

Comparing stay-at-home orders: Permitted activities in one state may be a violation in another

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As of April 19, 2020, approximately 316 million people in at least 42 states, the District of Columbia and Puerto Rico have been ordered to remain home. Numerous states have struggled with how to properly define which businesses qualify as essential and should remain open. The state orders, aptly referred to as shelter-in-place, safer-at-home and stay-at-home, generally allow residents to leave their homes for certain necessities such as groceries, medical supplies, exercise, and to provide care for family members. In addition, numerous stay-at-home orders directly refer to the list of essential services and businesses encompassed by the U.S. Department of Homeland Security in its [Guidance on the Essential Critical Infrastructure Workforce](#) (CISA Guidelines - discussed further [here](#)).

Despite having generally similar provisions, certain states have further restricted the list of businesses that qualify as essential and implemented additional restrictions. The following article compares and identifies the differences between the stay-at-home orders in Florida, Illinois, Michigan and Ohio.

Essential vs. non-essential

[Florida](#), [Illinois](#) and [Ohio](#) state orders each contain similar businesses that qualify as essential, including hospitals, grocery stores, construction, financial institutions, hardware stores, and laundromats. Under each states' order, all business and operations much cease except those defined as essential. If essential, the business may continue to operate so long as proper social distancing guidelines are followed. In

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contrast, [Michigan's order](#) implements stricter restrictions by demanding that all activities that are not necessary to sustain or protect life be immediately suspended. Only workers that are critically necessary to perform the business' functions may continue to work. The business must determine which workers are critical infrastructure workers and inform such workers of that designation in writing. Additionally, Michigan's stay-at-home order limits the types of businesses that qualify as essential when compared to Florida, Illinois and Ohio. For example, according to Michigan Gov. Gretchen Whitmer, construction operations do not qualify as essential, unless absolutely necessary to support critical infrastructure. This is in direct contrast to other orders, such as Ohio, which expressly states that construction, including home improvement, is deemed essential. Additionally, Michigan's stay-at-home order prohibits stores from selling certain classes of goods, including carpet and flooring, furniture, garden centers and paint.

Limited gatherings

Each state which has implemented a stay-at-order has typically included guidelines stating that all public gatherings, including wedding receptions, must be limited to no more than ten people. However, like the definition of essential, states differ on the exact number. Florida, Illinois and Ohio prohibit any gathering of more than ten people. Some stay-at-home orders, including Ohio, exempt certain activities from the ten person limit, such as wedding ceremonies and funerals. Michigan's stay-at-home order prohibits all public and private gatherings of any number of people occurring among persons not part of a single household. Individuals may only gather for exempt activities such as working at an essential business or attending a funeral, so long as no more than ten people attend the ceremony.

Additionally, some states require that all businesses limit the number of patrons allowed in a store at one time. Grocery stores in Ohio are required to determine and enforce the maximum capacity of persons permitted in any store such that all persons at any one time may safely and comfortably maintain a six-foot distance from each other. In Michigan, stores that remain open for in-person shopping must adhere to a formula to determine how many people are permitted in the store at any one time. For stores of less than 50,000 square feet, the number of people in the store, including employees, must be limited to 25% of the total occupancy limits. For stores of more than 50,000 square feet, customers must be limited to four people per 1,000 square feet of customer floor space. Neither Florida nor Michigan provides a written requirement that stores limit the number of people allowed inside.

Enforcement and penalty for violations

Despite having largely similar stay-at-home orders, each state differs in the penalties if the order is violated. A willful violation of the Michigan stay-at-home order qualifies as a misdemeanor. Ohio's stay-at-home order expressly states that all violations are guilty of a misdemeanor of the second degree and are subject to a fine of not more than \$750 and/or not more than 90 days in jail. The orders issued by Florida and Illinois do not make mention of any penalty should the order be violated.

Although many of the stay-at-home orders contain similar language and provisions it is important to properly understand the parameters and restrictions contained in each. For example, although similar sectors, such as healthcare and grocery stores, may be included in each state's list of essential businesses that does not necessarily mean that the employees working in one state will be permitted to do so in a different state. Understanding the nuances of each stay-at-home order will ensure that your business is operating legally and safely and will assist in avoiding potential violations.

McDonald Hopkins has a team of professionals dedicated to assisting businesses experiencing financial

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distress as result of the coronavirus. [A list of articles focused on providing legal and business solutions to the impact of the coronavirus on your business can be found here.](#)

If you have questions regarding your state's stay-at-home or similar order or questions on if your business may continue to operate, please contact the attorneys listed below.



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