

Executive Order 2021-036 Eliminates Curfew; Additional Modifications Announced

ATTORNEYS

- Arturo J. García-Solá
- Marcos Rodríguez-Ema
- Rubén Méndez-Benabe
- Isis Carballo-Irigoyen
- Carlos J. Fernández-Lugo
- Patricia George-Iguina
- Anita Montaner-Sevillano
- Ramón A. Parrilla-Carbia
- Miguel Rivera-Arce
- Magda M. Boyles
- Laura Femenías-Jové
- Sila M. González-Calderón
- Carla S. D'Almeida-Aracena

PRACTICE AREAS

- Government Affairs

An McV Government Affairs Alert

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On March 20, 2021, Governor Pedro R. Pierluisi signed Executive Order 2021-036 (“EO 2021-036” or the “Executive Order”) to, among other matters, eliminate the curfew established last year in previous administrative bulletins and modify certain restrictions in connection with Government efforts to curb the spread of COVID-19 in Puerto Rico, among other matters.

In addition, EO 2021-036, which is effective from May 24 until June 6, 2021, unless otherwise extended or modified, and eases certain restrictions by considering the recommendations of the Centers for Disease, Control and Prevention (CDC), the Puerto Rico Department of Health and other government instrumentalities.

For your convenience, this Alert will highlight the major modifications and amendments in this new Executive Order. We will refer to our previous Alerts as needed.

Elimination of Curfew (Section 1 of the Executive Order)

EO 2021-036 eliminates the curfew imposed by administrative bulletin EO 2020-023, which has been in effect (as modified) since March 15, 2020. The Executive Order, however, urges people to comply with the precautionary measures set forth in EO 2021-036.

Private Operations (Section 6 of the Executive Order)

Authorized Businesses

The commercial businesses previously authorized to do business pursuant to previous administrative bulletins may continue operating, subject to the precautionary measures set forth in EO 2021-036.

The following businesses may continue operating Monday through Sunday **from 5:00am until 12:00 midnight** at or below 50% of their maximum capacity, where applicable, as defined in PR Building Code 2018:

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- Amphitheaters
- Casinos
- Consumer Services Businesses
- Film Industry
- Financial Services Businesses
- Funeral Homes
- Medical Offices
- Pools
- Religious Services
- Riding Clubs (Club Hípico)
- Theaters
- University and Post-Graduate Studies

Food Businesses

Pursuant to Section 6 of EO 2021-036, restaurants may keep their dining rooms open Monday through Sunday until 12:00 midnight, at or below 50% of their maximum capacity, as defined in PR Building Code 2018. Outdoor areas of restaurants may continue to operate at full capacity.

Grocery stores also may continue operating Monday through Sunday from 5:00am to 12:00 midnight.

Coliseums

The Executive Order also allows the reopening of coliseums at or below 30% of their maximum capacity, as defined in PR Building Code 2018. People assisting events at coliseums must be fully inoculated with a vaccine approved by the FDA or present a negative COVID-19 test (which must have been performed within 72 hours of the event). A person is considered “fully inoculated” two weeks after the second dose of the Moderna or Pfizer vaccines, or two weeks after the single-shot Johnson & Johnson vaccine.

While the Executive Order provides that the foregoing does not apply to children under 2 years of age it is understood that children between the ages of 3-11, and children 12 years or older who are not fully inoculated, will be

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required to present a negative COVID-19 test (Nucleic Acid Amplification (NAAT) Test or Antigen Test).

Amphitheaters, movie theaters and coliseums must establish a protocol establishing healthy behaviors and healthy environments and operations that reduce the spread of COVID-19.

Shopping Centers

Occupancy will be limited at one (1) person per 75 square feet in closed-layout shopping centers. Additionally, each shopping center must identify entrances for employees, suppliers and clients.

The Executive Order also clarifies that no prohibition exists for customers to try on clothes and shoes at stores.

Exemptions

The following businesses are exempted from complying with the hours of operations (5:00am-12:00 midnight) set forth in the Executive Order:

- Health services (including, but not limited to, mental health services, hospitals, pharmacies, pharmaceutical companies, bio-science facilities, health services centers, vaccination centers, etc.);
- Funeral services for the management and disposition of cadavers;
- Services related to ports and airports;
- Press and media services;
- Religious services;
- Gas stations (provided that the sale of alcohol is prohibited after 12:00 midnight);
- Food services at hotels and inns (provided that between the hours of 12:00 midnight and 5:00am, food services are to be used exclusively by hotel guests); and
- Any other service allowed by the Governor's Chief of Staff by waiver.

Signage

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The Executive Order requires that authorized businesses visibly display a sign with the contact information of the confidential COVID-19 hotline created by the PR Department of Health to allow citizens to contribute with the enforcement and compliance of EO 2021-036.

The sign must also include the maximum number of people allowed inside the establishment considering the 50% maximum occupancy, where applicable, set forth in the Executive Order.

Social Activities and Waivers (Section 7 of the Executive Order)

The following activities are authorized and exempted from requesting a waiver during the effectiveness of the Executive Order: weddings, birthdays, baptisms, baby showers, gender reveals, graduations, proms, ring ceremonies, company events, assemblies, and other analogous activities. These types of social activities are permitted only in public or private activity centers, from 5:00am until 12:00 midnight and at 50% capacity in indoor spaces, and provided that all necessary precautionary and safety measures are observed.

All attendees must be inoculated by a vaccine approved the FDA or provide a negative COVID-19 test performed within 72 hours of the event. Outdoor areas may continue to operate at full capacity. Business owners are encouraged to appoint employees to overlook compliance with health and safety protocols.

Schools, Universities and Professional Seminars (Section 11 of the Executive Order)

Section 11 of the Executive Order authorizes the reopening of public and private schools that comply with health and safety protocols and that have obtained a preliminary or final certification from the PR Department of Health. The reopening of schools will be governed by the guidelines set forth in administrative bulletin EO-2021-017.

Universities and other professional colleges are also authorized to reopen under the Executive Order. EO 2021-036 also authorizes the offering or educational, professional and non-professional workshops and seminars.

Any educational or arts organization not otherwise specified in the administrative bulletin may send a proposal for reopening, which will be evaluated by the Governor's Chief of Staff in conjunction with the PR

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Department of Health.

Tourism (Section 10 of the Executive Order)

Starting Friday, May 28th, fully vaccinated travelers entering on domestic flights are permitted to present their vaccination card instead of a negative test upon arrival to Puerto Rico. Passengers will also be required to present their ID to ensure alignment with the information entered within the Puerto Rico Department of Health's Travel Declaration Form.

While the foregoing does not apply to children under 2 years of age it is understood that children between the ages of 3-11, and children 12 years or older who are not fully inoculated, will be required to upload a negative COVID-19 test (PCR or Antigen Test) to the Puerto Rico Department of Health's online portal, which will produce a QR Code required to leave the airport

Other EO 2021-036 Provisions

The following Sections of EO 2021-036 remain unaltered from previous administrative bulletins:

- Section 2 – Quarantine Order
- Section 3 – Isolation Order
- Section 4 – Individual Precautionary Measures
- Section 5 – Government Operations
- Section 8 – Recreational Activities and Outdoor Sports
- Section 9 – Beaches, Marinas and Bodies of Water
- Section 11 – Safety Measures to be followed by the Public and Exempted Businesses
- Section 12 – Head Start, Early Head Start and Care Centers
- Section 13 – Elderly Care Centers, Detention Centers and Juvenile Institutions
- Section 14 – Precautionary Measures for Private Operators
- Section 15 – Prohibited Activities
- Section 16 – Modifications

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- Section 17 – Penalties
- Section 18 – Inter-agency Oversight Group
- Section 19 - Guidelines Established by Agencies

For additional details, you may access all previous COVID-19 related Executive Orders in our McV COVID-19 Information Center, which you can access **here**.

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