



April 4, 2020

Stay Home Missouri Order Interplay With City and County Orders

Unlike most city and county stay-at-home orders that limit non-essential business activity to minimum necessary activities, the Missouri order, which becomes effective Monday, April 6, and currently runs through April 24, 2020, does not prohibit non-essential businesses from continuing to operate.

Rather, Stay Home Missouri places social gathering (no more than 10 persons at a time in a single space) and social distancing (minimum 6 foot distances between persons) limitations on all non-essential business activity. Stay Home Missouri also places significant gathering and social distancing limitations upon essential retail business establishments that are more restrictive than most city and county orders. [Read the Stay Home Missouri Order](#) (PDF).

All businesses that were previously allowed to continue operations within cities and counties in Missouri may continue to conduct business so long as they comply with the social gathering and social distancing limitations set out in Stay Home Missouri. Not all business activities deemed essential by a city or county stay home order are considered essential for purposes of creating an exception to the social gathering and social distancing guidelines in the state order.

Exemption Determination

The determination of whether an activity is exempt from the social gathering and social distancing limitations involves a detailed analysis of whether the activity is deemed essential by [guidelines published by the U.S. Department of Homeland Security Cyber and Infrastructure Security Agency](#). We can help determine whether your business is an essential business or whether an activity is an essential activity under the state and local orders.

Essential v. Non-Essential Business

Stay Home Missouri requires all businesses involving retail sales to the public, including essential business activity (e.g. grocery, convenience, liquor, mobile phone, home improvement, and gun sales) to limit the number of individuals in any retail location to: (1) 25% of fire or building code occupancy load for facilities under 10,000 square feet, and (2) 10% of the occupancy load for facilities 10,000 square feet or larger.

Non-essential businesses as defined by local city or county orders are still limited to minimum necessary activities as defined by those orders. Non-essential business activity outside of cities and counties with stay home orders in Missouri may continue so long as social gathering and social distancing requirements in paragraphs 4 and 5 of Stay Home Missouri are met.

Waivers

Non-essential businesses may request a waiver from the Department of Economic Development to exceed the 10-person group limit. Stay Home Missouri allows local authorities to have stay at home orders in place provided those local orders are not inconsistent with the Stay Home Missouri Order. If a local authority's stay

at home order contains provisions that are more restrictive than the State's Stay Home Missouri Order, it is reasonable for the business to assume that the more restrictive provision applies.

Additional Information

For specific concerns or more information, please contact a [Kutak Rock attorney](#).

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