Delaware Governor Issues Statewide Order Closing All Non-Essential Businesses

Monday, March 23, 2020

On March 22, 2020, Governor John Carney, issued the fourth and fifth modifications to his state of emergency declaration, closing all non-essential businesses and ordering Delawareans to stay at home.

The order requires all businesses, other than those that are classified as “essential,” to close on March 24, 2020, at 8:00 a.m. E.D.T. The non-essential businesses shall remain closed until after May 15, 2020, or until the public health threat of COVID-19 has been eliminated. These non-essential businesses may continue to offer goods and services over the internet. While essential businesses may remain open, they must follow the coronavirus guidelines for public safety enumerated by the Centers for Disease Control and Prevention and the Delaware Department of Health & Social Services’s Division of Public Health.
The order specifically defines “essential” and “non-essential businesses,” but in general, the categories for essential businesses are: (1) healthcare/public health; (2) law enforcement/first responders; (3) food and agriculture; (4) energy; (5) transportation and logistics; (6) public works; (7) communications and information technology; (8) other community-based government operations and essential functions; (9) manufacturing; (10) hazardous materials; (11) financial services and insurance; (12) chemical; (13) defense industrial base; (14) construction; (15) necessary products retailers; (16) necessary retail and service establishments; and (17) open air recreational facilities.

Non-essential businesses include: (1) hospitality and recreation facilities; (2) concert halls and venues; (3) theaters; (4) sporting event facilities; (5) golf courses and shooting ranges (unless they conform with social distancing requirements); (6) realtors; (7) certain business support services; (8) shopping malls; and (9) retail stores not included in the definition of essential business.

In addition, the state published a detailed chart outlining the businesses deemed to be “essential.” The chart is organized by industry and contains North American Industry Classification Systems (NAICS) codes for each industry. All businesses should have a NAICS code or codes on their unemployment insurance forms or on their most recent tax return. If a business has multiple NAICS codes, then the business may follow the least restrictive NAICS code under which the business is classified. So, if a business has an NAICS code for an industry that is to remain open, then the business may remain open.

Businesses that have not been deemed essential can petition to have their status changed by emailing covid19faq@delaware.gov. Decisions will be made within one-week of submission.

The governor’s orders and guidance have been rapidly changing on a day-by-day basis.


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