



New York On PAUSE: Non-Essential Businesses Must Keep 100% Of Their Workforce At Home

Insights

3.20.20

As part of New York's continued response to the COVID-19 pandemic, Governor Cuomo announced during a press conference this morning that he will be signing an executive order mandating that 100% of the workforce stay home, excluding essential services. This follows his two previous executive orders requiring that non-essential businesses decrease their in-person staff by 50% effective March 20 at 8 p.m. and 75% effective March 21 at 8 p.m., as we reported yesterday. **[Ed. Note: The order has since been extended through April 15 and may be extended further by future Executive Orders.] [Ed. Note: On April 6, Governor Cuomo announced an extension of the order through April 29.] [Ed. Note: On April 16, Governor Cuomo announced an extension of the order through May 15.]**

This mandate is part of a series of other measures designed to put New York State on **PAUSE: Policies Assure Uniform Safety for Everyone**. The governor announced the 100% mandate will take effect Sunday evening; we await additional guidance regarding the effective time, but if past practice is any indication, 8 p.m. seems likely. Non-essential businesses that do not comply face civil fines and mandatory closure orders. The governor also announced that New York will implement a 90-day moratorium on evictions for both residential and commercial tenants.

Essential Services Excluded

Like the previous executive orders, businesses providing essential services are excluded from the mandate and do not need to reduce their in-person workforce. This includes the following businesses:

- essential health care operations, including research and laboratory services;
- essential infrastructure, including utilities, telecommunication, airports, and transportation infrastructure;
- essential manufacturing, including food processing and pharmaceuticals;
- essential retail, including grocery stores and pharmacies;
- essential services, including trash collection, mail, and shipping services;
- news media;
- banks and related financial institutions;

- providers of basic necessities to economically disadvantaged populations;
- construction;
- vendors of essential services necessary to maintain the safety, sanitation, and essential operations of residences or other essential businesses; and
- vendors that provide other essential services or products.

Last night, the state issued additional guidance as to whether a business is essential and thus exempt from this mandate. Other businesses may be deemed essential after requesting an opinion from the Empire State Development Corporation, which will be responsible for reviewing and granting such requests. The Empire State Development Corporation has prepared a form for other companies to use to request to be deemed an essential business. Essential services businesses that are permitted to stay open are directed to implement measures that will provide for “social distancing” of six feet.

Additional closures and other measures may be forthcoming as the state and local government continue to respond to the COVID-19 pandemic. Employers also need to comply with a new state law guaranteeing job protection and wages for New York workers who have been quarantined as a result of the COVID-19 coronavirus outbreak.

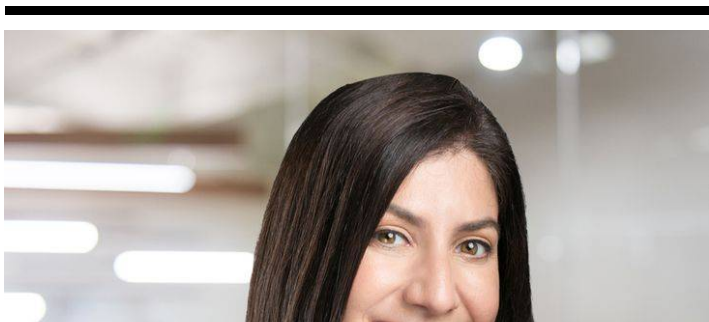
Conclusion

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 New York City 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 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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