

COVID-19 Update

March 26, 2020

1. **Coronavirus Relief Bill Passes in the Senate**

A Coronavirus relief bill containing, among other things, loans for small businesses, unanimously passed in the Senate late Wednesday night. The House is expected to vote on the bill Friday. We will provide further information on the bill after it becomes law.

2. **Essential Businesses Clarified Under “Stay Home, Stay Safe” Order.**

Governor Whitmer’s “Stay Safe, Stay Home” Order forced employers to consider whether their businesses are considered essential and may remain in operation. Today, the Governor clarified that any business that is not a life sustaining entity should close – if there is any question, businesses should assume they should close. The Governor listed, for example, landscapers, florists, and home construction as non-essential businesses that should close. However, she further explained that a florist may water its flowers as part of maintaining the value of the businesses inventory. If you continue to have questions about how the “Stay Home, Stay Safe” Order applies to your business, contact one of the lawyers below.

3. **Clarification of Temporary Expansion of Eligibility for Unemployment Benefits and Cost-Sharing**

Governor Whitmer issued Executive Order 2020-24 clarifying the expansion of eligibility for unemployment benefits and cost-sharing for employers. This Executive Order takes the place of Executive Order 2020-10, is effective retroactively to March 16, 2020, and now expires on April 22, 2020 at 11:59 p.m. (as opposed to April 14, 2020).

Specifically, the Order:

- Suspends the requirement for an individual seeking unemployment to request a registration and work search waiver from his or her employer.
- Allows anyone with an active unemployment claim to receive up to a six-week benefit extension.
- Expands cost-sharing with employers. Any benefit paid to a claimant that is laid off or placed on a leave of absence will not be charged to the employer’s account, but instead will be pooled and assumed by the Nonchargeable Benefits Component of employer accounts. Employers who unlawfully misclassify their workers and have underpaid their unemployment tax do not get the benefit of this enhanced cost-sharing.

The text of the Order is available here: https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-523056--,00.html.

4. U.S. Department of Labor's Temporary Non-Enforcement Period Applicable to the Families First Coronavirus Response Act

The U.S. Department of Labor ("DOL") has confirmed that it will not bring enforcement actions against any employer that violates the Families First Coronavirus Response Act occurring within 30 days of the enactment (March 18, 2020 through April 17, 2020), provided that the employer has made reasonable, good faith efforts to comply with the Act.

An employer acts "reasonably" and "in good faith" when all of the following facts are present:

- The employer remedies any violations, including by making all affected employees whole as soon as practicable.
- The violations of the Act were not "willful" (i.e., the employer "either knew or showed reckless disregard for the matter of whether its conduct was prohibited...").
- The DOL receives a written commitment from the employer to comply with the Act in the future.

Come April 18, 2020, this limited stay of enforcement will be lifted and the DOL will enforce violations of the Act consistent with the law.

5. Michigan Supreme Court Administrative Order Suspends Filing Deadlines in Appellate Courts

The Michigan Supreme Court issued an administrative order providing that all deadlines for all filings, jurisdictional and non-jurisdictional, in the Michigan Supreme Court and Court of Appeals are suspended as of March 24, 2020, and will be tolled until the expiration of the Governor's "Stay Home, Stay Safe" order or any subsequent order.

The order allows filers the same number of days to submit their filings after the executive order as they had prior to the suspension going into effect on March 24, 2020.

For example, if the deadline for filing an application for leave to appeal is March 26, 2020, the filer would have three business days after the executive order expires to timely submit its application with the court. The text of the order is available here: https://courts.michigan.gov/Courts/MichiganSupremeCourt/rules/court-rules-admin-matters/Administrative%20Orders/2020-08_2020-03-26_FormattedOrder_AO2020-4.pdf.

Other Michigan Courts have developed modified operations in response to the Governor's "Stay Home, Stay Safe" order, which can be found on GMH's website at:

<https://2v1c9l3pftr3ypzvm2ow9vfp-wpengine.netdna-ssl.com/wp-content/uploads/2020/03/03-24-20-Stay-Home-Stay-Safe-Summary-Court-Closures.pdf>.

GMH's Coronavirus Task Force is here to answer your questions. While GMH is complying with Governor Whitmer's Order, we are working remotely and available to assist you. Please contact any of the below lawyers for more Coronavirus support.

THE LOCAL, STATE AND FEDERAL GOVERNMENT REQUIREMENTS RELATED TO COVID-19 MAY CHANGE, AND ADDITIONAL GUIDANCE, RULES, LAWS AND REGULATIONS MAY BE ISSUED OR AMENDED, AT ANY TIME. ACCORDINGLY, OUR GUIDANCE OR POSITION ON THESE TOPICS MAY ALSO CHANGE, WITH OR WITHOUT NOTICE, AND THE ABOVE INFORMATION IS FOR EDUCATIONAL PURPOSES ONLY AND SHOULD NOT BE INTERPRETED OR RELIED UPON AS LEGAL ADVICE. EACH SITUATION IS UNIQUE AND SHOULD BE REVIEWED WITH THE ASSISTANCE OF COMPETENT PROFESSIONALS.



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