

COVID-19: Reopening Your Business

April 27, 2020

Although Governor Whitmer extended her “Stay Home, Stay Safe” Executive Order through May 15, 2020, she loosened restrictions on some businesses that are now beginning to reopen. The full text of the Executive Order is available [here](#). Part of reopening a business requires a plan for safely bringing employees back to work. GMH is here to assist businesses as they look toward reopening. While this Executive Order adopts the March 19, 2020 federal Cybersecurity and Infrastructure Security Agency (CISA) guidelines defining critical infrastructure workers, it does not adopt subsequent versions of those guidelines. We encourage businesses with questions about whether they may recall employees under this Executive Order to contact one of the lawyers below.

1. Executive Order 2020-59: Resumed Activities

The prohibition on in-person work no longer applies to businesses with employees engaged in the following “resumed activities”:

- Processing/fulfilling remote orders for goods for delivery or curbside pick-up.
- Bicycle maintenance or repair.
- Garden stores, nurseries, and lawn care, pest control, and landscaping operations.
- Maintenance workers and groundskeepers who are necessary to maintain the safety and sanitation of places of outdoor recreation not otherwise closed under any other Executive Order, provided that the business and its employees do not provide goods, equipment, supplies, or services to individuals.
- Moving or storage operations.

2. Executive Order 2020-59: Procedures for Creating and Maintaining a Safe Workplace

Executive Order 2020-59 requires businesses engaged in resumed activities to adhere to a variety of safety measures, including but not limited to:

- Providing face coverings to their employees. The type of face covering required depends on the type of activities employees perform and the extent to which employees interact with each other and members of the public.

- Developing a COVID-19 preparedness and response plan, consistent with recommendations in Guidance on Preparing Workplaces for COVID-19, developed by the Occupational Health and Safety Administration (OSHA), which is available [here](#). Such a plan must be available at the company headquarters or the worksite.
- Restricting the number of employees present on the business' premises to no more than is strictly necessary to perform the in-person work permitted under the Executive Order.
- Promoting remote work to the fullest extent possible.
- Keeping employees and patrons on the business' premises at least six feet from one another.
- Increasing standards of facility cleaning and disinfection to limit employee and patron exposure to COVID-19, as well as adopting protocols to clean and disinfect in the event of a positive COVID-19 case in the workplace.
- Adopting policies to prevent employees from entering the premises if they display respiratory symptoms or have had contact with a person with a confirmed diagnosis of COVID-19.
- Any other social distancing practices and mitigation measures recommended by the CDC.

Additional measures are required for garden stores, nurseries, and lawn care businesses; pest control operations; landscapers; and moving or storage businesses, including:

- Prohibiting gatherings of any size in which people cannot maintain six feet of distance from one another.
- Limiting in-person interaction with clients and patrons and prohibiting any such interaction in which people cannot maintain six feet of distance from one another.
- Providing personal protective equipment such as gloves, goggles, face shields, and face masks as appropriate for the activity being performed.
- Adopting protocols to limit the sharing of tools and equipment and to ensure frequent and thorough cleaning of tools, equipment, and frequently touched surfaces.

3. Additional Measures Recommended Before Employees Return to Work.

Whether businesses are permitted to re-open under Executive Order 2020-59 or not, *all* businesses should be thinking about the additional policies and procedures that should be in place before reopening and calling employees back to work. This might include:

- Revising company policies and employee handbooks to address, among other things:
 - Compliance with federal laws under the Americans with Disabilities Act (ADA) and Equal Employment Opportunity Commission (EEOC). This includes providing reasonable accommodations and protections under the ADA if an employee contracts COVID-19.
 - Policies related to telework or flexible work arrangements.
 - PTO policies and compensation/benefits reinstatement or adjustments.
- Posting the required Families First Coronavirus Response Act (FFCRA) [notice](#) in a conspicuous place on business' premises and providing employees with a leave request form for such requests.
- Keeping open communications with employees about returning to work and providing return to work notices.
- Implementing employee temperature screenings.
 - The EEOC updated its [guidance](#) on April 23, 2020, explaining that employers may screen employees for COVID-19.
 - The [Executive Order 2020-60](#) requires daily temperature screenings for workers of grocery stores, convenience stores, restaurants that sell groceries or food available for takeout, and any other business that sells food.
 - Public health departments of Oakland County and Wayne County have issued public health emergency orders which include temperature screenings. The full text of the Oakland County Order is available [here](#) and also requires face covering measures. The full text of the Wayne County Order is available [here](#). Any business operating in one or both of these Counties is required to post the applicable Order(s) at its facilities. To date, Macomb County has not issued a similar order, but has issued a Workplace Checklist, available [here](#).
- Implementing policies for employees who refuse to return to work, when the employer has a business need for those employees.

GMH's Coronavirus Task Force is here to answer your questions. GMH continues to comply with Governor Whitmer's "Stay Home, Stay Safe" Order, but 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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