



No, It's Not Martial Law: How Illinois' COVID-19 Shelter-in-Place Order Will Affect Your Business

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Governor Pritzker this afternoon issued a statewide “stay-at-home” order (“Order”)¹ implementing certain mandates in an effort to help reduce the spread of coronavirus/COVID-19; principally a shelter-in-place order that goes into place at 5:00 pm CT on Saturday, March 21 and runs through Tuesday, April 7. While some are describing the Order as a “virtual lockdown,” the truth is that virtually all businesses will be entitled to operate in some capacity notwithstanding the Order.

Who or What is “Essential Businesses and Operations”?

Subject to the observation of social distancing, as discussed below, if a business qualifies as an Essential Business or Operation (this is a defined term in the Order) these businesses will continue to be permitted to operate as they had prior to the Order, and are encouraged to remain open per the Order. While it is obvious that stores selling food and medicine would qualify for this category, many non-obvious businesses qualify as “Essential Businesses and Operations.” Here is a sampling:

- *Stores that sell groceries, medicine, safety and sanitation supplies, and liquor*
 - Grocery stores, pharmacies, farmers’ markets, *including* liquor stores.
- *Food, beverage, cannabis production, and agriculture*
 - All Illinois businesses that manufacture, produce, and process food, beverage, and other agriculture are covered here. Includes companies that are in the business of marketing, producing, and distributing animals and goods for consumption, as well as businesses that provide food and shelter for animals.
 - Licensed and recreational cannabis dispensaries and licensed cultivation centers can continue to operate.

¹ Illinois EXECUTIVE ORDER 2020-10, issued March 20, 2020

- *Organizations that provide charitable and social services*
 - Religious and secular nonprofits that provide social services and other services to disadvantaged people (e.g. food banks).
- *Media*
 - Newspapers, television, radio, and other media services.
- *Gas stations and businesses needed for transportation*
 - Gas stations, auto-supply businesses, auto-repair facilities (e.g. your mechanic), and bicycle shops.
- *Financial institutions*
 - Banks, currency exchanges (e.g. Western Union), payday lenders, pawnbrokers, credit unions, appraisers, title companies, trading and future exchanges, and financial institutions, including affiliates of financial institutions.
- *Hardware and supply stores*
 - This only includes hardware and supply stores that sell electrical, plumbing, and heating material, which is probably most of them.
- *Critical trades*
 - Building construction, plumbers, electricians, exterminators, cleaning and janitorial staff for commercial and government properties, operation engineers, including HVAC, painting, moving and relocation services (e.g. U-Haul).
 - Includes any business that is necessary to maintain safety, sanitation, and essential operation for residential properties (i.e. waste pick up).
- *Mail, post, shipping, logistics, delivery, and pick-up services*
 - Post offices and other businesses that ship and deliver goods, food, including alcoholic beverages, to end users or through commercial channels.
- *Educational institutions*
 - Public and private institutions (K-12, colleges, and universities) can only be open for the purpose of facilitating distance learning, critical research, or other essential functions.
 - They must comply with the social distancing requirements to continue their operations.
 - As an aside, the Order also extends school closures to April 7, 2020.

- *Laundry services*
 - Includes industrial laundry services and laundry service providers in addition to laundromats and dry cleaners.
- *Restaurants for consumption off-premises*
 - Restaurants, whose dining rooms closed this week due to Pritzker’s previous order, can still offer carryout, curbside service, drive-thru, and delivery.
 - Schools and other entities can continue to provide food to the public for pick-up, but they are prohibited from gathering or allowing people to eat at the site the food is provided. The Order extended this to April 7, 2020.
- *Supplies to work from home*
 - Any business that sells, manufactures, or supplies products that members of the public need to work from home.
- *Supplies for Essential Businesses and Operations*
 - Any business that sells, manufactures, or supplies support material necessary to a business that otherwise qualifies under “Essential Businesses and Operations.”
 - This includes, but is not limited to, companies in the business of selling, manufacturing, or supplying IT equipment, household appliances, electronics, sanitary equipment, medical and orthopedic equipment, optics and photography equipment, soaps, and food and beverage.
- *Transportation*
 - Airlines, taxis, transportation network providers (e.g. Uber and Lyft).
 - Vehicle rental services and commercial transportation services, too (e.g. GO Airport Express).
- *Home-based care and services*
 - All home-based care services for people with mental or physical disabilities, including meal delivery for adults, seniors, and children.
- *Residential facilities and shelters*
 - Residential shelters for adults, seniors, and children with mental or physical disabilities.
- *Professional services*

- Legal, accounting, insurance, and real estate services.
- *Day care centers (limited)*
 - Only day care centers that are servicing employees of Essential Businesses or Operations.
 - The Order suspends requirement that limits day care homes to 6 children.
- *Manufacture, distribution, and supply chain for critical products and industries*
 - All manufacturing companies, distributors, supply chain companies producing and supplying essential products and services for industries like healthcare, pharmaceuticals, waste pick up, construction, communications, etc..
- *Critical labor union functions*
 - Labor union activities including administration of health and welfare funds.
- *Hotels and motels*
 - All hotels and motels so long as they are being used for lodging and they participate in “carry-out” food services.
- *Funeral services*
 - Businesses that provide funeral and related services.

Other Businesses Are Allowed to Maintain Minimum Basic Operations

To the extent a business does not qualify as an Essential Business and Operation, it will not simply be business as usual after 5 pm on March 21, 2020, and such businesses will be required to utilize remote workers to the maximum extent possible. Notwithstanding the foregoing, the Order permits a business to maintain minimum basic operations at its principal place of business, and permits “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, process payroll and employee benefits, or for related functions.”

Observance of Social Distancing

Regardless if a business may continue operations as an Essential Business and Operation or is utilizing the minimum basic operation exception described above, the operation of such business remains subject to compliance with social distancing requirements to the maximum extent possible. These include, at minimum, the following:

- Implementing six-foot social distancing for employees and customers at all times, including when customers are standing in line.
- Making available hand sanitizer and sanitizing products to employees and customers.

- Providing for separate operating hours for elderly and vulnerable customers (e.g. those with underlying conditions); and
- Posting online whether a facility is open and how to best reach the facility and continue providing services by phone or remotely.

Conclusion

While everyone needs to continue to do their part to help stop the spread of this pandemic, the Order does not mean you must shut down your business. Instead, we recommend making an honest evaluation of how your business should be classified and acting accordingly.

Please contact Jeremy Waitzman at jwaitzman@sfgf.com or at 312-704-2199 to further discuss the effect of the Order on your business.