



New York Association of Convenience Stores  
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## **MEMBER UPDATE**

March 20, 2020

### **Convenience Stores, Gas Stations Continue to be Excluded from On-Premise Workforce Reduction Orders**

As the coronavirus crisis deepened, Governor Cuomo today ordered all non-essential businesses to have *all* their employees work from home until further notice. Convenience stores and gas stations remain exempt from this order because they are considered essential services.

The Governor on Wednesday had ordered non-essential businesses to reduce their on-premises staff by 50%. Yesterday he revised that to 75%, and this morning revised it to 100% effective this Sunday night, as part of a program he is calling PAUSE – Policies Assure Uniform Safety for Everyone. Additional PAUSE provisions are detailed below.

#### **Essential Vs. Non-Essential Businesses**

The Governor's Office has posted [guidance on which industries are considered essential](#) during this crisis and thus exempt from mandatory business restrictions. Any NYACS member companies whose industries are not included can apply to be considered for designation as an essential business [using this form](#).

#### **NYACS Office Closing**

In accordance with today's order, NYACS staff will be working from home beginning Monday, March 23. To reach Jim Calvin, call 518-441-4918. To reach Alison Ritchie, call 518-669-7612.

#### **NYACS Trade Show is Off**

Our May 14 Trade Show in Syracuse is canceled. We are developing an alternate activity later in the year to enable NYACS vendors to promote their products and services directly to member retailers, and to provide educational workshops for retail members online.

#### **Aq & Markets Resources**

The state Department of Agriculture and Markets has provided updated information for the agriculture and food industries, [click here](#). The Department has also issued [guidance for food manufacturers, distributors and retail stores regarding cleaning and disinfecting procedures](#). They assure that there is no evidence that the coronavirus can contaminate food.

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## **Sanitation**

We asked NYACS member Apter Industries, a family-owned manufacturer that has been supplying high-quality cleaning products to convenience stores for 50 years, for permission to share with you the latest guidance they are providing to their customer base.

At right is their bulletin about the coronavirus and procedures for disinfecting areas of your store where public contact occurs. Apter has a proprietary Disinfecting Cleaner that is registered with the EPA, [click here for product information](#).

## **Late Sales Tax Payments**

Today, March 20, is a New York State sales tax remittance deadline. The Governor's Office announced that the state will waive penalties and interest for late sales tax payments by businesses.

## **Income Tax Filing Delay**

The IRS has [pushed back the federal income tax filing deadline](#) from April 15 to July 15. New York State followed suit.

## **Protection for Quarantined Workers**

The Senate and Assembly this week passed a guaranteed access to sick leave bill for those impacted by coronavirus only. It becomes effective immediately once signed by Governor Cuomo today. The bill includes the following requirements:

- **Small Employers (1-10 employees)** - employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19 will receive unpaid sick days and the ability immediately to qualify for paid family leave and temporary disability benefits, plus full job protection.
- **Medium Sized Employers (11-99 employees) & Small Employers (1-10 employees)** with a net income of \$1 million a year or more - employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19 will receive five paid sick days and the ability immediately thereafter to qualify for paid family leave and temporary disability benefits, plus full job protection.
- **Large Employers (100 or more employees)** and Public Employees - employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19 will receive paid sick days for the entirety of the quarantine (up to 14 days), plus full job protection.
- All employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19 are given full job protection during time of absence. Employees will qualify for paid family leave to care for a minor dependent child who is subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19.

Comprehensive paid sick leave legislation is expected to be taken up as part of the new state budget that is due April 1.

## **Plastic Bag Ban**

No changes have been made to the state's new plastic bag ban law, even though [the Wall Street Journal thinks it should be suspended](#).

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## **Cash Handling**

NYACS is so far unable to find authoritative guidance on handling currency and coin. Neither the World Health Organization nor the U.S. Treasury has issued any warnings or statements about the use of cash. No one has recommended that cashiers wear gloves.

COVID-19 doesn't spread by penetrating the skin on your hands, Michael Knight, Assistant Professor of Medicine at the George Washington School of Medicine and Health Sciences, told CNB. "Getting coronavirus, or other respiratory viruses like influenza, on your hands only leads to infection when it is transferred from your hand to places like your mouth, nose or eyes," he explained.

Thus, those who do handle cash should wash their hands and/or use hand sanitizer frequently. You may also wish to make hand sanitizer available at the counter for your customers to use.

## **Price Gouging**

When Governor Cuomo declared a state of emergency statewide due to the coronavirus outbreak, it automatically activated the state's anti-price gouging law, which prohibits businesses from charging unconscionably excessive prices for essential goods and services for the duration of the emergency. The immediate focus is on hand sanitizers and disinfectant sprays.

State Attorney General Letitia James says she has taken enforcement action against two New York City merchants after discovering that on March 7, a hardware store in Midtown Manhattan was charging \$79.99 for 1200-ml of hand sanitizer and that on March 9, a fresh market in Astoria, Queens, was charging \$14.99 for a 19-oz bottle of disinfectant spray.

Usually, motor fuel prices are the main target of price gouging warnings. We are not seeing that now, since prices are generally trending lower. However, extreme volatility in the oil markets caused by the coronavirus outbreak and the emerging Saudi-Russian crude oil price war could potentially trigger wide swings in pump prices, attracting the attention of regulators.

Proportionately passing along wholesale price increases is lawful. "Unconscionable" price increases are not. The key for NYACS retail members is to document changes in your wholesale and retail prices in order to demonstrate that you priced responsibly should the Attorney General question your price changes later pursuant to a price-gouging investigation.

## **Home Delivery of Beer**

Convenience stores can do this under certain conditions, per Page 17 of the [New York State Liquor Authority Handbook for Retail Licensees](#):

"If you are an off-premises licensee, you can deliver alcoholic beverages to your customers using either a delivery service that has a trucking permit issued by the SLA, or in one of your own vehicles. If you are using your own vehicle, it must be a vehicle owned or leased, and operated by the entity that is named on the license certificate. You cannot deliver alcoholic beverages using an employee's vehicle. Keep a copy of the license certificate in the vehicle while deliveries are being made."

## **Home Delivery of Tobacco**

NYACS has not been able to definitively determine whether this is permitted under New York State law. We're working on it.

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## **Bottle Redemption Relief**

After four days, the state Department of Environmental Conservation *still has* not answered our request for direction on whether stores may temporarily suspend manual redemption of Bottle Bill containers without penalty. To our frustration, we have received none. Meanwhile, [the state of Massachusetts has already suspended bottle redemption enforcement](#).

Given the gravity of this situation, NYACS President Jim Calvin has recommended that member stores halt manual Bottle Bill redemption temporarily if they feel the risk to customers and employees outweighs the risk of a fine from DEC. [Click here for a sign](#) you can customize, print and display on the door and/or at the counter informing customers of this policy even though it conflicts with the "Bottle Bill of Rights" you are still required to display. If you continue manual redemption, make sure your employees use gloves and thoroughly clean and disinfect counters and other redemption areas.

## **Anticipating Media Inquiries**

As the disease spreads, employers of all types and sizes could potentially find themselves in a local media spotlight in the event an employee tests positive. NYACS member law firm Goldberg Segalla has prepared timely guidance on how to handle this situation should it arise. [Download it Here](#)

## **If Layoffs Become Necessary**

If layoffs become necessary, employers should be aware of notification requirements under New York State law.

You must provide written notice to any employee who goes off the payroll, no matter the reason for separation, and whether it is a temporary or permanent. You can use this [Record of Employment \(IA 12.3\)](#) provided by the NYS Department of Labor.

If you have 50 or more full-time workers, [click here to read about your obligations under the WARN Act](#) if you are laying off workers.

## **Free Video: Preventing the Spread of Illness**

Ready Training Online has prepared an online training video titled "COVID-19: Preventing the Spread of Illness," and in partnership with the National Association of Convenience Stores, is offering it free to retailers to use as an extra tool to keep employees and customers safe from infection. [Click Here to Download the Video](#)

## **Restaurants Selling Grocery Items**

The Department of Agriculture & Markets has issued guidance authorizing restaurants to temporarily sell, as grocery items, various food that they already had in stock but have not been able to use due to the ban on sit-down eateries. [Read the guidance here](#).

The Department mentioned as examples "packaged food items such as raw pasta, flour or sugar, refrigerated (heat and eat) meals, and ready-to-eat items intended for off-site use or consumption."

NYACS has no objection as long as these establishments are not permitted to re-stock any of these items.

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## **Additional PAUSE Provisions**

Here are recommendations under Governor Cuomo's PAUSE program for the most vulnerable groups - seniors over 70, immune-compromised people, and those with underlying illnesses:

- Remain indoors
- Can go outside for solitary exercise
- Pre-screen all visitors and aides by taking their temperature
- Do not visit households with multiple people
- All vulnerable persons should wear a mask in the company of others
- To the greatest extent possible, everyone in the presence of vulnerable people should wear a mask
- Always stay at least six feet away from individuals
- Do not take public transportation unless urgent and absolutely necessary

PAUSE provisions for non-vulnerable populations:

- Non-essential gatherings of individuals of any size for any reason (e.g. parties, celebrations or other social events) are cancelled or postponed at this time.
- Any concentration of individuals outside their home must be limited to workers providing essential services and social distancing should be practiced.
- When in public individuals must practice social distancing of at least six feet from each other.
- Businesses and entities that provide essential services must implement rules that help facilitate social distancing of at least 6 feet.
- Individuals should limit outdoor recreational activities to non-contact and avoid activities where you come in contact with people.
- Individuals should limit use of public transportation to when absolutely necessary, and should limit potential exposure by spacing out at least 6 feet from other riders.
- Sick individuals should not leave their home unless to receive medical care, and only after a telehealth visit to determine if leaving the home is in the best interest of the health.
- Young people should also practice social distancing and avoid contact with vulnerable populations.
- Precaution: isopropyl alcohol wipes.