

A Tale of Two Executive Orders: 202.47 and 202.48

Over the Fourth of July holiday weekend, Gov. Andrew Cuomo issued [Executive Order 202.47](#). On July 6, the Governor issued Executive [Order 202.48](#). Both of these orders are lengthy. Both impact businesses, municipalities and individuals. Both modify and change prior executive orders. Importantly, both represent the shift in the governor's tone. There is an emphasis on enforcement of prior mandates. We discuss each below.

Executive Order 202.47

First, Executive Order 202.47 extends Executive Order 202.37, which prohibited in-person summer school.

Second, the Order contains significant enforcement measures. It allows "peace officers" to enforce the governor's COVID-19 related executive orders, Alcoholic Beverage Control Law and the Public Health Law. "Peace officers" is broadly defined in [Criminal Procedure Law § 2.10](#). It revolves around local law enforcement. Peace officers includes village police constables, many sheriff's departments in the state, certain college safety officers, state park rangers, New York City health inspectors, and certain Department of Environmental Conservation enforcement officers.

In short, this executive order increases the reach of law enforcement during the COVID-19 crisis. This is a significant development. The governor has repeatedly stated that the various public health measures in place are dependent upon public acceptance. He has been expressing increased frustration in recent days with lessening public adherence. We have seen the news stories regarding the lack of social distancing outside of bars in New York City, by partygoers on Fire Island and increased complaints regarding face covering and social distancing requirements in Upstate New York and even on the Long Island Railroad. The governor has also expressed frustration with the pronouncements of local officials that they would not enforce, or would even ignore, certain of the adopted public health measure. By increasing the range of enforcement officials, the governor has increased his ability to cause public adherence to social distancing, mask-wearing and crowd limits.

This increase in enforcement is also significant for businesses with liquor licenses. As we discussed in a prior [information memo](#), licensed premises must enforce social distancing and face covering requirements within 100 feet of their business. The failure to do so may result in the revocation of a liquor license.

In addition, Executive Order 202.47 allows for any region that has entered Phase One, which is now the entire state, to allow outdoor, low-risk recreational activities and businesses to occur. The Order also permits auto racing, but like other sports, without fans. Finally, the Order sets forth election criteria for school districts that must have a budget revote.

Executive Order 202.48

Executive Order 202.48 extends numerous Executive Orders: 202-202.14, 202.27, 202.28 and 202.38. This includes the extension on outdoor dining as set forth by Executive Order 202.38.

The Order, notably, also brings the provisions of certain executive orders to an end. First, the Order does not extend those provisions of prior executive orders that have been subsequently superseded by statute. For example, the

[governor signed a bill](#) last week that prohibits the eviction of residential tenants who have suffered a financial hardship during the “COVID-19 covered period.” As a result, the portion of the executive order prohibiting the eviction of residential tenants was ended, but the portion prohibiting the eviction of commercial tenants was extended.

In addition, Articles 11-A (regarding interest payments on debt owed by the state) and 11-B (regarding contracting and interest payments for not-for-profit organizations) of the State Finance Law have been suspended to the extent necessary to respond to the impact of the pandemic.

The executive order also continues the closure of all places of public amusement, retail shopping malls, gyms, casinos and movie theaters until a future executive order opening them is issued. These businesses had been hoping to reopen as a part of the Phase Four reopenings. There is no indication of when they will be permitted to reopen.

If you have questions, or want to effect the standards applicable to your industry, please contact [Hermes Fernandez](#), [Caitlin Anderson](#) or the attorney at the firm with whom you are regularly in contact.



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