

# Face Coverings Now Mandated for Employees In NYS and Revisions to Essential Business Guidelines

April 14, 2020 | **CLIENT ALERTS**

On April 9, 2020, New York State's Empire State Development ("ESD") issued revisions to its essential business guidance, deeming additional business types essential. Additionally, over the weekend, Governor Cuomo issued a new face covering mandate for employers that is effective Wednesday, April 15, 2020, at 8:00 p.m.

## Essential Business Guidelines

ESD's April 9, 2020, guidance confirms that the following businesses are essential:

- Additional medical services, including licensed mental health providers, licensed substance abuse treatment providers, medical billing support personnel, emergency chiropractic care, and physical or occupational therapy prescribed by a medical professional;
- Private utilities including, but not limited to, power generation, fuel supply, and transmission;
- The manufacturing of automobiles, products for the defense and transportation industries, household paper products, and any product necessary for essential products;
- Pet food stores, appliance stores, telecommunications retail stores (for purposes of servicing existing customers), and the management of delivery orders from non-essential retailers provided that only one employee is present at the business location to fulfill orders; and
- Other essential services such as automotive sales (which must be conducted remotely and with in-person vehicle return and delivery by appointment), marine vessel repair and marinas (to the extent they support government or essential commercial operations only), landscaping (if for a non-cosmetic purpose), clothing/fabric cleaning services, bicycle repair, pet care services (including dog walking and animal boarding), and remote instruction (including classes for public or private schools or health and fitness centers).

However, ESD's most recent guidance also limits what may have been previously considered to be essential businesses, in the following ways:

- All non-essential construction must be safely shut down, except emergency construction;
- Essential construction may proceed, but only for specifically enumerated circumstances and conditions, including, but not limited to, construction of roads, healthcare facilities, affordable housing, schools, projects currently underway for an essential business, or projects that can be completed by a single worker;
- Essential agriculture and farms are limited to those that are "food-producing;"
- Parks and other public spaces remain open; however, golf courses and recreational boat launches are not essential; and
- Debt collection is non-essential.

This alert only highlights some of the changes made to essential businesses by the April 9, 2020, guidance. [Click here to review the updated guidance in its entirety.](#)

If your business is not specifically enumerated as essential and is specifically listed as non-essential, you may still apply to the State of New York for an essential business designation.

### Face Covering Mandate

Over the weekend, Governor Cuomo also mandated that any employees who are present in the workplace of essential businesses shall be provided with and shall wear face coverings when in direct contact with customers or members of the public. Essential businesses must provide, at their expense, the face coverings for their employees. This mandate goes into effect on Wednesday, April 15 at 8:00 p.m. Similar to other violations of the Governor's essential business Executive Order, a violation of the face coverings mandate may result in penalties and fines pursuant to Section 12 of New York State's Public Health Law, which can result in fines up to \$10,000.

We are available to assist with interpreting the guidance as well as preparing requests to be classified as an essential business with New York State.

Please contact Amy Habib Rittling ([ahabibrittling@lippes.com](mailto:ahabibrittling@lippes.com)) or Vincent M. Miranda ([vmiranda@lippes.com](mailto:vmiranda@lippes.com)) in Buffalo or David E. Siegfeld ([dsiegfeld@lippes.com](mailto:dsiegfeld@lippes.com)) in Albany with any questions on the updated list of essential businesses, or any other employment-related issue your business may encounter.

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