

Missouri Issues State-wide “Stay At Home” Order

Labor & Employment Law Update

on April 4, 2020

This blog has previously reported on Governor Parson’s resistance to issue a state-wide “Stay At Home” Order in Missouri in response to the COVID-19 pandemic. He had previously issued a “Social Distancing” Order, effective through April 6, 2020, with individual counties and municipalities left to issue their own Stay At Home Orders to fill the void.

Now that has changed.

On Friday evening, the Governor announced that the State’s Department of Health & Human Services had issued a state-wide Order mandating that all Missourians “shall avoid leaving their homes or places of residence unless necessary.” The details of the 3-page Order, which is effective beginning on April 6, 2020 and remains in effect through Friday, April 24, 2020, are as follows:

Individuals Are Ordered To Stay At Home

Missouri residents are to avoid leaving home, except to work, access food, prescriptions, health care or other necessities or to engage in outdoor activity. And if they must leave for such purposes, they are required practice “social distancing.” The Order does also carve out individuals leaving home to go to and from their place of worship, but again provided that “social distancing” guidelines are adhered to.

Individuals are specifically prohibited from visiting nursing homes, long-term facilities and retirement homes unless to provide critical assistance. Finally, individuals are to avoid social gatherings of more than ten people. Restrictions on eating and drinking at bars, restaurants and food courts remain, but those businesses can remain open for drive-thru, pickup or delivery.

If individuals do leave home subject to the above restrictions, the dictates of the prior “Social Distancing” Order remain in effect.

Businesses Can Continue To Operate, Subject To Restrictions

Notably, the Order **does not** require any businesses to shutter. Instead, it places restrictions on businesses based on whether they employ individuals to perform “essential worker functions,” as defined by U.S. Department of Homeland Security’s guidance.

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This DHS Guidance includes functions of workers employed in the following fields:

- health care/public health;
- law enforcement, public safety and first responders;
- food and agriculture;
- energy;
- water/wastewater;
- transportation/logistics;
- public works/infrastructure support;
- communications & IT;
- community and government-based operations;
- hazardous materials;
- financial services;
- chemicals;
- defense industrial base;
- commercial facilities;
- residence care and shelter services; and
- hygiene products and services.

Given the wide range of fields above and the various workers defined under each by the DHS, Missouri businesses should study the DHS’ guidance in detail and seek legal guidance if there is any question as to whether employees qualify.

Businesses with employees performing “essential worker functions”

For businesses with employees meeting this DHS definition and which engage in retail sales to the public, they are required to limit the number of people in the retail locations as follows:

- for retail locations with less than 10,000 square feet, 25% or less of the local fire or building code occupancy; or
- for retail locations with more than 10,000 square feet, ten percent or less of the local fire or building code occupancy.

The Order exempts workers performing “essential worker functions” and whose job duties require contact with other people closer than 6 feet from “social distancing” requirements. However, for any retail establishment remaining open, the Order requires “social distancing” to be practiced “including, but not limited to, when customers are standing in line.”

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Businesses *without* employees performing “essential worker functions”

If a business does not have employees performing “essential worker functions,” then it is subject to the following restrictions:

- gatherings of ten people in a single space at the same time are prohibited; and
- individual workers are to maintain six feet between them, except when those workers are family members.

Businesses without employees performing “essential worker functions” can request a waiver from the gathering restrictions from the State’s Department of Economic Development.

Missouri Schools Remain Closed

The Order specifically declares that Missouri schools shall remain closed.

However, subject to the individual and business restrictions above, daycares, childcare providers and schools can still provide child care for working families if they follow guidelines published by the Centers for Disease Control.

Local Orders Remain Effective

Finally, the Order is clear that while it is effective state-wide, local counties and municipalities may enact separate orders or regulations to help combat the COVID-19 Order, so long as they are not inconsistent with the Order.