

Insights, News & Events

MIAMI-DADE COUNTY BUSINESSES CLOSE AMID COVID-19 OUTBREAK: WHAT EMPLOYERS NEED TO KNOW

Insights
Mar 19, 2020

As Florida continues to see the spread of the COVID-19 coronavirus, South Florida has emerged as a hotspot for the state's total cases. Today, Miami-Dade County Mayor Carlos Gimenez issued [Emergency Order 07-20](#), mandating the closure of all non-essential retail and commercial establishments effective at 9:00 p.m. on Thursday, March 19. The Executive Order includes exemptions for grocery stores, healthcare providers, media services, and restaurants and other food services, among others. The closure order is scheduled to last for as long as the Miami-Dade County State of Local Emergency is in effect.

It is important to note that the Order proscribes minimum standards. Individual municipalities may impose more stringent standards within their jurisdictions.

Our [Fort Lauderdale office](#) has put together guidance to respond to Mayor Gimenez's recent Executive Order. We also encourage you to review our nationwide [Comprehensive and Updated FAQs for Employers on the COVID-19 Coronavirus](#) and our [FP Resource Center For Employers](#) put together by our firm's COVID-19 Taskforce.

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I OPERATE A FOOD SERVICE OR RESTAURANT OR FOOD SERVICE FACILITY IN MIAMI-DADE COUNTY. DO WE HAVE TO CLOSE? FOR HOW LONG?

Partially so. Although the Order permits “restaurants and other facilities that prepare and serve food” to remain open, such food service is subject to the restrictions in the County’s previous [Order 03-20](#). That Order 03-20 requires restaurants with seating for more than eight persons to close on-premises dining. However, restaurants may remain open for delivery, takeout, and drive-throughs.

Restaurants must also comply with [Florida Governor Ron DeSantis’s recent executive order](#) and implement employee screening and prohibit any employee from entering the restaurant if they meet **any** of the following criteria:

1. Have been infected with COVID-19 and have not had two consecutive negative test results separated by 24 hours;
2. Have presented signs or symptoms of, or have disclosed the presence of, a respiratory infection, including cough, fever, shortness of breath, or sore throat;
3. Have been in contact with any person(s) known to be infected with COVID-19, who have not themselves tested negative for COVID-19 in the past 14 days;
4. Have traveled through any airport within the past 14 days;
5. Have traveled on a cruise ship within the past 14 days.

The closure is effective at 9:00 p.m. on March 19 until the County’s Local State of Emergency is lifted. However, the restrictions provided in Order 03-20 have been in effect since 11:00 p.m. on March 17.

I OPERATE AN ENTERTAINMENT OR RECREATIONAL FACILITY IN MIAMI-DADE COUNTY. DO WE HAVE TO CLOSE? FOR HOW LONG?

Probably, effective at 9:00 p.m. on March 19, until the County's Local State of Emergency is lifted. The Order 07-20 does not provide that an entertainment or recreational facility is an "essential retail and commercial business."

However, the Order does permit businesses operating at any "airport, seaport, or other government facility, including parks and government offices" to remain open. Thus, if your entertainment facility operates inside any such facility, you are permitted to remain open.

I OPERATE A RETAIL BUSINESS. DO WE HAVE TO CLOSE?

POSSIBLY. TO REMAIN OPEN, A RETAIL ESTABLISHMENT MUST QUALIFY AS AN "ESSENTIAL RETAIL AND COMMERCIAL BUSINESS," WHICH ARE SPECIFICALLY LISTED IN THE ORDER 07-20, PARAGRAPH 2. ALTHOUGH SOME BUSINESSES ARE ALLOWED TO REMAIN OPEN, THE COUNTY IS URGING BUSINESSES TO IMPLEMENT AND PRACTICE SOCIAL DISTANCING MITIGATION MEASURES, SUCH AS KEEPING SIX FEET BETWEEN PERSONS AND LIMITING GROUP SIZES TO FEWER THAN TEN PEOPLE.

I OPERATE A DIFFERENT KIND OF BUSINESS. DO WE HAVE TO CLOSE?

IF YOUR BUSINESS DOES NOT PROVIDE ANY OF THE SERVICES IN, OR IS NOT ENGAGED IN ANY OF THE BUSINESS ACTIVITIES DESCRIBED IN THE ORDER 07-20, PARAGRAPH 2, THEN YOUR BUSINESS IS LIKELY CONSIDERED A NON-ESSENTIAL RETAIL AND COMMERCIAL ESTABLISHMENT AND MUST CLOSE EFFECTIVE 9:00 P.M. ON MARCH 19, 2020.

OUR BUSINESS IS CLOSING TEMPORARILY. DO I NEED TO WORRY ABOUT WARN?

It depends on the length of the closure and if your company is covered. Florida does not have its own WARN act, so the federal WARN applies. See our [WARN/Plant Closings section on our national FAQ](#).

OUR BUSINESS IS CLOSING TEMPORARILY. DO I NEED TO PAY MY EMPLOYEES PAID TIME OFF (PTO)?

Florida does not have a statute requiring private employers to pay employees paid time off. However, an employer's consistent practice, written policy, or contract promising such payment may create an enforceable legal obligation to do so.

IF MY BUSINESS CLOSES TEMPORARILY OR PLACES SOME EMPLOYEES ON TEMPORARY LAYOFF, WILL MY AFFECTED EMPLOYEES BE ABLE TO SEEK UNEMPLOYMENT?

Yes, employees who are subject to a layoff or temporary closure are eligible for unemployment benefits. Eligible employees are encouraged to apply for unemployment online with the [Florida Department of Economic Opportunity](#).

WHAT ELSE CAN WE DO TO ENSURE THE HEALTH AND SAFETY OF OUR EMPLOYEES AND COMMUNITY?

In addition to the CDC and the WHO, our state and local public health agencies and government authorities have provided useful resources that address how we can all help slow the spread of the novel coronavirus:

- [Florida Department of Health](#) and its [COVID-19 Resource Toolkit](#);
- [Governor DeSantis's Coronavirus Updates](#);
- [Miami-Dade County's Coronavirus Updates](#); and
- [City of Miami's COVID-19 Updates](#).

CONCLUSION

For now, we 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. For further information, contact your Fisher Phillips attorney, any attorney in our [Fort Lauderdale office](#), or [any member of our COVID-19 Taskforce](#). You can also review our nationwide [Comprehensive and Updated FAQs for Employers on the COVID-19 Coronavirus](#) and our [FP Resource Center For Employers](#), maintained by our Taskforce.

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

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