



# A Robinson+Cole Legal Update

## Coronavirus (COVID-19)

March 24, 2020

## COVID-19: New York and Connecticut among states ordering non-essential businesses closed

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In response to the COVID-19 pandemic, as of this writing, several states, including California, Illinois, Connecticut, New York, New Jersey, Massachusetts, Illinois and Pennsylvania, as well as large cities, including Miami, New Orleans and Chicago, and counties across the United States, have issued executive orders restricting companies from requiring “non-essential” employees to come into the workplace. Additional jurisdictions are likely to do so in the days ahead. These orders are sometimes referred to as “essential business,” “shelter in place” or “life sustaining businesses,” and for purposes of this Alert, “Non-Essential Business Orders.” This Alert describes the Non-Essential Business Orders issued by New York and Connecticut.

### **New York**

Governor Cuomo has [ordered](#) all New York “non-essential” businesses and not-for-profit entities, to the maximum extent possible, to have their workers telecommute or work from home. New York’s Non-Essential Business order is effective March 22 at 8:00 p.m. through April 17, 2020. The Governor has the authority to modify, extend, or terminate this order.

The Empire State Development Corporation (ESD) provides lawfully binding [guidance](#) on “essential” businesses or services. Additional guidance may be issued by ESD as needed, so companies are advised to check the website regularly.

ESD also will review and consider “Essential Business” designation requests from any business. ESD will grant such requests if it determines that it is in the best interest of New York to have the workforce continue at full capacity to properly respond to coronavirus emergency.

### **Connecticut**

Governor Lamont has [ordered](#) all Connecticut “non-essential” businesses and not-for-profit entities, to the maximum extent possible, to have their workers telecommute or work from home. Connecticut’s Non-Essential Business Order is effective March 23 at 8:00 p.m. through April 22, 2020, unless earlier modified, extended, or terminated by the Governor.

The Connecticut Non-Essential Business [Order](#) provides lawfully binding guidance on “essential” businesses or services, including by incorporating the Department of Homeland Security’s list of essential services for businesses.

Connecticut’s Department of Economic and Community Development (DECD) issued lawfully binding [guidance](#) on March 23, 2020, about which businesses are permitted to remain open and which must close. Additionally, a set of FAQs about the Connecticut Non-Essential Business Order was released on March 21, 2020, and is expected to be updated as needed, so companies are advised to check the [website](#) regularly.

DECD will review and consider “Essential Business” designation requests from any business. DECD will grant such requests if it determines that it is in the best interest of Connecticut to have the workforce continue at full capacity to best respond to the coronavirus emergency. “Essential Business” designation requests should be made [online](#).

**Businesses and not-for-profits with multiple business activities or locations**

The New York Non-Essential Business [Order](#) specifically states that with respect to businesses or entities that operate or provide both essential and non-essential services, supplies or support, only those lines and/or business operations that are necessary to support the essential services, supplies, or support are not subject to the work-from-home restrictions.

The Connecticut DECD guidance provides that to the fullest extent possible, employees of Essential Businesses whose duties are not critical to an Essential Business function described below should telecommute or utilize any work-from-home procedures available to them. Additionally, any company or not for profit organization must evaluate its status as an Essential Business on a location-by-location basis.

#### **Suppliers and vendors to Essential Businesses**

The New York Non-Essential Business [Order](#) specifically states that an entity providing essential services or functions whether to an essential business or a non-essential business, shall not be subject to the in-person work restriction, but may operate at the level necessary to provide such service or function.

The Connecticut Non-Essential Business Order does not contain such a statement, so the scope of workplace restrictions on suppliers and vendors to essential businesses is not clear. The ESD guidance to be issued on March 22, 2020, may provide further insight. In the interim, the Connecticut DECD has created a COVID-19 Business Emergency Response Unit dedicated to assisting businesses navigate resources and develop new resources. A dedicated phone line has been set up at 860-500-2333 to provide assistance to Connecticut's small businesses for this purpose.

#### **Essential Business still required to implement social distancing rules**

In both New York and Connecticut, essential businesses or essential services permitted to have some workers in the workplace must still facilitate social distancing, including the distance of at least six feet, avoiding face-to-face meetings, hand washing, and other precautionary sanitizer practices.

#### **Penalties for violations of the Non-Essential Business orders**

While the full scope of penalties or liabilities for violating these orders is unknown at this time, the New York Non-Essential Business [Order](#) states that violations of the order shall be subject to section 12 of the Public Health Law.

Read more legal updates, blog posts, and speaking engagements related to this area on [Robinson+Cole's Coronavirus Response Team](#) page and feel free to contact any member of our team with questions.

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