

UPDATE: Arizona Stay at Home Executive Order

Alert

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By Elizabeth Chatham and Michael Vincent

This is an update to an alert from April 8, 2020.

On June 29, Arizona Governor Doug Ducey [issued an executive order](#), entitled “Pausing of Arizona’s Reopening — Slowing the Spread of COVID-19” partially implementing business closures and actions taken during his earlier executive orders in March and April, but without returning to a full “stay at home” order. This administrative measure is meant to create consistent guidance throughout the state to limit the spread of COVID-19. This response was due to the rise in COVID-19 positive cases and hospitalizations in Arizona.

The latest order prohibits all public gatherings of 50 or more people unless approved by a municipality and adequate COVID-19 precautions are implemented. All bars are closed until at least July 27 except for delivery and pickup, along with gyms, fitness centers, movie theaters, and water parks. Public pools must prohibit groups larger than 10 people.

No closed business may reopen until it has completed and submitted to the Arizona Department of Health Services a form attesting to its compliance with COVID-19 guidelines. The business must also publicly post the form on its premises.

Notably, the order also allows immediate action against any business violating COVID-19 guidelines, including the suspension of any business licenses. Arizona news has already reported that several bars have had their liquor licenses suspended for failure to comply with COVID-19 requirements. Businesses, especially those holding a liquor license, should be particularly careful to comply with this latest executive order.

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After July 27, the governor will reconsider every two weeks whether to keep this latest executive order in place.

In a [separate executive order](#), the governor also announced a delay in the start of the school year for Arizona schools. The back to school start date for in-person instruction will begin no earlier than August 17. However, Arizona schools can begin the school year according to their regular schedule if all instruction is conducted via distance learning.

The governor's executive orders stopped short of requiring mandatory face coverings. However, the governor urged Arizonans to adhere to CDC guidelines by staying home as much as possible and by wearing masks in public when social distancing was not possible.

Original alert from April 8, 2020

On March 30, Arizona Governor Doug Ducey [issued an executive order](#), entitled "Stay Home, Stay Healthy, Stay Connected" directing all Arizona residents to remain at home through April 30 except as otherwise required to conduct "essential services," to participate in "essential activities," or to use any products or services from "essential businesses."

The governor's orders have defined essential functions as those performed by essential businesses, which include:

- Health care, broadly defined but excluding fitness and exercise services
- Care facilities, shelters, vocational services, food banks and social services
- Essential infrastructure operations including food services, construction and utilities
- Essential governmental functions including parks, emergency services, law enforcement and courts
- Grocery stores and pharmacies
- Outdoor recreation with social distancing
- Media, gas stations, financial institutions, hardware and supply stores
- Educational institutions for purposes of remote learning, but public schools remain closed

Individuals may leave their homes to perform essential functions through these essential services/businesses, but otherwise should limit their time away from their place of residence. Individuals may also participate in "essential activities," which include:

- Obtaining necessary household supplies

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- Caring for a family member or friend
- Engaging in outdoor exercise if physical distancing is practiced
- Engaging in religious services if physical distancing is practiced

Any individuals who leave their home are not required to provide documentation of proof of their activities.

Under the orders, individuals may still operate their sole proprietorships or family-owned businesses where work is conducted in a separate office space from the home and the business is not open to serve the public. Moreover, all businesses are still allowed to operate to the extent necessary to protect their premises and property. For many businesses, this includes mail pickup, physical security, processing payroll, and all activities necessary to further remote working for the business's other employees. Any businesses that remain open must facilitate physical distancing and spacing of at least six feet.

On April 4, the governor's office released a supplement to the executive order, clarifying which services and recreational activities may remain open.

Under the latest guidance:

- Restaurants may remain open, but only for delivery or takeout.
- Hotels may remain open.
- Barbers, hair stylists, tanning salons, spas, massage therapists, tattoo parlors are closed.
- Swap meets are closed.
- Communal pools are closed.
- Any spaces at public parks that do not allow for social distancing (e.g. basketball courts, playgrounds) are closed.
- Non-essential businesses may operate if there are no in-person, onsite transactions, and they may maintain minimal staff to preserve inventory, physical security, process payroll or facilitate other employees working remotely.

Arizona has not implemented a permit system for classifying businesses as essential businesses or services. Thus, the onus is on employers to recognize and apply the appropriate classification under the various executive orders. Those companies who believe they qualify as an essential business may remain open, but take steps to ensure that social distancing requirements are maintained to the greatest extent possible.

Any violation of the governor's executive orders is a Class 1 misdemeanor with a fine of up to \$2,500 and up to six months in jail. The executive orders, however, provide that any violations will be given notice of violation and an opportunity to comply before any criminal penalties are imposed. Thus, Arizona

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businesses do not need to fear an immediate penalty if they inadvertently misclassify themselves as an essential business.

CONTACTS

Elizabeth S. Chatham

Michael Vincent

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