

Indiana Governor Issues Updated Stay-at-Home Order Due to Continued Spread of COVID-19

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On April 6, 2020, Indiana Governor Eric J. Holcomb issued an updated “Stay-at-Home Order,” **Executive Order 20-18** (E.O. 20-18), superseding the **Stay-at-Home Order** that he issued on March 23, 2020. In announcing the updated order, Governor Holcomb noted that COVID-19 had spread to almost every county in Indiana.

Under E.O. 20-18, Indiana residents must continue to stay in their homes except to engage in “Essential Activities,” “Essential Government Functions,” or to participate in “Essential Businesses or Operations.” Further, E.O. 20-18 requires Indiana residents to continue social distancing of at least six feet, and it prohibits public or private gatherings of 10 or more people (other than those living in the same household).

E.O. 20-18 also institutes new directives relating to the purchase of retail goods and services and the conducting of business by “Essential Businesses,” announces the closure of campgrounds throughout the state (except to persons residing in recreational vehicles or cabins who have no other viable places of residence), and adds enforcement mechanisms for businesses violating the order.

E.O. 20-18 became effective on April 6, 2020, and will remain in effect until 11:59 p.m. on April 20, 2020, unless otherwise modified or extended.

Purchasing Retail Goods or Services

E.O. 20-18 directs Indiana residents to “postpone in-person purchases of goods and services unless and until such items are needed for sustenance, health, education, or employment.” In addition, the order states that such purchases should be made online or telephonically and completed via curbside pickup or delivery, to the extent possible. If individuals must make in-person visits to retail businesses, the number and frequency of retail businesses visited should be limited, and only the “minimum necessary” household members should travel to make such purchases.

Essential Businesses

E.O. 20-18 strongly encourages essential businesses and operations to continue to operate, using social distancing and otherwise complying with the terms of the order. Specifically, essential businesses and operations must maintain “six-foot social distancing for both employees and members of the general public at all times” and employ Centers for Disease Control and Prevention (CDC)-recommended sanitation measures (e.g., washing hands regularly, using hand sanitizer, not shaking hands, and regularly cleaning high-touch surfaces).

The order also reminds all employers that they are required to comply with the Indiana Occupational Safety and Health Administration’s (IOSHA) health and safety standards to prevent exposure to and spread of diseases and that “the General Duty Clause requires employers to provide their employees with a workplace free from recognized hazards likely to cause death or serious physical harm.”

Finally, the order expands the definition of “Essential Businesses and Operations” to include the updated **Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response** issued by the U.S. Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency on March 28, 2020.

Retail Businesses

E.O. 20-18 allows retail businesses providing “the necessities of life” such as grocery stores, supermarkets, supercenters or mass merchandizers (with sizable food/grocery sections), specialty food stores, certified farmers’ markets, pharmacies, convenience stores, gas stations, auto suppliers, hardware stores, pet supply stores, and building materials and supplies stores to remain open to the public so long as they:

- limit the number of customers within their buildings to achieve social distancing;
- limit their hours of operation and consider separate hours of operation for elderly and other vulnerable populations; and
- engage in social distancing and comply with sanitation and mitigation measures to protect both the public and employees.

Beginning at 11:59 p.m. on April 7, 2020, any retail business that does not sell the “necessities of life” may remain open only if it uses online or telephonic ordering and utilizes delivery or curbside pickup. Any such business must also comply with social distancing and sanitation for the protection of the public and employees.

Firearms and Ammunition Sales

Entities selling firearms and ammunition may remain open notwithstanding the COVID-19 outbreak, however, they must comply “with all CDC social distancing and sanitation measures.”

Professional Services

The order directs entities providing legal, accounting, insurance, and real estate services to conduct any such services telephonically or virtually to the extent possible. Provision of any such services in-person “should be postponed” unless doing so will have a “significant adverse impact on the client’s financial or legal position.”

Campground Closures

Under E.O. 20-18, all Indiana campgrounds will be closed as of 11:59 p.m. on April 7, 2020. The sole exception to this closure mandate applies to individuals residing in recreational vehicles or cabins “who genuinely have no other viable place of residence.”

Enforcement

E.O. 20-18 directs the creation of an enforcement response team charged with investigating any reports of violations of the order (except unsafe workplace conditions under the jurisdiction of IOSHA). The team will have authority to take “all available administrative and enforcement actions” against entities that violate the restrictions of the order, including issuing verbal orders to cease unsafe practices so that business owners have the opportunity to comply. Businesses failing to comply with any such verbal order may be issued an order from the Indiana State Department of Health to cease the unsafe practices, and a business continuing to operate in an unsafe manner can be ordered to close. Such matters will be reported to the Indiana Secretary of State or other relevant government entity and “be considered for referral to the local prosecuting attorney.”

A “knowing violation” of the order is a “class B misdemeanor, punishable [by] up to 180 days incarceration and a fine of up to \$1,000.”

Additional Guidance

Ogletree Deakins will continue to monitor and report on developments with respect to the COVID-19 pandemic and will post updates in the firm’s [Coronavirus \(COVID-19\) Resource Center](#) as additional information becomes available. Critical information for employers is also available via the firm’s [webinar programs](#).

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