

Governor Pritzker Issues Stay-at-Home Order

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On March 20, 2020, Governor Pritzker issued Executive Order 2020-10, a “Stay-At-Home” Order applicable to everyone in Illinois (the “Order”).

When Does the Order Take Effect?

The Order will take effect Saturday, March 21, 2020, at 5:00 p.m. and remain in effect until Tuesday, April 7, 2020, unless changed by the Governor.

Who is Covered by the Order?

All individuals living within the State of Illinois are ordered to stay at home and to leave only for health and safety; for necessary supplies and services; for outdoor activities; to perform work for an Essential Business (as defined further below); and to care for others.

The Order encourages Essential Businesses and Operations to stay open.

However, all non-essential businesses and operations are ordered to cease activities within the State, with limited exceptions.

All businesses, including non-essential businesses, may continue operations consisting exclusively of workers performing activities at their own residences.

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Governor Pritzker Issues Stay-at-Home Order

What is an Essential Business?

The Order identifies the following as “Essential Businesses and Operations,” which may presently maintain activities within the State (all terms defined further in the Order):

- Healthcare and Public Health Operations;
- Human Services Operations,
- Essential Infrastructure;
- Essential Governmental Functions.
- Stores that sell groceries and medicine;
- Food, beverage, and cannabis production and agriculture;
- Organizations that provide charitable and social services;
- Media;
- Gas stations and businesses needed for transportation;
- Financial institutions;
- Hardware and supply stores;
- Critical construction trade;
- Mail, post shipping, logistics, delivery and pick-up services;
- Educational institutions;
- Laundry services;
- Restaurants (for consumption off premises);
- Supplies to work from home;
- Supplies for Essential Businesses and Operations;
- Transportation;
- Home-based care and services;
- Residential facilities and shelters;
- Professional services;
- Day care centers for employees exempted by the Order;

Governor Pritzker Issues Stay-at-Home Order

- Manufacture, distribution and supply chain for critical products and industries;
- Critical labor union functions;
- Hotels and motels; and
- Funeral services.

Even if a company qualifies as an essential business, employees who are able to work from home should do so.

Non-Essential Businesses May Maintain “Minimum Basic Operations”

Non-essential businesses may maintain “Minimum Basic Operations,” which means minimum necessary activities to do the following:

- Maintain the value of the business’s inventory;
- Preserve the condition of the business’s physical plant and equipment;
- Ensure security;
- Process payroll and employee benefits; or
- Maintain “related functions”; and
- Facilitate employees of the business being able to continue to work remotely from their residences.

Social Distancing Requirements

Regardless of whether a business is an Essential Business and Operation maintaining full activities or is a non-essential business maintaining Minimum Basic Operations, the Order requires businesses to comply with the Order’s Social Distancing Requirements to the fullest extent possible, as follows:

- Designate six-foot distances for employees and customers by signage, tape, or other means;
- Have hand sanitizer readily available for employees and customers;
- Implement separate operating hours for elderly and vulnerable customers; and
- Post online whether a facility is open and how best to reach the facility and continue services by phone or remotely.

Governor Pritzker Issues Stay-at-Home Order

How Will the Order Be Enforced?

The Governor has stated that there is no plan to have the Illinois National Guard enforce a quarantine. The Governor stated that while he will instruct law enforcement to monitor for violations, the vast majority of enforcement will come from individuals and companies voluntarily complying.

Does the Order Qualify As an “Isolation Order” under the Families First Coronavirus Response Act?

Probably not. A “quarantine or isolation order” is arguably more restrictive than the current stay-at-home Order. Whereas an isolation order would entirely restrict movement (e.g., for someone who had been infected or was suspected of having the virus), the current stay-at-home Order allows individuals to leave their residences for a number of reasons, as described above, including for work in many instances. The U.S. Department of Labor is expected to publish regulations implementing the FFCRA on or before April 2, 2020, which may address this question. Stay tuned.

Next Steps

First, you need to determine if your business provides “essential services” and you need to inform employees whether they are expected to continue to come to work or if there is an alternative means for employees to work from home. At this time, it does not appear necessary to issue letters to employees to give to law enforcement to inform law enforcement that the employee is performing essential services.

Second, if your business provides essential services, determine whether there are any employees who are not necessary to the functioning of your business and if there are any employees who could perform some of their functions from home.

Finally, even if your business is not essential, ensure that you have taken sufficient security precautions to ensure that your businesses remain safe and that all employees have contact information for multiple managers in case a question arises.

We will update this post as the government releases new information.