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What is an “Essential Business?” Ohio Issues Statewide “Stay-at-Home” Order

Frost Brown Todd’s Coronavirus Response Team is closely monitoring state-by-state actions that significantly restrict business activities to suppress the spread of COVID-19. On Sunday, March 22, Ohio Governor Mike DeWine announced that Health Director Dr. Amy Acton signed an order for all Ohioans to “stay at home,” making Ohio the eighth state to close all “non-essential” or “non-life-sustaining” businesses. Ohio joins California, Connecticut, Illinois, Nevada, New Jersey, New York, and Pennsylvania in issuing similar restrictions on a statewide level.

The Department of Homeland Security’s Critical Infrastructure Guidelines

While states like Pennsylvania and New Jersey have created their own guidelines as to what businesses may continue on-site physical operations, Ohio joins states like Illinois and California that have followed the Department of Homeland Security’s Critical Infrastructure publication, [available here](#). The Cybersecurity and Infrastructure Security Agency’s (CISA) publication provides a list of 16 critical infrastructure sectors “whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, national economic security, national public health or safety, or any combination thereof.” These sectors include:

- Healthcare/Public Health
- Law Enforcement, Public Safety, First Responders
- Food and Agriculture
- Energy
- Water and Wastewater
- Transportation and Logistics

- Public Works
- Communications and Information Technology
- Other Community-Based Government Operations and Essential Functions
- Critical Manufacturing
- Hazardous Materials
- Financial Services
- Chemical
- Defense Industrial Base

The CISA publication is intended to help state, local, and industry partners in “identifying the essential workers needed to maintain the services and functions Americans depend on daily and need to be able to operate resiliently during the COVID-19 pandemic response.” These industries are generally defined to encompass not only the businesses that fall squarely within their definitions, but also those businesses that are critical to sustaining their ongoing functions.

Ohio’s Order

In addition to the sectors outlined in the CISA publication, Ohio’s order identifies 25 additional specific categories of essential businesses and operations. Ohio’s order goes into effect at midnight on Monday, March 23 and remains in effect until at least April 6. Governor DeWine announced the order can be enforced by local health departments and local law enforcement. The 12-page order articulates three main objectives:

- A directive for Ohioans to stay at home, with certain enumerated exceptions.
- An explanation of which essential businesses in Ohio will be allowed to stay open.
- The protocol that essential businesses must follow while remaining open to mitigate the spread of COVID-19.

If you would like to learn more about the specific nuances applicable to Ohio, [you can read the full text of the order here](#).

Authorization to Travel

Many essential businesses around the country are providing their employees with an “Authorization to Travel.” It is a one-page document that employees can keep with them in transit to and from work in the event they are restricted from travel by a local authority. If you are confident that you are an essential business, or your business is a key provider or supporter of essential infrastructure (as defined by the Ohio order) in the state in which you are situated, we suggest you provide your employees with such a document adapted to your business that explains how you fall within the order. A sample authorization to travel can be found [here](#).

Our Coronavirus Response Team is Ready to Help

Frost Brown Todd has been helping clients across the country respond to similar orders so that they can balance the health and well-being of their workforce while sustaining critical supply chains and business operations that America needs. Whether you need help determining whether your company is permitted to remain open or just want to discuss your own communications with your employees in this fast-changing time, we can help. We are in this fight with you.

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a [Coronavirus Response Team](#). Our attorneys are on hand to answer your questions and provide guidance on how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.

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