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Update on Executive Orders that Affect Business Operations in NJ, NY, PA and DE

Below are state-specific updates on Executive Orders which have been issued in New Jersey, New York, Pennsylvania and Delaware which affect the operations of businesses during the COVID-19 state of emergency.

New Jersey

On March 21, 2020, Governor Murphy issued Executive Order 107, which directs New Jersey residents to "stay home" with limited exceptions in order to stop the spread of COVID-19 virus within the State.

Executive Order 107 further expands restrictions on public outings, prohibits gatherings for parties and celebrations, and requires all New Jersey residents to remain at home or their place of residence with limited exceptions.

Governor Murphy also ordered non-essential retail businesses to close their physical premises. The Executive Order specifically states that only "Essential Businesses" can remain open. The list of the types of businesses that are deemed "Essential" and therefore are exempt from closure in the State of New Jersey can be found at: <https://nj.gov/infobank/eo/056murphy/pdf/EO-107.pdf>

In addition, the Executive Order permits restaurants, cafeterias, dining establishments, food courts, bars, and all other holders of a liquor license with retail consumption privileges to operate during their regular business hours, but can only offer food delivery and/or take-out services.

All businesses or non-profits must accommodate their workforce for telework or work-from-home wherever practicable. If there is a need for employees to be on-site, businesses should operate with the minimum number of on-site employees needed for critical operations to continue.

Moreover, if you believe your retail business is unique and should be considered as an "Essential Business," you can submit a request to the Superintendent of State Police who also serves as the State Director of Emergency Management.

New York

New York's Governor Cuomo also signed a similar Executive Order on March 20, 2020, with an effective date of March 22, 2020. New York Executive Order No. 202.6 requires a 100% reduction of in-person workers in non-essential businesses in New York.

Governor Cuomo has identified the types of businesses, which are "Essential" in the State of New York and can be found at: <https://www.governor.ny.gov/news/governor-cuomo-issues-guidance-essential-services-under-new-york-state-pause-executive-order>

A business owner can file a request with the State of New York if the business does not fall within one of the categories listed above for a designation as an essential business by completing a form on the New York State website at: <https://esd.ny.gov/>

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Pennsylvania

On March 19, 2020, Governor Wolf ordered the closure of the physical locations of businesses that are not critical to sustaining life in a pandemic. Enforcement actions were to be taken against non-life sustaining businesses that are out of compliance effective March 23, 2020, at 8:00 a.m. The six-page list sorting business types into those that may or may not continue physical operations is available at the Commonwealth of Pennsylvania website:

<https://www.scribd.com/document/452553026/UPDATED-2-30pm-March-24-2020-Industry-Operation-Guidance>

The categories of business identified on the list were drawn from the North American Business Classification System. Businesses can determine whether they are life-sustaining by checking the list above and determining their NAIC classification or by checking [here](#).

Non-life-sustaining businesses can apply for a waiver to remain open. More information and applications for waivers can be found at the Commonwealth of Pennsylvania website:

<https://expressforms.pa.gov/apps/pa/DCED/Waiver-process-keeping-physical-locations-open>

On March 23, 2020, Pennsylvania Governor Tom Wolf signed an Executive Order requiring individuals residing in Allegheny County, Bucks County, Chester County, Delaware County, Monroe County, Montgomery County, and Philadelphia County to stay at home except as needed to access, support, or provide life-sustaining business, emergency, or government services. For employees of life-sustaining businesses that remain open, the following child care services may remain open: group and family child care providers in a residence; child care facilities operating under a waiver granted by the Department of Human Services Office of Child Development and Early Learning; and, part-day school-age programs operating under an exemption from the March 19, 2020 business closure Orders. The Stay at Home Order commenced at 8:00 p.m. on March 23, 2020.

On March 24, 2020, Governor Wolf amended his Order to include Erie County, and the amended Order commenced on March 24, 2020, at 8:00 p.m.

For the identified counties, the following individual tasks are allowed:

- Tasks essential to maintain health and safety, or the health and safety of their family or household members (including, but not limited to, pets), such as obtaining medicine or medical supplies, visiting a health care professional, or obtaining supplies they need to work from home.
- Getting necessary services or supplies for themselves or their family or household members, or to deliver those services or supplies to others, such as getting food and household consumer products, pet food, and supplies necessary to maintain the safety, sanitation, and essential operation of residences. This includes volunteer efforts to distribute meals and other life-sustaining services to those in need.
- Engaging in outdoor activity, such as walking, hiking or running if they maintain social distancing.
- To perform work providing essential products and services at a life-sustaining business (see below for details about life-sustaining business activities).
- To care for a family member or pet in another household.

The following essential travel is allowed:

- Any travel related to the provision of or access to the above-mentioned individual activities or life-

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sustaining business activities (see above link for details about life-sustaining business activities).

- Travel to care for the elderly, minors, dependents, persons with disabilities, or other vulnerable persons
- Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.
- Travel to return to a place of residence from an outside jurisdiction.
- Travel required by law enforcement or court order.
- Travel required for non-residents to return to their place of residence outside the commonwealth

The following operations are exempt from the Order:

- Life-sustaining business activities
- Health care or medical services providers
- Access to life-sustaining services for low-income residents, including food banks
- Access to child care services for employees of life-sustaining businesses that remain open as follows: child care facilities operating under the Department of Human Services, Office of Child Development and Early Learning waiver process; group and family child care operating in a residence; and part-day school-age programs operating under an exemption from the March 19, 2020 business closure Orders
- News media
- Law enforcement
- The federal government
- Religious institutions

For now, the Stay At Home Orders will be in effect until **April 6, 2020**.

Delaware

On Sunday, March 22, 2020, Governor John Carney issued the [fourth](#) and [fifth](#) modifications to his State of Emergency declaration, ordering Delawareans to stay at home whenever possible and closing all non-essential businesses. The Orders went into effect at 8:00 a.m. on Tuesday, March 24, 2020. They will remain in effect until May 15, 2020, or until the public health threat is eliminated.

Delaware's list of essential and non-essential businesses can be found at the State of Delaware website:

<https://coronavirus.delaware.gov/wp-content/uploads/sites/177/2020/03/Delaware-list-of-essential-and-nonessential-businesses-March-24-2020.pdf>

Included with the descriptions in the list is the relevant 4-digit North American Industry Classification System (NAICS) code. All businesses should have a NAICS code or codes on their unemployment insurance forms or on their most recent tax return that can be compared to the list to determine their classification as essential or non-essential.

Businesses with questions are encouraged to email covid19faq@delaware.gov or call 302-577-8477 between the hours of 9:00 a.m. and 4:00 p.m. with any additional questions.