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Governor Announces Even More Businesses Can Reopen – What They Must Do and Have in Order to Do So

6.5.2020

Today, Governor Whitmer signed Executive Orders 2020-114 and 2020-115, continuing to reopen the Michigan economy.

Beginning June 10, Regions 6 and 8 (parts of northern Michigan and all of the Upper Peninsula) will enter Phase 5 of the “MI Safe Start Plan.” Notably, this move signifies the reopening of salons, barbershops, tattoo parlors, outdoor sporting venues, movie theaters, gyms, and other businesses, subject to specific safety protocols and procedures designed to minimize the spread of COVID-19. Under the new order, indoor social gatherings and organized events of up to 50 people will be allowed, as will outdoor social gatherings and organized events of up to 250 people.

On June 15, businesses that provide personal services including hair salons, barbers, and massage and nail businesses, will reopen statewide. It is important to note that regions, 1 through 5 and 7, will remain in Phase 4 under the new executive order, the governor has said she expects the entire state will advance to full Phase 5 in the coming weeks.

MI Safe Start Plan Updates

Specific rules allowing for the above-referenced reopening are as follows:

A social gathering or organized event among persons not part of the same household is permitted, but only to the extent that:

- (1) Persons not part of the same household maintain six feet of distance from one another.
- (2) If it is indoors, the gathering or event does not exceed 50 people.

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(3) If it is outdoors, the gathering or event does not exceed 250 people.

An arcade, bowling alley, cinema, climbing facility, convention center, performance space, meeting hall, night club, sports arena, theater, or similar venue may, if it is indoors, be open to spectators or patrons, but only to the extent that it:

- Enables persons not part of the same household to maintain six feet of distance from one another at all times while in the
- Limits the number of people in the venue to 25% of its maximum capacity or to 250, whichever is smaller. For purposes of this order, each separate auditorium or screening room is a separate

A concert space, race track, sports arena, stadium, or similar venue may, if it is outdoors, be open to spectators or patrons, but only to the extent that it:

- Enables persons not part of the same household to maintain six feet of distance from one another at all times while in the
- Limits the number of people in the venue to 25% of its maximum capacity or to 500, whichever is

Subsection (a) does not apply to the incidental gathering of persons in a shared space including an airport, bus station, factory floor, restaurant, shopping mall, public pool, or workplace.

Worker Safeguard Updates

In addition to expanding the rules for what businesses may return to work, Governor Whitmer has issued updated rules defining new workplace safeguards for gyms, in-home services, hair salons, and entertainment venues. The new rules are highlight by the following paragraphs.

All businesses or operations that provide barbering, cosmetology services, body art services (including tattooing and body piercing), tanning services, massage services, or similar personal-care services must:

- maintain accurate appointment and walk-in records, including date and time of service, name of client, and contact information, to aid with contact tracing;
- restrict entry to customers, to a caregiver of those customers, or to the minor dependents of those customers;
- require in-use workstations to be separated by at least six feet from one another and, if feasible, separate workstations with physical barriers (e.g., plexiglass, strip curtains);
- limit waiting-area occupancy to the number of individuals who can be present while staying six feet away from one another and ask customers, if possible, to wait in cars for their appointment to be called; and
- require employees and customers to wear a face-covering at all times, except that customers may temporarily remove a face covering when receiving a service that requires its removal (during

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services that require a customer to remove their face covering, an employee must wear a face shield or goggles in addition to the face covering).

Sports and entertainment facilities, including arenas, cinemas, concert halls, performance venues, sporting venues, stadiums and theaters, as well as places of public amusement, such as amusement parks, arcades, bingo halls, bowling alleys, night clubs, skating rinks, and trampoline parks must:

- post signs outside of entrances informing customers not to enter if they are or have recently been sick;
- encourage or require patrons to wear face coverings;
- establish crowd-limiting measures to meter the flow of patrons (e.g., digital queuing, delineated waiting areas, parking instructions, social distance markings on ground or cones to designate social distancing, etc.);
- use physical dividers, marked floors, signs, and other physical and visual cues to maintain six feet of distance between persons;
- limit seating occupancy to the extent necessary to enable patrons not of the same household to maintain six feet of distance from others (e.g., stagger group seating upon reservation, close off every other row, etc.); and
- for sports and entertainment facilities, to the extent feasible, adopt specified entry and exit times for vulnerable populations, as well as specified entrances and exits.

Gymnasiums, fitness centers, recreation centers, sports facilities, exercise facilities, exercise studios, and like facilities must:

- maintain accurate records, including date and time of the event, name of attendee(s), and contact information, to aid with contact tracing;
- to the extent feasible, configure workout stations or implement protocols to enable ten feet of distance between individuals during exercise sessions (or six feet of distance with barriers);
- reduce class sizes, as necessary, to enable at least six feet of separation between individuals; and
- provide equipment cleaning products throughout the gym or exercise facility for use on equipment.

Additionally, every business that will be having employees work in-person must—within two weeks of restarting—have in place a COVID-19 Preparedness and Response Plan. If you do not have one yet, Butzel Long can assist you with drafting one. If you do already have one, you should ensure that it is still compliant with the latest requirements from the State or whether it needs to be updated.

As the landscape changes for businesses allowed to reopen, and as the need to interpret certain safeguard requirements grows, your Butzel Long attorneys are staying updated and providing guidance to our clients on how to best comply with the rules as they change. Reach out to your Butzel Long attorney for more information and support.

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