10</p>
Restaurants/Bars	<p>Restaurants and bars have previously been permitted to reopen, subject to <a href="#">ERG Guidelines</a>.</p> <p>Additionally, bars, night clubs, and limited service restaurants may only serve customers seated at tables and must follow the</p>	EO 38 – 11

Disclaimer: The information provided in this handout is general information and not designed to be and should not be relied on as your sole source of information when analyzing and resolving a specific legal issue. Each fact situation is different; the laws are constantly changing. If you have specific questions regarding a particular fact situation, we urge you to consult with legal counsel.

All product and company names are trademarks™ or registered® trademarks of their respective holders. Use of them does not imply any affiliation with or endorsement by them.

# Holland & Knight

	<p>above ERG Guidelines. Such establishments may offer drive-through, pickup, carry-out or delivery services.</p> <p>Take-out alcohol sales by restaurants and limited-service restaurants are allowed to continue, subject to limitations.</p>	EO 38 – 12
Close Contact Businesses	Close contact businesses (including barber shops, hair salons, etc.) were initially closed, and were permitted to reopen May 8, 2020, subject to <u>ERG Guidelines</u>	
Businesses Reopening/Remaining Closed	<p>Many entertainment, recreational and other gathering venues were initially closed. Certain of them were permitted to reopen effective 5/8/20, and most of the remaining restrictions have been lifted effective 5/22/20. The ERG Guidelines provide recommendations for closures and modifications. (<a href="https://www.tn.gov/governor/covid-19/economic-recovery/attractions-and-large-venues-guidelines.html">https://www.tn.gov/governor/covid-19/economic-recovery/attractions-and-large-venues-guidelines.html</a>).</p> <p><u>Contact sporting events</u> and activities (see Appendix) remain prohibited. Collegiate and professional sporting events and activities may be conducted if permitted by the rules or guidance of their respective governing bodies.</p> <p><u>Noncontact sporting events</u> and activities (see Appendix), and spectating for such events and activities, are permissible subject to applicable social distancing guidelines provided by Order 38.</p> <p>Youth summer camps are permitted to open. When making their decision to reopen, camps should refer to the ERG Guidelines, as well as the CDC decision tree (both available at: <a href="https://www.tn.gov/governor/covid-19/economic-recovery/summer-day-camps-guidelines.html">https://www.tn.gov/governor/covid-19/economic-recovery/summer-day-camps-guidelines.html</a>).</p> <p>Elderly-citizen and care facilities remain closed to visitors unless the facility determines that the visit involves critical assistance or end-of-life care and that it may be accomplished without unreasonable risk to other residents or staff.</p>	<p>EO 38 – 2</p> <p>EO 38 – 6</p>
Gatherings	Under prior orders, gatherings of ten or more people were prohibited. Under EO 38, this limit was lifted to fifty. Social distancing continues to remain imperative and persons should, to the greatest extent practicable, maintain at least six (6) feet of separation from persons outside their household, and shall not in	EO 38 – 2, 3

Disclaimer: The information provided in this handout is general information and not designed to be and should not be relied on as your sole source of information when analyzing and resolving a specific legal issue. Each fact situation is different; the laws are constantly changing. If you have specific questions regarding a particular fact situation, we urge you to consult with legal counsel.

All product and company names are trademarks™ or registered® trademarks of their respective holders. Use of them does not imply any affiliation with or endorsement by them.

# Holland & Knight

	any event be in a group of fifty (50) or more persons for the purposes of <u>social or recreational activities</u> (see Appendix) or events. This does not necessarily prohibit fifty (50) or more total persons from gathering in a single place or venue for an activity or event if they are in separate, otherwise permissible smaller groups that substantially maintain six (6) feet or more of separation from other persons or separate groups. See section 3 of EO 38 for provisions re worship services, weddings and funerals.	
Facemask Requirements	In accordance with CDC guidance, persons, including employees or customers of businesses, are “strongly urged” to wear cloth face coverings or other similar coverings in public settings where being in close proximity to others is anticipated, and particularly where other social distancing measures are difficult to maintain at all times.  County mayors in counties that do not have a locally run county health department shall have the authority to issue orders or measures requiring or recommending the wearing of face coverings within their jurisdiction, subject to limitations.	EO 38 – 5  EO 54
Travel Restrictions	The <u>Health Guidelines</u> recommend that individuals avoid discretionary travel and that employers reduce business travel.	EO 38 – Recitals
Limitation of Liability	Health care providers licensed, certified, or authorized under title 33, 63, or 68, who render services within the limits of their license, certification, or authorization are granted limited liability protection and accordingly shall not be liable for any illness, injury, death, or damages related to the contraction of, or suspected contraction of, COVID-19 alleged to have been caused by acts or omissions within the limits of the provider’s license, certification, registration, or authorization. This protection does not include any act or omission caused by gross negligence or willful misconduct.	EO 53 – 1
Impact on Other Orders	EO 38 supersedes EOs 30, 33 and 35. The provisions of EO 38 shall exclusively govern on the subjects it concerns in the 89 counties that do not have a locally- run county health department. The six locally-run county health departments in Davidson, Hamilton, Knox, Madison, Shelby, and Sullivan counties shall have authority to issue additional orders or measures related to the containment or management of COVID-19, which may be more or less restrictive than this Order. Nothing in this Order shall affect or limit local orders that do not contravene or limit the application of the provisions of this Order.  Any law, order, rule, or regulation that would otherwise limit the	13  14

Disclaimer: The information provided in this handout is general information and not designed to be and should not be relied on as your sole source of information when analyzing and resolving a specific legal issue. Each fact situation is different; the laws are constantly changing. If you have specific questions regarding a particular fact situation, we urge you to consult with legal counsel.

All product and company names are trademarks™ or registered® trademarks of their respective holders. Use of them does not imply any affiliation with or endorsement by them.

# Holland & Knight

	enforceability of this Order is hereby suspended.	
	<b>APPENDIX (SUMMARY)</b>	
Economic Recovery Group Guidelines	See <a href="https://www.tn.gov/governor/covid-19/economic-recovery.html">https://www.tn.gov/governor/covid-19/economic-recovery.html</a>	
Health Guidelines	<p>Includes--</p> <p><u>For individuals:</u></p> <ol style="list-style-type: none"> <li>Maintaining at least six (6) feet of distance from other persons</li> <li>Practicing good personal hygiene and observing other CDC recommendations</li> <li>Remaining at home if you feel sick;</li> <li>Working from home whenever possible</li> <li>Avoiding discretionary travel and social gatherings</li> <li>Avoiding visitation or close contact with vulnerable persons or those who are sick</li> </ol> <p><u>For Employers:</u></p> <ol style="list-style-type: none"> <li>Implementing appropriate policies and practices in accordance with state and federal guidance to facilitate social distancing, temperature checks, sanitation, use and disinfection of common areas, and reduced business travel</li> <li>Monitoring employees for symptoms and prohibiting employees with symptoms from returning to work until cleared by a medical provider</li> <li>Cooperate with governmental contact tracing procedures for employees or customers who test positive for COVID-19</li> </ol>	EO 38 – Recitals
Critical Activities	Activities such as employment or occupational activities, activities integral to health and safety, obtaining supplies or services, engaging in permitted outdoor activity, caring for or visiting family or friends, visiting a place of worship, or travel associated with such activity	EO 38 – 4
Social or Recreational Gatherings	Social and recreational gatherings include, but are not limited to, festivals, fairs, parades, youth and adult sporting events, overnight summer youth camps, and other types of social or recreational assemblies or gatherings	EO 38 – 2
Contact Sporting Events and Activities	"Contact sporting events and activities" are sports for which there is a requirement or substantial likelihood of routine, sustained close proximity or physical contact between participants. For example, some sports, such as wrestling are scored by impacting an opponent,	EO 38 – 2

Disclaimer: The information provided in this handout is general information and not designed to be and should not be relied on as your sole source of information when analyzing and resolving a specific legal issue. Each fact situation is different; the laws are constantly changing. If you have specific questions regarding a particular fact situation, we urge you to consult with legal counsel.

All product and company names are trademarks™ or registered® trademarks of their respective holders. Use of them does not imply any affiliation with or endorsement by them.

# Holland & Knight

	while others, including football or rugby, require tackling of players. Others like basketball, soccer, lacrosse, rugby, ice and field hockey, rowing, mixed martial arts, wrestling, boxing, and other combat sports involve participants being in close, sustained proximity and likelihood of physical contact. "Contact sporting events and activities" does not include training or otherwise engaging in elements or aspects of such sports or activities in a manner that do not involve close contact with other persons.	
Noncontact Sporting Events and Activities	"Noncontact sporting events and activities" means sports that can be conducted while substantially maintaining appropriate social distancing, and that involve at most only close contact or proximity between participants that is incidental to the activity. Such sports include, but are not limited to, baseball, softball, volleyball, golf, disc golf, tennis and other racket sports, cycling, swimming, track and field and running events, and equestrian.	EO 38 – 2

**DISCLAIMER:** This information is provided for convenience only, and should not be relied upon in making decisions for your business. As this is a rapidly changing area, reference should always be made to the official order and related interpretative guidance. If you have specific questions about how any particular jurisdiction's Order affects your business, or other COVID-19 topics, please contact a member of the Holland & Knight's COVID-19 Response Team – State and Local Orders and Regulations.

Disclaimer: The information provided in this handout is general information and not designed to be and should not be relied on as your sole source of information when analyzing and resolving a specific legal issue. Each fact situation is different; the laws are constantly changing. If you have specific questions regarding a particular fact situation, we urge you to consult with legal counsel.

All product and company names are trademarks™ or registered® trademarks of their respective holders. Use of them does not imply any affiliation with or endorsement by them.