



Oregon Employers' COVID-19 FAQs In Light Of Stay-At-Home Order (UPDATED)

Insights

4.07.20

Governor Brown issued an order on Monday requiring Oregonians to stay home whenever possible to help minimize the spread of COVID-19. This Order is more expansive than the order that banned seated dining at the state's bars and restaurants and prohibiting gatherings of more than 25 people. The ban is effective at 12:01 am Tuesday, March 24, and has no stated end date. Violating the governor's executive order is a Class C misdemeanor, punishable by up to 30 days in jail and a \$1,250 fine.

Our Portland office has put together guidance to respond to Governor Brown's recent executive order. We also encourage you to review our nationwide Comprehensive and Updated FAQs for Employers on the COVID-19 Coronavirus, put together by our firm's COVID-19 Taskforce. Likewise, we encourage Oregon employers to review our legal alert related to the interplay between Oregon leave laws and the Families First Coronavirus Response Act.

What additional businesses did Gov. Brown order to close? For how long?

Executive Order No. 20-12 orders the closure of the following businesses: Amusement parks; aquariums; arcades; art galleries (to the extent they are open without appointment); barber shops and hair salons; bowling alleys; cosmetic stores; dance studios; esthetician practices; fraternal organization facilities; furniture stores; gyms and fitness studios (including climbing gyms); hookah bars; indoor and outdoor malls (i.e., all portions of a retail complex containing stores and restaurants in a single area); indoor party places (including jumping gyms and laser tag); jewelry shops and boutiques; medical spas, facial spas, day spas, and non-medical massage therapy services; museums; nail and tanning salons; non-tribal card rooms; skating rinks; senior activity centers; ski resorts; social and private clubs; tattoo/piercing parlors; tennis clubs; theaters; yoga studios; and youth clubs. The executive order does not have an end date.

I operate a food service or restaurant, does this new executive order overrule Executive Order No. 20-07?

No, the new executive order specifically states that restaurants, bars, taverns, brew pubs, wine bars, cafes, food courts, coffee shops, or other similar establishments that offer food or drink, will remain subject to Executive Order No. 20-07. This order is the one that prohibits on-premise consumption of food or drink, but allows take-out and delivery service. **[Ed. Note: Executive Order No. 20-07 has been extended indefinitely by Executive Order No. 20-14. Previously, on-premises consumption of food was set to be allowed starting April 15, 2020. The new April 7 Executive**

Order makes on-premises consumption prohibited indefinitely until the governor says otherwise.]

I operate a different kind of business. Do we have to close?

Governor Brown's executive order appears to have explicitly listed the businesses forced to close. She appears to have taken this path as opposed to establishing an either essential businesses list that are exempt from the order or a test for what qualifies as an essential business. Based on the plain language of the order, it appears only those specifically named must close.

All other businesses can remain open provided they have the ability to maintain social distancing. Notably absent from the list of closed business are: golf courses, car dealerships, liquor stores, and cannabis shops. For all other businesses, the governor has requested Oregon employers facilitate remote work when available. We will continue to monitor the information coming out of the governor's office related to their interpretation of the executive order.

I work in retail; do I have to close?

Unless your business is specifically named above, you do not have to close. However, you may be forced to close if you fail to comply with the executive order. The order requires a company to designate an employee to establish, implement, and enforce social distancing policies consistent with the Oregon Health Authority. Failure to do so will result in a business closure until the store can demonstrate compliance.

The executive order excludes grocery, health care, medical, or pharmacy services from this obligation (although it encourages those businesses to comply with social distancing guidelines).

My 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. Oregon does not have its own WARN act, so the federal WARN Act applies. See our [WARN/Plant Closings section on our national FAQ](#). The only Oregon-specific obligations are to comply with the federal WARN Act and employers must notify the [State Department of Community Colleges and Workforce Development](#) if they give notice of a plant closing or mass layoff under the federal WARN Act ([Or. Rev. Stat. § 285A.516](#)).

Will my employees' children still be able to go to childcare?

It depends. Childcare facilities are allowed to remain open provided that the childcare is carried out in a maximum of 10 or fewer children in the same group ("stable groups") each day and the classroom is not accessed by children outside of the "stable group." The order also directs facilities to prioritize the needs of first responders, emergency workers, health care professionals, followed by critical operations staff and essential personnel. To the extent an employee is unable to work because of childcare issues that arose from COVID-19, that employee may be entitled to [OFLA Leave](#).

What else should I know about this order?

In response to the news stories related to Oregonian's not "social distancing" that were published last week, this Executive Order went to great lengths to minimize social interaction. In addition to

the provisions above, here are some additional provisions of the executive order:

- All non-essential social and recreational gatherings of individuals are prohibited immediately, regardless of size, if a distance of at least six feet between individuals cannot be maintained (this does not prevent gatherings of members of the same residential household).
- It closes basketball courts, pools, playgrounds, skateparks, sports courts, and other outdoor recreational facilities.
- Although it directs Oregonians to stay home whenever possible, it also permits outdoor activities (like hiking or running) when social distance is maintained.

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 Portland 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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