

ILLINOIS GOVERNOR ISSUES EXECUTIVE ORDER ON NON-ESSENTIAL AND EXEMPT BUSINESSES

MARCH 25, 2020

Illinois Governor J.B. Pritzker's Executive Order 2020-10 (the "Illinois Order") went into effect at 5 p.m. on Saturday, March 21, 2020. The order requires all residents to stay at home and schools to remain closed until April 7, 2020, but provides many exemptions for conducting essential activities, healthcare activities, essential governmental functions, and essential businesses and operations. The Illinois Order is one of the State's 10 Executive Orders (2020-3 through 2020-12) issued in response to the threat of COVID-19. The Illinois Order requires that **non-essential business and operations in the State must cease** except Minimum Basic Operations, as defined in the order. This Client Alert provides an overview of current governmental guidance for businesses and workers subject to the Illinois Order.

The Illinois Order permits all persons to leave their homes or places of residence to operate Essential Businesses and Operations and to perform work related to providing essential products and services at a broadly defined set of Essential Businesses or Operations, which encompasses further broadly defined areas of Healthcare and Public Health Operations, Human Services Operations, Essential Governmental Functions, and Essential Infrastructure, as well as a list of 23 other broadly defined business categories (including manufacturing / distribution / supply chain for critical products and industries, food and beverage, transportation businesses, media, financial institutions, hardware and supply stores, trades, shipping and logistics, laundry services, restaurants for off-premises consumption, supplies and support for Essential Businesses and Operations, home-based care, residential facilities, professional services, day care for exempted employees, hotels, and funeral services). Exemptions also apply to carrying out Essential Activities or to otherwise carry out activities specifically permitted in the Illinois Order, including Minimum Basic Operations for non-essential businesses. The Illinois Order specifically further identifies relevant essential industries that are served by essential manufacturing and supply chain providers, including pharmaceutical, technology, biotechnology, healthcare, chemicals and sanitization, waste pickup and disposal, agriculture, food and beverage, transportation, energy, steel and steel products, petroleum and fuel, mining, construction, national defense, and communications.

The Illinois Order encourages **all Essential Businesses and Operations to remain open**, and includes specific language allowing for broad interpretation of sectors, products, and services to avoid impact on delivery and infrastructure. The language of the Illinois Order provides exemptions to the work, businesses, and operations supporting and servicing essential businesses, operations, and industries. Thus, if your business products and services are necessary to support those specifically identified in the Illinois Order, your business's and employees' activities also may be exempt. To the greatest extent feasible, Essential Businesses and Operations shall comply with Social Distancing Requirements.

The Illinois Order answers the question of remote work for any business: Businesses also may continue operations consisting exclusively of employees or contractors who perform activities at their own residences (i.e., working from home).

On March 19, the U.S. Department of Homeland Security, Cybersecurity & Infrastructure Security Agency, issued a Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, in line with the Federal Guidance that "If you work in a critical infrastructure industry, as defined by the Department of Homeland Security, such as healthcare services and pharmaceutical and food supply, you have a special responsibility to maintain your normal work schedule ...". The Illinois Order makes clear that the definition of "Essential Businesses and Operations" is meant to encompass the workers identified in that Memorandum.

The State of Illinois has created a Coronavirus (COVID-19) Response page, available [here](#).

Read the Illinois Order [here](#).

Many businesses desire to remain open if they can do so safely, and many have shifted to remote work for some of the workforce. Businesses that fall within any of the exempted sectors are encouraged to review the Illinois Order and Federal Guidance and document how they fall within the exemption; however, since every determination must be made on a case-by-case basis and the guidance from the government is constantly evolving, it is important for qualifying businesses/employers to consult counsel to assist them in weighing their options, documenting their positions, and making important determinations as to which employees are exempt from stay-at-home orders. Businesses should continue to monitor further governmental guidance and COVID-19 developments and comply with both Social Distancing mandates and CDC sanitation and safety recommendations if they remain open.

ADDITIONAL INFORMATION

Tucker Ellis attorneys are helping clients, boards, and management in considering their best options and in documenting policies, ongoing governance, and continuing business operations in compliance with government mandates and safety measures. For additional information or assistance, please contact:

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