

NYS GOVERNOR REDUCES WORKFORCE 100% EXCEPT FOR “ESSENTIAL BUSINESS”

Hodgson Russ Labor & Employment Alert
March 22, 2020

Pursuant to Governor Cuomo’s Executive Order 202.8, published early Saturday March 21, 2020, businesses and not-for-profits that do not qualify as “essential” must reduce their in-person workforce by 100% beginning Sunday, March 22, at 8 p.m. Until then, businesses and not-for-profits must keep their workforces reduced to 25% pursuant to the Governor’s earlier Executive Order 202.7. Only businesses that qualify as an “essential business or entity providing essential services or functions” are exempt from the mandatory workforce reductions. We previously reported here on the definition of such entities and the guidance issued by the Empire State Development Corporation (“ESD”) in this regard.

Executive Order 202.8 states that violation of the workforce reduction mandate is subject to the penalties associated with violating Section 12 of the New York Public Health Law. Currently, these penalties includes civil fines from \$2,000 to \$10,000, with the potential for additional fines for repeated violations. In addition, while not embodied in the Executive Order, Governor Cuomo stated in his press conference that any business or not-for-profit that violates the order is subject to “mandatory closure.”

Businesses that are not expressly identified as essential in the Executive Order and ESD’s guidance may apply for an essential designation from the ESD by completing this form.

The ESD will grant a business’s request when it determines that it would be in the best interests of the state to have the business’s workforce continue at full capacity “in order to properly respond to this disaster.” However, the determination of whether to request an opinion should be made on a case-by-case analysis and by carefully weighing the risks and benefits of doing so. Our Labor & Employment team is available to assist you in making this determination.

Hodgson Russ continues to monitor this and all other labor and employment issues presented by the Coronavirus pandemic. If you have any questions about the definition of essential businesses, its application to your business, requesting an opinion from the ESD, reducing your workforce, or your COVID-19 response more generally, please contact any member of our Labor & Employment team.

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Practices & Industries

Affordable Care Act

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Hodgson Russ remains on top of these circumstances as they develop. Our attorneys are working remotely, and ready, willing, and able to address the needs of our clients, so do not hesitate to contact us (attorney directory). **Please check our Coronavirus Resource Center to view many other alerts our attorneys in various practice areas have published on topics related to the pandemic.**

If you received this alert from a third party or from visiting our website, and would like to be added to any of our mailing lists, please visit us at: <https://forms.hodgsonruss.net/sign-up-for-email-and-other-communications..html>.