What Governor Edwards’ Stay-At-Home Order Means For Louisiana Employers

3.24.20

Louisiana Governor John Bel Edwards recently issued Executive Proclamation Number 33 JBE 2020, requiring all residents of the state to remain in their homes until April 13. The Order, which went into effect at 5:00 p.m. CDT on Monday, March 23, also requires the closure of all state governmental office buildings as well as certain “non-essential” businesses for at least the next three weeks.

Non-Essential Businesses Must Close Until April 13

The non-essential businesses identified in the Order include:

- **Places of public amusement**, whether indoors or outdoors, including carnivals, amusement parks, water parks, trampoline parks, aquariums, zoos, museums, arcades, fairs, pool halls, children’s play centers, playgrounds, theme parks, theaters, concert and music halls, adult entertainment venues, racetracks, and other similar businesses;

- **Personal care and grooming businesses**, including but not limited to, barber shops, beauty salons, nail salons, spas, massage parlors, tattoo parlors, and other similar businesses; and

- **Shopping malls**, except for stores that have a direct outdoor entrance and exit and provide services or products identified as “essential” in federal guidelines issued by the U.S. Department of Homeland Security.

These closures build upon an earlier round of emergency restrictions implemented on March 17, which included the statewide closure of “all casinos, video poker establishments, movie theaters,
bars, bowling alleys, fitness centers, and gyms,” and limited restaurants and coffee shops to offering only take-out, drive-thru, or delivery services. See Executive Proclamation No. 30 JBE 2020. Those restrictions remain in effect until April 13, as well.

During this time, employees of the aforementioned businesses will still be allowed to work from home where possible, and to perform critical business activities such as processing payroll, cleaning services, and maintenance. See Proclamation at pp. 2-3, Section 4.

"Essential" Businesses May Continue To Operate

The governor’s Order carves out an important exception to the shelter-in-place directive, under which businesses that perform “essential” critical infrastructure functions will be allowed to continue operating with their full staff. See Proclamation at pp. 2-3, Section 4. The Proclamation does not expressly define which businesses are considered “essential.” However, it refers instead to the guidelines published by the Department of Homeland Security’s Cybersecurity & Infrastructure Security Agency (CISA) in connection with the federal government’s COVID-19 response efforts. See CISA Memorandum on Identification of Essential Critical Infrastructure Workers During Covid-19 Response [March 19, 2020]. Examples of essential worker functions under the CISA guidelines include:

- Healthcare workers and caregivers
- Mental health and Social Service workers
- Pharmacy employees
- Workers supporting groceries, pharmacies and other retail sales of food and beverage products
- Restaurant carryout and quick-serve food operations and food delivery employees
- Farmworkers
- Electricity and Utility Industry Employees
- Critical Manufacturing Employees [medical supply chains, energy, transportation, food, chemicals]
- Petroleum, Natural and Propane Gas Workers
- Transportation and Logistics Workers
- Communications and Information Technology Employees

Following the release of the Proclamation, the Governor’s Office also published guidelines identifying additional categories of businesses that will be deemed exempt from the stay-at-home directive. See Additional Illustrative Examples of Critical Infrastructure Businesses Consistent With CISA Guidance (March 22, 2020).
These businesses include:

1. **Essential Infrastructure.** This category includes, but is not limited:
   - 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
   - Construction Engineers
   - Building management and maintenance
   - Airport operations
   - 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
   - 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)

2. **Organizations Providing Charitable and Social Services.** Businesses and religious and secular nonprofit organizations, including food banks, when providing food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities.

3. **Hardware and Supply Stores.** Hardware stores and businesses that sell electrical, plumbing, and heating material.

4. **Critical trades.** Building, construction, and other types of trades, including:
   - Plumbers
   - Electricians
   - Exterminators
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- Cleaning and janitorial staff for commercial and governmental properties
- Security staff
- Operating engineers
- HVAC
- Painting
- Moving and relocation services

5. **Supplies for Essential Businesses and Operations.** Businesses that sell, manufacture, or supply other Essential Businesses and Operations with the support or materials necessary to operate, including:
   - Computers
   - Audio and video electronics
   - Household appliances
   - IT and telecommunication equipment
   - Hardware
   - Paint
   - Flat glass
   - Electrical, plumbing and heating material
   - Sanitation equipment
   - Personal hygiene products
   - Food, food additives, ingredients and components
   - Medical and orthopedic equipment
   - Optics and photography equipment
   - Diagnostics, food and beverages, chemicals, soaps and detergent
   - Firearm and ammunition suppliers and retailers for purposes of safety and security

6. **Residential Facilities and Shelters.** Residential facilities and shelters for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness, and domestic abuse shelters.

7. **Manufacture, distribution, and supply chain for critical products and industries.** Manufacturing companies, distributors, and supply chain companies producing and supplying essential products and services in and for industries such as:
   - Pharmaceutical
   - Technology
8. **Hotels and Motels.** Hotels and motels, to the extent used for lodging and delivery or carry-out food services.

Businesses and organizations that fall under one or more of these categories are not required to obtain any special authorization from the State in order to continue operating. Employers located in a Parish or City that has issued its own set of COVID-19-related regulations may be required to comply with additional restrictions.

The governor’s Proclamation provides essentially no guidance for business-owners who believe they may have been improperly excluded from the list of essential businesses, however. Further guidance on this issue is expected in the coming weeks.

**All Other Businesses Must Reduce Operations While Maintaining Appropriate Social Distancing Policies And Minimizing In-Person Interactions**

All other businesses — *i.e.*, those that were neither designated as “essential” nor expressly ordered to close — must reduce their operations to only essential staff while maintaining proper social distancing practices and minimizing public contact. Proclamation No. 30 JBE 2020 at Section 5. Businesses conducting such limited operations must ensure that 10 or more people are never gathered in close proximity or within the same physical space.
Conclusion

Fisher Phillips and the Fisher Phillips Essential Business Task Force will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to Fisher Phillips’ Alert System to get the most up-to-date information. You can also review our nationwide Comprehensive and Updated FAQs for Employers on the COVID-19 Coronavirus and our FP Resource Center For Employers. For further information, contact your Fisher Phillips attorney or any member of our Essential Business or COVID-19 Taskforce.

This Legal Alert provides an overview of a specific state law. It is not intended to be, and should not be construed as, legal advice for any particular fact situation

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