



Arizona Under Stay-At-Home Order, Shutting Down Non-Essential Businesses

Insights

3.30.20

In response to the COVID-19 coronavirus outbreak, Arizona Governor Ducey just issued Executive Order 2020-18, entitled “Stay Home, Stay Healthy, Stay Connected,” requiring all Arizonans to limit their time away from their home or place of residence except:

1. To conduct or participate in Essential Activities.
2. For employment, to volunteer, or participate in Essential Functions.
3. To utilize any services or product provided by Essential Businesses.
4. Employment, if as a sole proprietor or family-owned business, work is conducted in a separate office space from your home, and the business is not open to serve the public.
5. No person shall be required to provide documentation or proof of their activities to justify their activities under this order.

The Order takes place effective **5:00 pm on Tuesday, March 31, 2020** and is effective until April 30, 2020, unless extended. The Order carves out exceptions permitting the conduct “Essential Activities,” “Essential Businesses,” and “Essential Functions.” The Order, however, requires that businesses and entities that remain open implement rules and procedures that “facilitate physical distancing and spacing of at least six feet.”

Essential Activities, Businesses, and Functions

The Order adopts the definitions of “Essential Businesses” and “Essential Functions” set forth in Governor Ducey’s Executive Order 2020-12, which was issued on March 23, 2020, and include:

- Healthcare and public health operations
- Human services operations
- Essential infrastructure operations
- Essential governmental functions
- Stores that sell groceries and medicine
- Food, beverage and agriculture
- Outdoor recreation activities

- Organizations that provide charitable and social services
- Media
- Gas stations and businesses needed for transportation
- Financial institutions
- Hardware and supply stores
- Critical trades
- Mail, post, shipping, logistics, delivery and pick-up services
- Educational institutions
- Laundry services
- Restaurants for consumption off-premises
- Supplies to work from home
- Supplies for essential business and operations
- Transportation
- Home-based care and services
- Residential facilities and shelters
- Professional and personal services
- Day care centers for employees exempted by the Executive Order
- Manufacture, distribution and supply chain for critical products and industries
- Hotels and motels
- Funeral services

In addition, the Stay Home, Stay Healthy, Stay Connected Order defines “Essential Activities” as:

- Obtaining necessary supplies and services for family, household members, and pets;
- Engaging in activities essential for the health and safety of family, household members, and pets;
- Caring for a family member, friend, or pet in another household or residence;
- Engaging in outdoor exercise activities, such as walking, hiking, running, biking, or golfing, but only if appropriate physical distancing practices are used;
- Attending or conducting work or volunteering in Essential Functions, including transporting children to child care services for attending work in an essential service; and
- Engaging in constitutionally protected activities such as speech and religion.

What This Means For *Non-Essential* Businesses

Effective at 5:00 pm, Tuesday, March 31, 2020, all non-essential businesses must close their workplaces. Despite the shelter-in-place order, non-essential businesses are permitted to continue their operations through teleworking arrangements and non-essential businesses may continue to operate those activities that do not require in-person, on-site transactions. The Stay Home, Stay Healthy, Stay Connected Order expressly encourages non-essential businesses “to maintain at least minimum basic operations” which include:

- Maintaining the value of the business’ inventory;
- Preserving the condition of the business’ physical plant and equipment;
- Ensure business security;
- Processing payroll and employee benefits;
- Facilitating employee’s working remotely from their residences; and
- Related functions.

What This Means for *Essential* Businesses

Those businesses that believe they fall within the “Essential Functions” should carefully review the Executive Orders 2020-12 and 2020-18 in their entirety to ensure that they fall squarely within an exception to the stay-at-home mandate.

Although the Stay Home, Stay Healthy, Stay Connected Order provides that documentation is not required, businesses that fall within the “Essential Functions” and “Essential Businesses” exceptions should consider issuing letters employees explaining the essential nature of their employment in order to ensure continuity of operations and to ensure employees do not run into any issues with local law enforcement when reporting to work.

Potential Penalties

Violations of this and other Executive Orders could potentially result in criminal penalties. A.R.S. § 26-317 provides that knowingly violating a lawful order or regulation issued pursuant to a State of Emergency is a Class 1 misdemeanor, which can carry up to a six-month jail sentence and fines that, for a business, can be as much as \$20,000. However, the Stay Home, Stay Healthy, Stay Connected Order expressly provides that any person or entity alleged to be in violation of the Order must be notified of the violation and given an opportunity to comply before any action is taken to enforce the Order.

Conclusion

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 [Phoenix](#) 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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