

Client Alert

News Flash

[Latham & Watkins Litigation & Trial Department](#)

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Illinois' Stay-at-Home Order: What Businesses Need to Know

The Order requires many businesses to close, but allows essential industries to continue operating, and permits employees to work remotely, as applicable.

On March 20, 2020, Illinois Governor J.B. Pritzker issued Executive Order No. 2020-10 (COVID-19 Executive Order No. 8) (the Order), pursuant to which (1) all businesses and operations in Illinois other than essential business and operations are required to cease all activities within the state except minimum basic operations, and (2) all individuals living in Illinois are ordered to stay at their place of residence except to perform certain essential activities and essential government functions or to operate essential businesses and operations. The Order further imposes social distancing requirements for businesses that continue to operate and individuals who leave their residences. The Order originally was effective beginning March 21, 2020, at 5:00 p.m. CDT, through April 7, 2020. On April 1, 2020, Governor Pritzker extended the Order through April 30, 2020.

This *Client Alert* provides guidance to businesses affected by the Order, which will have significant implications for businesses with operations in Illinois. The state government has posted a series of [FAQ](#) regarding the Order, including guidance on what constitutes an essential business. The government also has provided a hotline number and email address (1-800-252-2923 or CEO.support@illinois.gov) if businesses seek further clarification. Businesses and entities also should discuss their particular circumstances with legal counsel in order to determine the best path forward as Latham continues to monitor this rapidly developing situation.

Illinois Essential Business and Operations

The Order requires all Illinois businesses and operations, except essential businesses and operations, to cease all activities within the state except for minimum basic operations, defined as:

- The minimum necessary activities to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, and process payroll and employee benefits, or for related functions
- The minimum necessary activities to enable employees to work remotely

Note that businesses ***may continue*** operations if employees or contractors work from home.

Essential businesses and operations include:

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- Financial institutions
- Healthcare and public health operations: Such entities include hospitals; clinics; dental offices; pharmacies; public health entities (including those that compile, model, analyze, and communicate public health information); pharmaceutical, pharmacy, medical device and equipment, and biotechnology companies (including operations, research and development, manufacture, and supply chain); organizations collecting blood platelets, plasma, and other necessary materials; licensed medical cannabis dispensaries and licensed cannabis cultivation centers; reproductive health care providers; eye care centers, including those that sell glasses and contact lenses; home healthcare service providers; mental health and substance use providers; other healthcare services; and entities that transport and dispose of medical materials and remains
- Manufacture, distribution, and supply chain for critical products and industries: Such entities include manufacturing companies, distributors, and supply chain companies producing and supplying essential products and services in and for industries such as pharmaceutical, technology, biotechnology, healthcare, chemicals and sanitization, waste pickup and disposal, agriculture, food and beverage, transportation, energy, steel and steel products, petroleum and fuel, mining, construction, national defense, and communications, as well as products used by other essential businesses and operations
- Human Services Operations: Such entities include any provider funded by the US Department of Homeland Security, the Department of Children & Family Services, or Medicaid; long-term care facilities; home-based and residential settings for adults, seniors, children, and/or people with disabilities or mental illness; transitional facilities; field offices for food, cash assistance, medical coverage, child care, vocational services or rehabilitation services; developmental centers; adoption agencies; and businesses that provide food, shelter, and social services and other necessities of life for needy individuals
- Essential Infrastructure: Such entities and infrastructure include food production, distribution and sale; construction; building management and maintenance; airport operations; operation and maintenance of utilities, including water, sewer, and gas; electrical; distribution centers; oil and biofuel refining; roads, highways, railroads, and public transportation; ports; cybersecurity operations; flood control; solid waste and recycling collection and removal; and internet, video, and telecommunications systems
- Essential government functions
- Transportation, hotels, and motels: Such entities include airlines, taxis, and transportation network providers, such as rideshare services
- Food and beverage manufacturing, production, processing, cultivation, and sale
- Media
- Mail, post, shipping, logistics, delivery, and pick-up services
- Businesses that sell, manufacture, or supply products needed for people to work from home
- Professional services: Such entities services include legal, accounting, insurance, and real estate services (including appraisal and title services)

The Order specifies that healthcare and public health operations, human services operations, and essential infrastructure shall be construed broadly to avoid any impact to the delivery of healthcare and human services and to essential infrastructure.

16 Critical Infrastructure Sectors

The Order also expressly references the critical infrastructure sectors identified in the March 19, 2020, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response (the Memo) issued by the US Department of Homeland Security's Cybersecurity & Infrastructure Security Agency (CISA). The Order states that the definition of essential businesses and operations is meant to encompass the workers identified in the Memo.

The CISA currently identifies the following sectors as critical:

Chemical	Dams	Financial Services	Information Technology
Commercial Facilities	Defense Industrial Base	Food and Agriculture	Nuclear Reactors, Materials, and Waste
Communications	Emergency Services	Government Facilities	Transportation Systems
Critical Manufacturing	Energy	Healthcare and Public Health	Water and Wastewater Systems

<https://www.cisa.gov/critical-infrastructure-sectors>

Illinois Stay-at-Home Order

The Order requires all people in Illinois to stay home, except for essential activities and essential governmental functions, or to operate essential businesses and operations.

Essential activities include:

- Health and safety (e.g., seeking emergency services, obtaining medical supplies or medication, or visiting a doctor)
- Necessary supplies and services. (e.g., groceries, household consumer products, supplies needed to work from home, and products necessary to maintain the safety, sanitation, and essential operation of residences)
- Outdoor activity (e.g., walking, hiking, running, or biking, subject to social distancing requirements)
- Certain types of work at essential businesses or operations
- Taking care of others

Illinois Social Distancing Requirements

The Order further sets forth the following social distancing requirements that must be followed as much as reasonably possible: maintaining at least six-foot social distancing from other individuals; washing hands with soap and water for at least 20 seconds as frequently as possible or using hand sanitizer,

covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.

The Order further requires businesses to “take proactive measures to ensure compliance” with social distancing and identifies four specific actions to take “where possible”:

- Designate six-foot distances for employees and/or customers to maintain appropriate distance
- Have hand sanitizer and sanitizing products readily available for employees and customers
- Implement separate operating hours for elderly and vulnerable customers
- Post online whether a facility is open and how to access the facility or services remotely

Impact on Local County and Municipal Orders

The Order specifies that it does not alter or modify any existing legal authority allowing a county or local government body to enact provisions that are stricter than those in the Order. At this time, businesses and entities are recommended to comply with the terms of the most restrictive order — whether the statewide Order or any local order that exists or becomes implemented.

Enforcement

The Order states that it may be enforced by state and local law enforcement, but does not detail the scope of enforcement. During the March 20, 2020 press conference announcing the Order, the governor stated that law enforcement could seek a cease and desist order or charge violators with a reckless conduct misdemeanor. He also stated that violations may trigger consequences at the local level, including the rescinding of business permits.

Additional Information

Please see the following links for additional information:

- [State of Illinois Coronavirus \(COVID-19\) Response](#)
- [Chicago Coronavirus Response Center](#)
- [Executive Order in Response to COVID-19 – March 20, 2020](#)
- [Illinois Department of Commerce & Economic Opportunity – Essential Business & Operations Frequently Asked Questions](#)
- [US Department of Homeland Security Critical Infrastructure Sectors](#)
- [Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response](#)

If you have questions about this *Client Alert*, please contact one of the authors listed below or the Latham lawyer with whom you normally consult:

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