

Executive Order 2021-065 Restricts Hours of Operations; Additional Modifications Announced

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An McV Government Affairs Alert

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On August 30, 2021, Governor Pedro R. Pierluisi signed Executive Order 2021-065 (“EO 2021-065” or the “Executive Order”) to, among other matters, restrict the business hours of all private operations that serve the public, such as commercial, professional, and non-professional operations, in an effort to curb the spread of COVID-19 in Puerto Rico.

EO 2021-065 is effective from September 2, 2021 until September 23, 2021, unless a new order is issued, consistent with the need for public health and safety.

For your convenience, this Alert will highlight the major modifications and amendments in this new Executive Order.

Hours of Operations (Section 1 of the Executive Order)

EO 2021-065 orders the closure from 12:00am until 5:00am of all private operations that serve the public, including, but not limited to, commercial, professional, non-professional, consumer services, sales, financial, recreational or entertainment, and sports, among others.

The following businesses are exempted from complying with the mandatory closure (from 12:00 midnight until 5:00am) set forth in the Executive Order:

- Private operations that do not serve the public, such as commercial, industrial, manufacturing, construction, distribution, agricultural, agricultural services, administrative offices, among others;
- Health services, including mental health services, hospitals, pharmacies, pharmaceuticals, bioscience facilities, health centers, vaccination centers, among others;
- Funeral services, for the purpose of handling and disposition of corpses;
- Services related to ports and airports;
- Press and media services;
- Roadside assistance services and locksmith services;

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- Security services;
- Transportation services, including distribution and collective transportation services, such as transportation to the islands Municipality of Vieques and Culebra;
- Utility or critical infrastructure services;
- Delivery and shipping services for packages or merchandise;
- Religious services;
- Gas station services;
- Supermarkets and grocery stores;
- Stores selling basic necessities;
- Restaurant food services, including fast food, but from 12:00a.m. to 5:00a.m. only by delivery, pickup or curbside pickup;
- Catering services at hotels and inns. From 12:00a.m. until 5:00a.m. these services will be for the exclusive use of guests;
- Private operations providing essential services; and
- Any other service that the Department of Health allows by waiver.

In addition, EO 2021-065 prohibits the sale of alcoholic beverages between the hours of 12:00a.m. until 5:00a.m. by establishments exempted from closure, such as pharmacies, gas stations, hotels, inns, supermarkets, grocery stores, among others. The consumption of alcoholic beverages in public areas is also prohibited between the hours of 12:00a.m. and 5:00a.m. However, hotels and inns may continue serving alcohol to their guests within these hours.

Businesses that provide different services or products may only sell or provide from 12:00a.m. until 5:00a.m. the services or products exempted in the Executive Order.

EO 2021-065 also prohibits, from 12:00a.m. until 5:00a.m., agglomerations of people and social activities in private and public establishments, such as weddings, anniversaries, birthdays, quinceañeros, baby showers, gender reveals, dances, among other family activities, neighborhood or similar meetings.

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The provisions set forth in EO 2021-065 on the hours of operations of each business are supplemented by the provisions of Executive Order EO 2021-064, which provides for the mandatory vaccination or periodic testing of employees of beauty salons, barber shops, esthetics salons, spas, gyms, child care centers, supermarkets, grocery stores, casinos and gas station stores, and for visitor vaccination, periodic testing requirements and capacity restrictions.

Marinas and Vessels (Section 2 of the Executive Order)

The Executive Order prohibits the attachment or mooring of several vessels at the same time. Anchoring is also prohibited on beaches, keys and islets at less than one hundred (100) feet from the shore, except for the use of mooring buoys, as regulated by the Department of Natural and Environmental Resources (the “DNER”). The DNER will issue directives on the aforementioned restrictions.

Elective surgeries (Section 3 of the Executive Order)

Elective surgeries requiring the use of post-acute care units are prohibited during the effectiveness of the Executive Order.

Individual Precautionary Measures (Section 4 of the Executive Order)

All persons are required to wear face masks in all enclosed places and in open places where there is an agglomeration of fifty (50) persons or more. For purposes of this Executive Order, face mask means any product made of cloth or other material that covers the mouth, nose and chin. However, in hospitals, clinical personnel are required to use N-95 or KN-95 face masks.

The Executive Order urges physical distancing from other people outside the family unit, avoid any agglomeration, and frequent hand washing.

Other EO 2021-065 Provisions

The following Sections of EO 2021-065 remain unaltered from previous administrative bulletins:

- Section 5 – Oversight
- Section 6 – Modifications

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- Section 7 – Penalties
- Section 8 – Inter-Agency Oversight Group
- Section 9 – Guidelines and Regulations

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