

“Stay at Home” Order in Illinois

Labor & Employment Law Update

By Sara Zorich on March 20, 2020

Earlier we reported on the issuance of “shelter-in-place” orders in California and Pennsylvania as well as a number of other communities. Effective March 21, 2020 at 5:00 pm CST and until April 7, 2020, Illinois will join the ranks and implement its own “Stay at Home” order. As we also noted earlier, “shelter-in-place” orders differ from one jurisdiction to another and some may be more restrictive. Illinois’ approach, however, is more permissive and gives businesses and individuals more latitude.

Pursuant to the Illinois order, all persons may leave their homes only for essential activities, essential governmental functions, or to engage in essential businesses and operations. Essential activities include leaving home to seek health care, to purchase necessary supplies, to work for entities engaged in health care, essential government functions and essential infrastructures, to take care of family, friends or pets, or to engage in outdoor activity while complying with social distancing requirements. The order also permits travel to and from essential activities, governmental functions and essential businesses and operations.

The order expressly provides that individuals who work in ESSENTIAL BUSINESSES & OPERATIONS are permitted to leave their home and go to work.

Essential Business & Operations means: Health Care and Public Health Operations, Human Services Operations, Essential Governmental Functions, and Essential Infrastructure.

*****Health Care and Public Health Operations.**

Health Care and Public Health Operations includes, but is not limited to: hospitals; clinics; dental offices; pharmacies; public health entities, including those that compile, model, analyze and communicate public health information; pharmaceutical, pharmacy, medical device and equipment, and biotechnology companies (including operations, research and development, manufacture, and supply chain); organizations collecting blood, platelets, plasma, and other necessary materials; licensed medical cannabis dispensaries and licensed cannabis cultivation centers; reproductive health care providers; eye care centers, including those that sell glasses and contact lenses; home health care

services providers; mental health and substance use providers; other health care facilities and suppliers and providers of any related and/or ancillary health care services; and entities that transport and dispose of medical materials and remains.

Specifically included in Health Care and Public Health Operations are manufacturers, technicians, logistics, and warehouse operators and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products.

Health Care and Public Health Operations also includes veterinary care and all health care services provided to animals.

Health Care and Public Health Operations shall be construed broadly to avoid any impacts to the delivery of health care, broadly defined. Health Care and Public Health Operations does not include fitness and exercise gyms, spas, salons, barber shops, tattoo parlors, and similar facilities.

*****Human Services Operations.**

Human Services Operations includes, but is not limited to: long-term care facilities; all entities licensed pursuant to the Child Care Act, 225 ILCS 10, except for day care centers, day care homes, group day care homes, and day care centers licensed as specified in Section 12(s) of this Executive Order; residential settings and shelters for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness; transitional facilities; home-based settings to provide services to individuals with physical, intellectual, and/or developmental disabilities, seniors, adults, and children; field offices that provide and help to determine eligibility for basic needs including food, cash assistance, medical coverage, child care, vocational services, rehabilitation services; developmental centers; adoption agencies; businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged individuals, individuals with physical, intellectual, and/or developmental disabilities, or otherwise needy individuals.

Human Services Operations shall be construed broadly to avoid any impacts to the delivery of human services, broadly defined.

*****Essential Infrastructure.**

Essential Infrastructure includes, but is not limited to: food production, distribution, and sale; construction (including, but not limited to, construction required in response to this public health emergency, hospital construction, construction of long-term care facilities, public works construction, and housing construction); building management and maintenance; airport operations;

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operation and maintenance of utilities, including water, sewer, and gas; electrical (including power generation, distribution, and production of raw materials); distribution centers; oil and biofuel refining; roads, highways, railroads, and public transportation; ports; cybersecurity operations; flood control; solid waste and recycling collection and removal; and internet, video, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services).

Essential Infrastructure shall be construed broadly to avoid any impacts to essential infrastructure, broadly defined.

*****Essential Governmental Functions.**

Essential Government Functions means all services provided by the state or any municipal, township, county, subdivision or agency of government and needed to ensure the continuing operation of the government agencies or to provide for or support the health, safety and welfare of the public, and including contractors performing Essential Government Functions. Each government body shall determine its Essential Governmental Functions and identify employees and/or contractors necessary to the performance of those functions.

Indeed, the order expressly states that “all businesses and operations are encouraged to remain open.”

Other key businesses that will remain open include, but are not limited to, the following:

1. Grocery stores and pharmacies;
2. Food, beverage and cannabis producers;
3. Charitable organization providing social services, such as food banks and shelters;
4. Media;
5. Gas stations and businesses supporting transportation;
6. Financial institutions from banks and financial markets to payday lenders and pawnshops;
7. Hardware and supply stores;
8. Critical trades, including plumbing, electricians, and other construction trades;
9. Post offices and other delivery services;
10. Educational institutions (currently engaged in e-learning activities due to other restrictions and closures);
11. Laundry services;

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12. Restaurants for off-premises consumption;
13. Home office suppliers;
14. Essential businesses and operations suppliers;
15. Transportation;
16. Home-based care and services;
17. Residential facilities;
18. Professional services;
19. Day care centers for employees exempted under order;
20. Manufacturers, distributors and supply chain for critical industries;
21. Critical labor union functions;
22. Hotels and motels; and
23. Funeral services.

Also noteworthy, all first responders, emergency management personnel, court, corrections and law enforcement personnel, child protection and child welfare personnel, housing and shelter personnel, military, and other governmental employees working for or to support essential businesses and operations are specifically exempted from the order.

Finally, and perhaps most importantly, any business or entity that supports an essential business, as broadly and expansively defined in the order, will be permitted to remain open and its employees will be permitted to work.

Accordingly, the Illinois “stay at home” order is comparably broader and more flexible than any other shelter-in-place order issued to date. While we expect to learn more as we move forward, the order’s purpose is nevertheless clear: to contain and reduce spreading the virus. In fact, if a business remains open it **MUST** take proactive measures to ensure compliance with social distancing requirements WHERE POSSIBLE. The order mandates that any business operating must comply with the following, where possible:

- **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:** Having hand sanitizer and sanitizing products readily available for employees and customers;
- **Separate operating hours for vulnerable populations:** Implementing separate operating hours for elderly and vulnerable customers; and
- **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 will continue to monitor any developments and update as needed.

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