

WHAT BUSINESSES ARE CONSIDERED ESSENTIAL UNDER GOVERNOR PRITZKER'S STAY-AT-HOME ORDER?

On March 20, 2020, Governor Pritzker issued an Executive Order in Response to COVID-19 (COVID-19 Executive Order No. 8) which broadly ordered all individuals living within the State of Illinois to stay at home or at their place of residence except for the purposes specified in the Executive Order. Under the Executive Order, Illinois residents may only leave their homes for “Essential Activities,” “Essential Government Functions,” or to operate “Essential Businesses and Operations.” The Executive Order is effective as of 5:00 p.m. on March 21, 2020 and continues through April 7, 2020, which is when the current Illinois disaster declaration expires.

This Executive Order has the potential to severely impact or shut down many Illinois businesses. However, what makes a business “essential” under the Executive Order is not necessarily intuitive and business owners should carefully read the Executive Order before making a determination whether to shut down or suspend operations.

Pursuant to the Executive Order, all “Essential Businesses and Operations are encouraged to remain open.” The proviso is that any Essential Businesses and Operations must, to the greatest extent feasible, comply with very specific Social Distancing Requirements as set forth in the Order (discussed below).

Essential Businesses and Operations

What are Essential Businesses and Operations under the Order? The obvious essential operations are healthcare and public health operations, human services operations (e.g. long-term care facilities, shelter care facilities, and transitional facilities), essential infrastructure operations (e.g. food production, construction, building management, airports and utilities), and essential governmental functions. The definitions for each of these types of operations are broadly construed under the Executive Order to avoid any impact on the delivery of these essential services.

In addition to the foregoing types of operations, Section 12 of the Executive Order lists many other types of businesses that fall within the definition of Essential Businesses and Operations. These include:

- Grocery stores and pharmacies
- Food, beverage and cannabis production and agriculture
- Charitable and social services
- Media
- Gas stations
- Financial institutions
- Hardware and supply stores
- Critical trades (e.g., plumbers, electricians, exterminators, cleaning and janitorial staff)
- Mail and logistics services
- Educational institutions, consistent with the prior executive order closing schools
- Laundry services

- Restaurants for off-premises consumption
- Suppliers of goods for other Essential Businesses and Operations, or products for remote work
- Transportation providers (including Uber/Lyft), so long as travel is consistent with restrictions
- Home-based care services
- Professional services, including legal, accounting, insurance and real estate
- Certain licensed day care centers
- Essential labor union functions
- Hotels/motels
- Funeral services

If you have questions as to whether your business is considered essential, consult Section 12 of the Executive Order or contact an attorney at Momkus LLC for assistance.

Non-Essential Businesses – Minimum Basic Operations

All businesses that are not Essential Businesses and Operations must cease all activities as of 5:00 p.m. on March 21, 2020, except for Minimum Basic Operations. However, all businesses may continue operations that consist exclusively of employees working remotely from their own residences.

Minimum Basic Operations are defined as:

- The minimum necessary activities to maintain the value of the business’s inventory, preserve the condition of the business’s physical plan and equipment, ensure security, process payroll and employee benefits, or for related functions.
- The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.

Social Distancing Requirements

All Essential Businesses and Operations as well as non-essential businesses engaged in Minimum Basic Operations must, “to the greatest extent feasible,” comply with Social Distancing Requirements while open for business. These requirements are:

- **Designate six-foot distances**: Designating with signage, tape, or by other means six-foot spacing for employees and customers in line to maintain appropriate distance.
- **Hand sanitizer and sanitizing products**: Have hand sanitizer and sanitizing products readily available for employees and customers.
- **Separate operating hours for vulnerable populations**: Implement separate operating hours for elderly or vulnerable customers.
- **Online and remote access**: Posting online whether a facility is open and how best to reach the facility and continue services by phone or remotely.



We hope this guidance assists you and your business in navigating these challenging times. If you have any questions about the impact of the Executive Order, whether your business is considered essential, or what actions you need to be taking, please contact an attorney at Momkus LLC for assistance.