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Governor Gretchen Whitmer Reopens Manufacturing in Michigan, But Extends Stay at Home Order Until May 28

5.7.2020

Today, Michigan's Governor, Gretchen Whitmer, opened up manufacturing in Michigan as a part of an overall extension of the state's series of Stay Home, Stay Safe orders. (See Executive Order 2020-77.) Based on this new order, manufacturing will be re-opened on May 11th, but the Stay Home, Stay Safe requirement will extend at least until May 28, 2020.

As support for her action, the governor cited a statistic that the manufacturing industry makes up 19% of the state's economy.

Specifically, this new order allows for the return of manufacturing workers "necessary to perform start-up activities at manufacturing facilities, including activities necessary to prepare the facilities" so long as they follow the workplace safeguards described in section 11(k) of the order. The order prohibits manufacturing work at a facility until a particular facility is prepared to follow the workplace safeguards described in the new order. Additionally, the order allows "workers at suppliers, distribution centers, or service providers whose in-person presence is necessary to enable, support, or facilitate another business's or operation's resumed activities, including workers at suppliers, distribution centers, or service providers along the supply chain whose in-person presence is necessary [to] enable, support, or facilitate the necessary work of another supplier, distribution center, or service provider in enabling, supporting, or facilitating another business's or operation's resumed activities."

Facilities opening for "manufacturing work" on May 11th will be required to implement sixteen workplace safeguards according to section 11 of the new order. Notably, the new order requires use of facemasks in all facilities where six feet spacing cannot be consistently maintained, and instructs companies to consider face shields where three feet of separation cannot be consistently maintained. These safeguards direct companies to

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conduct daily screening for workers and others entering facilities, institute questionnaires regarding COVID-19 symptoms, create dedicated entry points including use of physical barriers to prevent circumvention of entry points, suspend all non-essential in-person visits and tours, minimize congregation in common areas, and implement rotating work shifts. The Order also requires every company to provide the following minimum training to workers:

- Routes by which the virus causing COVID-19 is transmitted from person to person.
- The distance that the virus can travel in the air, as well as the time it remains viable in the air and on environmental surfaces.
- Symptoms of COVID-19.
- Steps the worker must take to notify the business or operation of any symptoms of COVID-19 or a suspected or confirmed diagnosis of COVID-19.
- Measures that the facility is taking to prevent worker exposure to the virus, as described in the COVID-19 preparedness and response plan required under section 11(a) of this order.
- Rules that the worker must follow in order to prevent exposure to and spread of the virus.
- The use of personal protective equipment, including the proper steps for putting it on and taking it off.

Governor Whitmer characterized these steps as the beginning of the third phase in the “MI Safe Start Plan.” In her press conference, she outlined specific aspects of the fourth and fifth phases of the Plan which lead up to the final, post-pandemic phase. While not expressly listed in the new order, Governor Whitmer also noted that this manufacturing work phase-in step starts with suppliers beginning work on May 11, and, for example, OEMs beginning work at 25% capacity on May 18, 2020.

As with past companies permitted to return to work, the order mandates that any company that has in-person workers must develop a COVID-19 preparedness and response plan, consistent with recommendations set forth by the Occupational Safety and Health Administration. Butzel Long has been assisting clients for the past month in drafting and implementing these plans.

For more information on this new order, and for support determining how the rules may apply to your business, reach out to your Butzel Long attorney.

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