

COVID-19 Update

March 2020

Ohio Issues Stay-at-Home Order

Key Notes:

- On March 22, Ohio Governor Mike DeWine announced that the Director of the Ohio Department of Health, Dr. Amy Acton, issued a Stay-at-Home Order for all of Ohio.
- All individuals currently within the state of Ohio must stay at home or at their place of residence, except as allowed in the Order.
- All persons may leave their home or place of residence only for Essential Activities, Essential Governmental Functions, or to participate in Essential Businesses and Operations, as defined in the Order.
- All businesses and operations in the state, except Essential Businesses and Operations, are required to cease all activities within the state except Minimum Basic Operations.
- The Order becomes effective at 11:59 p.m. on Monday, March 23.

On March 22, Ohio Governor Mike DeWine announced that the Director of the Ohio Department of Health, Dr. Amy Acton, issued a [Stay-at-Home Order](#) (Order) for all of Ohio, which requires all individuals currently within the state to stay at home or at their place of residence, except as allowed in the Order. All persons may leave their home or place of residence only for Essential Activities, Essential Governmental Functions, or to participate in Essential Businesses and Operations, as defined in the Order. All businesses and operations in the state, except Essential Businesses and Operations, are required to cease all activities within the state except Minimum Basic Operations. All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes permitted

by the Order. Any gathering of more than 10 people is prohibited unless exempted by the Order, and only Essential Travel and Essential Activities, as defined in the Order, are permitted.

The Order goes into effect at 11:59 p.m. on Monday, March 23, and will last until at least April 6, at which time it will be reevaluated. Ohio is the seventh state to adopt such a policy, following California, Connecticut, Illinois, New York, New Jersey and Pennsylvania. The following is a summary of what the Stay-at-Home Order requires.

What are Essential Activities?

Individuals may leave their residence to perform any of the following Essential Activities:

- **For health and safety.** To engage in activities or perform tasks essential to the health and safety of themselves or a family or household member, such as, by way of example only and without limitation, seeking emergency services, obtaining medical supplies or medication, or visiting a health care professional.
- **For necessary supplies and services.** To obtain necessary services or supplies for themselves and their family or household members or persons who are unable or should not leave their home, or to deliver those services or supplies to others, such as, by way of example only and without limitation, groceries and food, household consumer products, supplies they need to work from home, automobile supplies (including dealers, parts, supplies, repair and maintenance), and products necessary to maintain the safety, sanitation, and essential operation of residences.

- **For outdoor activity.** To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements, as defined below, such as, by way of example and without limitation, walking, hiking, running, or biking. Individuals may go to public parks and open outdoor recreation areas. However, public access playgrounds may increase spread of COVID19, and therefore shall be closed.
- **For certain types of work.** To perform work providing essential products and services at Essential Businesses or Operations (which, as defined below, includes Healthcare and Public Health Operations, Human Services Operations, Essential Governmental Functions, and Essential Infrastructure) or to otherwise carry out activities specifically permitted in this Order, including Minimum Basic Operations.
- **To take care of others.** To care for a family member, friend, or pet in another household, and to transport family members, friends, or pets as allowed by this Order. This includes attending weddings and funerals.

What are Essential Businesses and Operations?

Initially, Essential Businesses and Operations are entities or organizations that fall under the Order's definitions of "Healthcare and Public Health Operations," "Human Services Operations," "Essential Government Functions" and "Essential Infrastructure." In relevant part, Essential Infrastructure includes the following areas of work: construction; food production; distribution, fulfillment and storage facilities; utilities operation and maintenance; and internet, video and telecommunications systems.

Outside of these categories, Essential Businesses and Operations also include a variety of other businesses and industries, including:

- Any business identified as an industry involved in "essential critical infrastructure" by the U.S. Department of Homeland Security, Cybersecurity & Infrastructure Security Agency. (CISA March 19, 2020 Memorandum identifying those industries is attached to the Order.)
- Businesses that provide professional services, including legal, accounting, insurance and real estate services.
- Manufacturing, distribution and/or supply chain businesses providing essential products and services to

other Essential Businesses **and** certain other "critical" industries. Such critical industries include pharmaceutical, technology and biotechnology, chemicals, healthcare, food and beverage, transportation, energy, steel, fuel, construction, mining, communications, and national defense.

- Businesses that sell, manufacture or supply other Essential Businesses with support or products necessary for those other businesses to operate. Such products include computers and related technology; IT and telecommunications equipment; appliances; electrical, plumbing and heating material; personal hygiene products; and chemicals, soaps or detergents.
- Stores that sell groceries, medicine (including prescription medication), household products, and alcoholic and non-alcoholic beverages, as well as the **supply chain and administrative support** functions of such businesses.
- Businesses that manufacture, produce, process or cultivate food, beverages and licensed marijuana, including farms and dispensaries.
- Animal shelters, rescues, kennels, and adoption facilities.
- Charitable and social services organizations, including food banks and shelters.
- Religious entities.
- Media organizations.
- Gas stations and supply or repair facilities for automobiles, boats, bicycles, and construction equipment.
- Financial and insurance businesses.
- Hardware and electrical, plumbing and heating supply stores.
- Laundromats and dry cleaners.
- Restaurants offering food and beverages for delivery or pick-up.
- Suppliers or manufacturers of products needed for employees to work from home.

Are companies that supply an Essential Business essential?

Yes. Under the Order, any company that produces and supplies essential products or services to another Essential

Business and Operation will be considered “Essential” and may continue operations. This also includes companies that produce or supply essential products or services to certain “critical” industries, including construction, national defense, pharmaceutical, technology and biotechnology, healthcare, chemicals and sanitization, waste pickup and disposal, agriculture, food and beverage, transportation, energy, steel and steel products, petroleum and fuel, mining, and communications.

Additionally, any company that sells, manufactures or supplies other Essential Businesses and Operations with the “support or materials needed to operate” (i.e., computers, equipment, food and beverages, etc.) are also considered “Essential.”

If not an Essential Business, can I still operate portions of my business (payroll, mail, IT, security)?

Yes, you can still perform “**Minimum Basic Operations**,” as defined by the Order, as long as you continue to comply with social distancing requirements (to the extent possible) while carrying out those Minimum Basic Operations, which are defined as the minimum necessary activities:

- to maintain the value of the business’s inventory;
- to preserve the condition of the business’s physical plant and equipment;
- to ensure security;
- to process payroll and employee benefits;
- for related functions; and
- to facilitate employees of the business being able to continue to work remotely from their residences.

What is Essential Travel?

Essential Travel is permitted and includes:

- any travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses and Operations, or Minimum Basic Operations;

- travel to care for the elderly, minors, dependents, persons with disabilities, or other vulnerable persons;
- travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services;
- travel to return to a place of residence from outside the jurisdiction;
- travel required by law enforcement or court order, including to transport children pursuant to a custody agreement; and
- travel required for non-residents to return to their place of residence outside the state.

Do my employees need documentation to travel?

Under the Order, documentation is not required for an employee to travel to or from work if your business is deemed an Essential Business and Operation. However, because the Order’s “stay at home” provisions will be enforced by state and local law enforcement, employers should consider providing employees with appropriate documentation to support their travel to and from work.

In particular, the documentation should:

- explain the employer’s designation as an Essential Business and Operation;
- identify (if possible) the specific category of Essential Business and Operation applicable to the employer;
- state that the employee is traveling to work at an Essential Business and Operation and such travel is consistent with the Order; and
- confirm that the employer is following all safe workplace guidelines from the CDC, U.S. Department of Labor, and Ohio Department of Health.

Are there penalties for not following the Order? If not, how will it be enforced?

There is no specific mention of penalties in the Order. Like other state orders (e.g., Illinois, Pennsylvania, NJ), state and local law enforcement will enforce the order according to Ohio law. Governor DeWine stated that the Order is not intended to be “punitive,” but it is a health *order*, not a

health *suggestion*. In short, every Ohioan has a responsibility to do their part. If a public official enforcing the Order has questions about what activities/services are prohibited, they are to seek advice in writing from local health officials.

Some states have noted that failure to comply could result in fines, citations or more severe measures, such as forfeiture of the ability to receive disaster relief and/or loss of the license to operate. Individuals who fail to comply with similar orders in some states (e.g., New York and California) could face punishable misdemeanors, fines and even imprisonment.

When does the Order go into effect?

The Order goes into effect at 11:59 p.m. on Monday, March 23, 2020.

How long does the Order last?

The Order will remain in effect until 11:59 p.m. on April 6, 2020, unless the Director of the Ohio Department of Health rescinds or modifies the Order at a sooner time and date.

Where can I find more information?

The [“Resources for Economic Support”](#) page on the Ohio Department of Health website provides additional information and resources to assist Ohio businesses in dealing with the economic challenges posed by the coronavirus.

FOR MORE INFORMATION

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Additional Resources

We have assembled a firmwide multidisciplinary task force to address clients' business and legal concerns and needs related to the COVID-19 pandemic. Please see our [COVID-19 Task Force](#) page for additional information and resources.

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