

Michigan's Newest Stay-At-Home Order: Amendments Employers Need to Know

April 24, 2020

On April 24, 2020, Michigan Governor Gretchen Whitmer signed Executive Order 2020-59 (the "Order"). The Order rescinds Executive Order 2020-42 and extends the duration of Michigan's stay-at-home requirements from April 30, 2020, to May 15, 2020. While previous orders only provided employers the right to designate workers for in-person work necessary to sustain or protect life or to conduct minimum basic operations, the most recent Order also allows employers to designate workers necessary to perform a "resumed activity," as defined in the Order.

Resumed Activities

In addition to businesses which provide materials essential to sustain and protect human life, businesses that provide non-essential materials are also permitted to reopen, for delivery or curbside pick-up only. Businesses may only sell such goods and supplies "if the sale of such goods is in the ordinary course of business."

All employers are now permitted to designate workers to conduct the following job duties, to the extent applicable:

- (a) to process or fulfill remote orders for delivery or curbside pick-up;
- (b) for bicycle maintenance and repair;
- (c) to perform duties at garden stores, nurseries, lawn care, pest control, and landscaping operations;
- (d) to perform maintenance and grounds keeping necessary to maintain the safety and sanitation of places of outdoor recreation that are not otherwise closed; and
- (e) to perform moving or storage operations.

Requirements

Employers must designate and notify workers necessary to perform resumed activities of their designation in writing. Additionally, businesses are required to continue practicing all social-distancing guidelines set out in the Order. For workers performing the resumed activities set forth under letters (c), (d), and (e) above, additional social-distancing measures must be imposed, including barring gatherings or interactions of any size where individuals cannot maintain a six-foot distance and limiting in-person interaction to the maximum extent possible.

Personal Protection Equipment Required

Effective April 26, 2020, all individuals "able to medically tolerate a face covering" must wear such coverage over their mouth and nose in any enclosed public space. Employers are responsible for providing all employees that perform in-person work with a non-medical grade face covering. For workers performing the resumed activities involving lawn care, maintenance and grounds keeping, or moving and storage operations, any and all additional personal protective equipment, such as gloves, goggles, face shields, or masks, shall be provided to the extent appropriate for the activity being performed. Last, employers need to adopt policies that: limit the sharing of tools and equipment to the maximum

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extent possible and ensure frequent and thorough cleaning of tools, equipment, and frequently touched places.

Protection Under Michigan Civil Rights Act for Individuals Who Wear a Mask

Effective immediately, any “persons who wear a mask under this order” are provided protection against discrimination under the Elliott-Larsen Civil Rights Act and any other protections against discrimination provided by Michigan law.

If you have questions about Executive Order No. 2020-59, please contact your Miller Canfield attorney or any of the authors of this alert.

This information is based on the facts and guidance available at the time of publication, and may be subject to change.