

**GOVERNMENT OF PUERTO RICO
LA FORTALEZA
SAN JUAN, PUERTO RICO**

Administrative Bulletin Number: OE-2021-085

EXECUTIVE ORDER OF THE GOVERNOR OF PUERTO RICO, HON. PEDRO R. PIERLUISI AMENDING EXECUTIVE BULLETINS OE-2021-080 and OE-2021-081 FOR THE PURPOSE OF LIMITING CAPACITY IN CERTAIN PLACES.

WHEREAS: Since March 12, 2020—after the first cases of the disease designated COVID-19 were recorded in our Island, which is caused by the novel coronavirus SARS-CoV-2—we have been in a state of emergency. Since that date, countless strategies have been employed to control the pandemic, including issuing a mandate requiring the use of masks, social distancing, and requiring certain important sectors of our community to be vaccinated against the abovementioned virus or present a negative COVID-19 test, subject to certain available exceptions and alternatives.

WHEREAS: Although these measures have been effective for the past few months, we have recently had a significant increase in positive cases. Particularly, the number of daily confirmed cases has reached 1,745 positive cases and suspected cases are at 2,642. At the same time, the positivity rate, which is the percentage of people who test positive for the virus out of the total number of tested individuals, increased to 21.89%. Keep in mind that this is a record-setting statistic because positivity rates have never been so high during the entire pandemic.

WHEREAS: Once a state of emergency has been decreed, Article 5.10 of Act 20-2017, as amended, better known as the “Puerto Rico Public Safety Department Act,” empowers me as Governor to enact any measures that result necessary to ensure the safety and wellbeing and protect the property of Puerto Rico’s residents for as long as the state of emergency is in effect.

WHEREAS: Subsection (b) of Article 5.10 of Act 20-2017 establishes that, as Governor of Puerto Rico, I may enact, amend, and repeal any regulation, and issue, amend, and rescind any order that I deem convenient to govern during the state of emergency or disaster. The regulations enacted or orders issued during a state of emergency shall have the force of law while said state of emergency persists.



WHEREAS: The Government of Puerto Rico has a responsibility to continue the efforts necessary for preventing and stopping the spread of COVID-19, and to safeguard the health, lives, and wellbeing of all of Puerto Rico's residents.

WHEREAS: Having the authority to govern a community entails taking on the great responsibility of ensuring that its people are safe and healthy. The State's power of reason—as delegated to the Executive Power by Act 20-2017—empowers the government to implement measures necessary for safeguarding the health and wellbeing of its people. In other words, it is the State's inherent authority which allows for the creation and enactment of regulation in general for the purposes of safeguarding the general health, safety, and wellbeing. In order to achieve these benefits for the community, the State has the power to restrict certain personal interests, which are not absolute.

WHEREAS: As it as been reiterated in other executive orders enacted to address the pandemic, the scientific evidence shows that the most effective measure for controlling COVID-19 is vaccination. However, the Centers for Disease Control and Prevention (CDC) have been consistent in saying that it is necessary to continue employing other measures such as mask use and social distancing when infection rates in the community are high or substantial, regardless of vaccination status.

WHEREAS: Given the significant increase in positive COVID-19 cases, it is necessary to take further steps in addition to those issued in Administrative Bulletins OE-2021-080, OE-2021-081, and OE-2021-082. Specifically, in addition to requiring that individuals participating in group activities to be fully vaccinated and to present a negative COVID-19 test result, and in addition to requiring the corresponding screening to detect COVID-19 at restaurants, bars, food kiosks ("*chinchorros*"), movie theaters, community or activity centers, casinos, and any other establishment that serves prepared food or drink, it is imperative to implement the other precautionary measures in a strict manner. Therefore, it is necessary to limit capacity at establishments where people remove their masks because food and drink is sold there in order to reduce crowding in situations where that protection isn't in place. This would make it possible to ensure that there can be proper social



distancing, which would prevent the spread of COVID-19.

WHEREAS:

The measures established in this Executive Order are consistent with the ones employed from the beginning of this year. All of them struck a balance between the population's health and safety and the adverse effects on the community. Likewise, the measures established in this Executive Order are similar to the ones implemented during other periods of time when there was an increase in infection rates, which were certainly effective.

WHEREAS:

It should be emphasized that each citizen has an individual responsibility to be sensible and rational when considering any personal, commercial, or professional activity they are attending or involved with. If each Puerto Rican follows all of the precautionary measures ordered by the CDC, the Department of Health, the other components of the Government of Puerto Rico, and this Executive Order, we will all undoubtedly be safer. Therefore, each citizen has a responsibility to continue adhering to the established precautionary measures, avoiding gatherings, and also to be more sensible and not to attend any activity that they believe could put their health, or the health of others, at risk.

THEREFORE:

I, PEDRO R. PIERLUISI, Governor of Puerto Rico, by virtue of the powers inherent to my office and the authority vested in me by the Constitution and the laws of the Government of Puerto Rico, hereby declare and order the following:

Section 1:

LIMITATIONS ON CAPACITY. In order to minimize infections and safeguard the health of Puerto Rico's entire population, I hereby order that, starting on December 30, 2021, restaurants, bars, food kiosks ("*chinchorros*"), diners, sport bars, movie theaters, theaters, amphitheaters, stadiums, colosseums, convention centers, community and activity centers, casinos, and any other establishment that sells prepared food or drink, must limit their capacity based on the following guidelines:

1. indoor group activities at theaters, amphitheaters, stadiums, colosseums, and convention centers must limit capacity to 50% of the venue's maximum capacity;
2. outdoor group activities at theaters, amphitheaters, stadiums, colosseums, and convention centers must limit capacity to 75% of the venue's maximum capacity;
3. restaurants (including fast food restaurants, food courts, and cafes), bars, food kiosks ("*chinchorros*"), diners, sport bars, movie theaters, community or activity centers (at which family events are held), and any other indoor establishment that serves prepared food or drink must limit



capacity to 50% of the establishment's maximum capacity;

4. restaurants (including fast food restaurants, food courts, and cafes), bars, food kiosks ("chinchorros"), diners, sport bars, movie theaters, community or activity centers (at which family events are held), and any other outdoor establishment that serves prepared food or drink must limit capacity to 75% of the establishment's maximum capacity

The percentages listed above shall be based on the building code currently in effect in Puerto Rico (PR Building Code 2018) and authorized by the Puerto Rico Firefighters Corps Bureau.

Section 2:

AMENDMENT. In order to accomplish what is indicated above, Section 5 of Administrative Bulletin OE-2021-075, and therefore Section 1 of Administrative Bulletin OE-2021-080, are amended to read as follows:

SECTION 5: GROUP ACTIVITIES. In the interest of successfully safeguarding the health of Puerto Rico's entire population and minimizing infections, I hereby order that, starting when this Executive Order enters into force, all indoor or outdoor establishments that host group activities, including theaters, amphitheaters, stadiums, colosseums, convention and activity centers, and any other venue at which activities that promote gatherings of people, must comply with the following rules:

1. The organizers, owners, administrators, or analogous individuals who host and organize public or private events and operations must require all individuals attending said activities to be fully vaccinated with a vaccine authorized by the FDA for preventing COVID-19, or any others included in the WHO's emergency use list. It shall be the event organizer's responsibility to request that those attending present an immunization certificate (COVID-19 Vaccination Record Card or Vacu ID) that verifies they have completed their vaccination process. For their part, it shall be the event attendee's responsibility to present an immunization certificate (COVID-19 Vaccination Record Card or Vacu ID) that verifies they have completed their vaccination process in order to be allowed to physically attend the event.

The scientific data available indicates that a booster shot increases immune response. Therefore, it is recommended, and all people able to do so are encouraged to receive a booster shot before attending a group event.

2. In addition to requiring proof of vaccination, organizers, owners, administrators, or analogous individuals who host and organize public or private events and operations that promote gatherings of people must demand all participants present a negative COVID-19 test result obtained from a qualified viral test (nucleic acid amplification or antigen test) performed no more than forty-eight (48) hours prior to physically attending the venue. This test must have been administered by an authorized medical professional. Presenting a positive COVID-19 test result from the

past three (3) months, along with documentation of their recovery and a letter from a certified medical professional or government health official certifying that they have recovered and are ready to be present at public spaces, shall also be permitted.

3. Because the vaccination process for minors between the ages of five (5) and eleven (11) began recently, they may attend group events in outdoor and indoor establishments until January 31, 2022 by presenting a negative COVID-19 test result obtained from a qualified viral test (nucleic acid amplification or antigen test) performed no more than forty-eight (48) hours prior to physically attending the venue. This test must have been administered by an authorized medical professional. Starting on February 1, 2022, these minors must comply with what is established in subsections 1 and 2 of this Section.

4. Because no vaccines have yet to be authorized for children under the age of five (5), as a general rule, they may not attend group events in indoor spaces that promote gatherings of people, even if they have been tested with a qualified viral test. The Secretary of the Department of Health, or the person they delegate, shall have discretion to evaluate any exemption requests for these minors to attend specific activities that guarantee the safety of those attending.

5. If said establishments are indoor establishments, they must reduce capacity for indoor spaces to 50% of the establishment's maximum capacity as established in the building code currently in effect in Puerto Rico (PR Building Code 2018). Open air or outdoor establishments (such as amphitheaters and stadiums) must reduce capacity to 75% of the establishment's maximum capacity.

6. The above shall not apply to religious events or public events at which government services are being provided.

In addition, I hereby order that, starting when this Executive Order enters into force, all organizers, owners, administrators, or analogous individuals of outdoor group events—that are not being held at an amphitheater, stadium, activity center, or any other outdoor venue—which involve the gathering of five hundred (500) or more people, must coordinate with the Department of Health to establish the protocol to be followed in order to ensure that the activity is safe for the health of those attending. This includes the mandatory requirement of masks for the entire duration of the activity and determining if it is appropriate for children under the age of five (5) to attend.

Outdoor group activities not held at an amphitheater, stadium, activity center, or any other outdoor venue that involve the gathering of under five hundred (500) people shall not be required to coordinate with the Department of Health to establish protocols, but all individuals attending said events are required to wear masks at all times. However, the Department of Health shall have the authority to require any specific protocols for these activities



when it deems it necessary to ensure the safety of those present.

In the case of recreational or sport activities, the Department of Recreation and Sports, with the guidance of the Department of Health, must determine the appropriate protocols, if any, for each activity.

Section 3:

AMENDMENT. In order to achieve what is indicated above, Section 10 of Administrative Bulletin OE-2021-075, and therefore Section 6 of Administrative Bulletin OE-2021-081, are amended to read as follows:

SECTION 10: REQUIREMENTS FOR VISITORS. In order to safeguard the health of Puerto Rico's entire population and minimize infections, I hereby order that, starting when this Executive Order enters into force, all restaurants (including fast food restaurants, food courts, and cafes), bars, food kiosks ("*chinchorros*"), diners, sport bars, movie theaters, community or activity centers (where family activities are held), any other establishment that serves prepared food or drinks, hotels, resorts, hostels, beauty salons, barber shops, aesthetics salons, spas, gyms, and casinos must verify that all of their visitors—subject to the exceptions established in this section—meet one of the following requirements:

1. that the visitor present evidence that they are proper inoculated with a vaccine authorized by the FDA for addressing the COVID-19 emergency or any of the vaccines in the WHO's emergency use list;
2. that the visitor present a negative COVID-19 test result from a qualified SARS-CoV2 viral test (nucleic acid amplification or antigen test) performed no more than forty-eight (48) days prior to the visit and processed by an authorized medical professional, prior to entering the business, or
3. that the visitor present a positive COVID-19 test result from the past 3 months, along with documentation of their recovery, including a letter from a certified medical care provider or government official certifying that the individual has recovered and is ready to be present in public spaces.

It shall be the responsibility of each business or commercial entity to request that each applicable visitor—before entering the establishment—pre sent an immunization certificate (COVID-19 Vaccination Record Card or Vacu ID), a negative viral test result, or a positive COVID-19 test rest from the past three (3) months along with documentation of their recovery. In the case of food courts, restaurants shall be responsible for screening people purchasing food. For their part, it shall be each visitor's responsibility to present their immunization certificate (COVID-19 Vaccination Record Card or Vacu ID), a negative viral test result, or a positive COVID-19 test rest from the past three (3) months along with documentation of their recovery, as a requirement to



being permitted to enter the establishment. The immunization certificate or viral test may be presented through any other physical or digital method.

It is important to point out that what is established in this Executive Order does not limit the authority any private operator has to implement restrictions in addition to those established herein. That is to say, nothing established in this Executive Order may be interpreted as a limitation on the authority private operators have to take additional or more restrictive measures, including but not limited to, a voluntary restriction on their business hours, limiting their available space, or limiting the number of people who may remain in their establishment.

Minors under the age of five (5) are exempted from the screening established in this section because it is currently not possible for them to be vaccinated. However, minors between the ages of five (5) and eleven (11)—for which the vaccination process is currently underway—must adhere to the provisions in this section after January 31, 2022.

In the case of restaurants (including fast food restaurants, food courts, and cafes), bars, food kiosks (“chinchorros”), diners, and sport bars, all individuals who are solely and exclusively acquiring food through delivery, drive-thru, or pickup services, are exempted from this Section; in other words, those who will not consume food within the commercial establishment.

Any visitor who refuses to comply with the requirements established in this Executive Order, as implemented by a private operator, shall not be permitted to enter the establishment. If said individual is a guest at a hotel, resort, or hostel, including short-term rentals, they may not enter or sleep at said establishment until they comply with the provisions of this Executive Order. All citizens are urged to cooperate with private operators in complying with what is established herein. Should any citizen not cooperate and attempt to force any private operator to not comply with the provisions of this Executive Order, they shall be subject to what is established in Section 14 of this Order and any other applicable provisions of the Puerto Rico Penal Code.

Restaurants (including fast food restaurants, food courts, and cafes), bars, food kiosks (“chinchorros”), diners, sport bars, movie theaters, community or activity centers (where family activities are held), casinos, or any other indoor establishments where prepared food and drinks are served shall be required to limit their capacity to 50% of the establishment’s maximum capacity as established in the building code currently in effect in Puerto Rico (PR Building Code 2018) and authorized by the Puerto Rico Firefighters Corps Bureau. If said establishments are open air outdoor establishments, they shall instead be required to limit capacity to 75% of the establishment’s maximum capacity.

On the other hand, all beauty salons, barber shops, aesthetics salons, spas, or gyms that are not in compliance with the



requirements established above shall be required to limit their establishment's maximum capacity to 50%, as established by the current building code in Puerto Rico (PR Building Code 2018).

Section 4:

Section 11 of Administrative Bulletin OE-2021-075, and consequently section 7 of Administrative Bulletin OE-2021-081, is amended to read as follows:

SECTION 11: OVERSIGHT. The pertinent agencies are hereby ordered to oversee compliance with what is established in this Executive Order. In addition, the public is encouraged to report entities that fail to comply with what is established herein to the pertinent authorities. In order to help citizens assist in the oversight and compliance of this Executive Order, all businesses or establishments are hereby ordered to display signs in visible locations that notify the public of the confidential COVID-19 hotline created by the Department of Health. The sign or ad must specify whether the establishment performs screening by verifying vaccination status or by requiring negative test results at their entrance. This sign or poster must contain the following contact information so that citizens may report instances of noncompliance:

- a) Phone: (787) 522-6300, extensions 6899, 6840, 6824, 6833, and 3893
- b) Email: investigaciones@salud.pr.gov

In addition, if an establishment is a restaurant (including fast food restaurants, food courts, and cafes), bar, food kiosk ("*chinchorro*"), diner, sport bar, movie theater, amphitheater, stadium, colosseum, convention center, or any other establishment that serves prepared food or drink, the abovementioned sign or poster must specify the maximum occupancy imposed on the establishment, if applicable. Failing to do so shall constitute a failure to comply with this Executive Order.

Hair salons, barber shops, aesthetics salons, spas, and gyms that decide not to perform the screening established herein must add to the abovementioned sign the number of people that can occupy the establishment when it is operating at 50% of its maximum capacity, as established in PR Building Code 2018 and authorized by the Puerto Rico Firefighters Corps. Failing to do so shall constitute a failure to comply with this Executive Order.

Citizens are encouraged to notify the pertinent agencies, including the Department of Health, of any private operator that is not complying with the screening or 50% capacity requirements at their establishment as established in this Executive Order.

Section 5:

GUIDELINES. The provisions of this Executive Order may be defined, interpreted, reinforced, or modified in detail through guidelines issued by the Department of Health.

Section 6:

NON-CREATION OF ENFORCEABLE RIGHTS. This Executive



Order is not intended to create any rights, substantive or procedural, enforceable at law or equity, by any person or entity, in any matter, civil, criminal, or administrative, against the Government of Puerto Rico or its agencies, officials, employees, or any other person.

Section 7: **DEFINITION OF THE TERM 'AGENCY'**. For the purposes of this Executive Order, the term "agency" refers to any agency, instrumentality, office, or department of the Executive Branch of the Government of Puerto Rico, including public corporations, regardless of their name.

Section 8: **SEVERABILITY**. The provisions of this Executive Order are separate and independent of each other, and if any part, section, provision, or sentence of this Executive Order is declared unconstitutional, void, or invalid by a court of jurisdiction and venue, such decision shall not affect the validity of the remaining provisions, which shall remain in full force.

Section 9: **PRIOR ORDERS SUPERSEDED**. This Executive Order shall supersede the parts of any executive order that may, in whole or in part, be inconsistent with the provisions herein, to the extent of such inconsistency.

Section 10: **PUBLICATION**. This Executive Order must be filed immediately with the Department of State and the widest possible publication is hereby ordered.

Section 11: **VALIDITY**. This Executive Order shall enter into force on December 30, 2021 and shall remain in force until the state of emergency declared in Administrative Bulletin OE-2020-020 concludes, or until this Order is amended or repealed by a future Executive Order or law. However, the provisions limiting capacity at restaurants (including fast food restaurants, food courts, and cafes), bars, food kiosks ("*chinchorros*"), diners, sport bars, movie theaters, community or activity centers (in which family events are held), theaters, amphitheaters, stadiums, colosseums, convention centers, or any other establishment that sells prepared food or drink shall only be in effect until January 16, 2022. After that date, said establishments may operate without capacity limitations, but must still comply with the other measures enacted in Administrative Bulletin OE-2021-075, as amended.





IN TESTIMONY WHEREOF, I hereby issue this Executive Order under my signature and cause the Great Seal of the Government of Puerto Rico to be affixed, at La Fortaleza, in San Juan, Puerto Rico, on this 27th day of December of 2021.

Handwritten signature of Pedro R. Pierluisi in blue ink.

**PEDRO R. PIERLUISI
GOVERNOR**

Enacted in accordance with the law on this 27th day of December of 2021.

Handwritten signature of Omar J. Marrero Díaz in blue ink.

**OMAR J. MARRERO DÍAZ
SECRETARY OF STATE**

Handwritten initials 'pef' in blue ink.