Maryland Issues Comprehensive Stay-at-Home Order Affecting Businesses and Employees

On March 30, 2020, Governor Larry Hogan issued Executive Order No. 20-03-30-01 and the Office of Legal Counsel issued accompanying interpretive guidance. The order, which took effect at 8:00 p.m. EDT on March 30, mandates that Marylanders refrain from traveling outside their residences “except to conduct or participate in Essential Activities,” which include:

- Picking up food, supplies, or medications
- Seeking medical care for themselves or family members
- Traveling to an educational institution to pick up materials for distance learning or to receive meals
Engaging in outdoor recreation while following proper social distancing guidelines

Reporting to an essential job

The order prohibits gatherings of more than 10 people.

As compared with previous orders, this order further limits which businesses are considered “essential” by referencing only those categories of businesses listed on the US Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency (CISA) website. (For a more in-depth explanation, the CISA guidance can be found here.) The Office of Legal Counsel’s Interpretive Guidance No. COVID19-07 rescinds and supersedes prior guidance on the issue.

CISA limits its definitions of “critical infrastructure” to 16 sectors, including:

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

Also, though not mentioned on CISA’s list, the order does not require the closure of or prohibit the movement of any staff of federal, state, or local government entities. It also does not close newspapers, television stations, radio stations, or other media services.
Subject to a few exceptions and exemptions, employees of businesses that are not included in the above guidance must stay home. These exceptions and exemptions allow for staff and owners to remain on-site for “minimal operations” while a business is closed to the general public. These minimal operations include:

- “facilitating remote working by other staff;
- maintaining essential property;
- preventing loss of, or damage to property, including preventing the spoilage of perishable inventory;
- performing essential administrative functions, including picking up mail and processing payroll;
- caring for live animals; and
- for non-essential retail establishments, continuing to sell retail products on a delivery basis.

Maryland is taking these closures very seriously. Violation of the order constitutes a criminal misdemeanor, and those in violation will be subject to imprisonment for up to one year, and/or a fine of up to $5,000.

Additional orders and guidance relating to the COVID-19 pandemic can be found on the website of the office of the Maryland governor.


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