

**NEWS: QUICK TAKES**

Bowling alleys can reopen immediately, judge rules; Cooper plans appeal

John Trump
in Quick Takes

July 7, 2020
3:32PM

Bowling alleys in North Carolina can reopen, though bars, gyms, and amusement parks remain closed.

N.C. Business Court Judge James Gale on Tuesday, July 7, granted a preliminary injunction to a bowlers' group looking for relief after Gov. Roy Cooper closed myriad businesses March 17 because of worries over COVID-19. Cooper, in a statement Tuesday, says he will immediately appeal the ruling.

Gale also decided a lawsuit filed June 4 by the N.C. Bar and Tavern Association on behalf of 185 business owners, but said the plaintiffs failed to demonstrate that they're likely to succeed on a claim that the governor's restriction on their ability to reopen before July 17 is unlawful.

Cooper on June 25 extended his moratorium on bars and gyms for three more weeks. Business such as restaurants and distilleries with bars opened for table service about six weeks ago, as part of Cooper's phased reopening plan.

Gale, in his opinion in the lawsuit filed by Bowling Proprietors Association of the Carolinas and Georgia, says bowling alleys can reopen immediately as long as they follow a list of cleaning and safety precautions. These include rules

defining where food can be eaten, who can share a ball, and how shoes and other surfaces are cleaned.

Gale didn't rule on broader claims challenging the governor's right to continue to issue emergency executive orders pursuant to the N.C. Emergency Management Act. Rather, Gale says he ruled on the more narrow ground that the plaintiffs have shown they're likely to succeed on the "fruits of their own labor" and equal protection clauses of N.C. Constitution. As long as, like other businesses that have opened, the alleys work to mitigate risks and implement safety guidelines.

Gale refers to a legal standard called "reasonable relationship," as opposed to "rational basis," in his opinion on bowling alleys. Simply put, it's easier for the bowling alleys to win under the reasonable relationship standard.

In his opinion on the bars lawsuit, Gale wrote: "While the Governor's choices may be debatable, at this time, the Court finds no adequate basis to conclude that Plaintiffs are likely to succeed on any claim that the Governor's strategy in addressing the COVID-19 pandemic was sufficiently irrational so as to be outside the realm of reasonableness within which the law allows the Governor to act."

Cooper, a Democrat, vetoed three bills to open gyms and bars, most recently on July 2, when he also struck down another try at reopening skating rinks and bowling alleys, amusement parks, and arcades.

Gale is also presiding over several lawsuits filed by gyms owners, who have until Wednesday, July 8, to present documents to the court. Dr. Mandy Cohen, state health department secretary, in referring to Cooper's shutdown orders often says a primary reason gyms can't reopen is because people there are breathing heavily, thus creating a greater risk of spreading COVID-19.

"The Court does not construe bowling as 'strenuously exercising,'" Gale wrote.

series: **Coronavirus and N.C.'s response**

categories: **Business and Regulations, CJ Quick Take, coronavirus, Economic Growth & Development, Health Care & Human Services, Law & Order, Law & Regulation, State Government**

tags: **bowling alleys, Gov. Roy Cooper, Judge James Gale, Mandy Cohen**