

MPA/MACS FACTS

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May 21, 2020

GOVERNOR RELAXES STAY AT HOME ORDER ALLOWS GATHERINGS OF 10 OR LESS, LIMITED RETAIL, NONESSENTIAL MEDICAL, DENTAL AND VET PROCEDURES

Governor Whitmer announced today some relaxing of her stay-at-home order. Auto dealerships will be allowed to open by appointment starting next Tuesday. Non essential medical, dental and veterinary procedures can take place starting next Friday. All retail shops can open by appointment starting Tuesday and gatherings of 10 or fewer are allowed starting immediately. **There were not changes to the requirements for convenience stores and gas stations from previous executive orders.**

During her press conference the Governor indicated there will likely be a short term extension to her stay-at-home order which is set to expire on May 28. She did not say how much longer or give any other details.

Executive Order 2020-96 - Stay at Home Temporary Requirement to Suspend Certain Activities replaces EO 2020-92: https://content.govdelivery.com/attachments/MIEOG/2020/05/21/file_attachments/1456636/EO%202020-96%20Emerg%20order%20-%20MI%20Safe%20Start%20-%20re-issue.pdf

Executive Order 2020-97 - Safeguards to Protect Michigan's Workers replaces EO 2020-91: https://content.govdelivery.com/attachments/MIEOG/2020/05/21/file_attachments/1456637/EO%202020-97%20Emerg%20order%20-%20Workplace%20safeguards%20-%20re-issue.pdf

COVID-19 PREPAREDNESS AND RESPONSE PLAN DUE BY JUNE 1ST

When Governor Whitmer signed Executive Order (EO) 2020-91 (which has since been updated to EO 2020-97 – see article above) it requires all business, whether they are open or about to open, must at a minimum do the following: “Develop a COVID-19 preparedness and response plan, consistent with recommendations in Guidance on Preparing Workplaces for COVID-19, developed by the Occupational Health and Safety Administration and available at link below. By June 1, 2020, or within two weeks of resuming in-person activities, whichever is later, a business's or operation's plan must be made readily available to employees, labor unions, and customers, whether via website, internal network, or by hard copy.” Businesses must also designate one or more worksite supervisors to implement, monitor, and report on the COVID-19 control strategies developed under the COVID-19 plan described above. The supervisor must remain on-site at all times when employees are present on site. An on-site employee may be designated to perform the supervisory role.

MPA/MACS believes many members already are following these requirements but may not have an actual plan in writing.

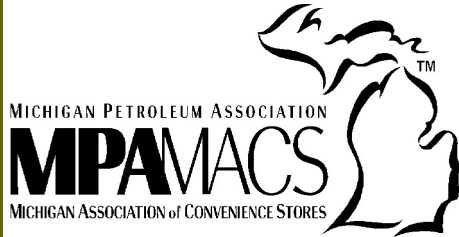
OSHA Guidance on Preparing Workplaces for COVID-19: <https://www.osha.gov/Publications/OSHA3990.pdf>

COURT RULES GOVERNOR CAN EXTEND EMERGENCY WITHOUT LEGISLATURE

Governor Gretchen Whitmer can extend a state of emergency through the Emergency Powers of the Governor Act without needing approval from the Legislature, a judge ruled today. The Legislature challenged in the Michigan Court of Claims the governor's authority to extend a state of emergency because the Emergency Management Act says the Legislature must concur in any emergency extension beyond the initial 28 days. Gov. Whitmer said the Emergency Powers of the Governor Act gave her the authority to extend an emergency without the Legislature because unlike the Emergency Management Act, it puts no limit on the length of an emergency and provides no role for the Legislature.

Judge Cynthia Stephens ruled that the Emergency Powers of the Governor Act provides the governor the authority and rejected the argument from legislative Republicans that it is an unconstitutional delegation of legislative authority. She called the Republican claims "meritless." Judge Stephens did, however, rule that Gov. Whitmer lacked the authority to extend the state of emergency under the Emergency Management Act without legislative approval.

Source: Gongwer News Service



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RETAILERS STRUGGLE WITH CORONAVIRUS STAFFING COSTS

Early in the coronavirus quarantine, major U.S. retailers offered extra pay to frontline workers. Some gave a temporary \$2 hourly increase, a one-time pay bonus or both. Now, many are ending or planning to stop paying those higher wages to employees in stores, warehouses and on the road, the Wall Street Journal reports. Amazon, Kroger and Rite Aid are among those stopping the bonus pay, although workers and unions are pushing back, saying they still face extra risks on the job.

“As long as we are wearing gloves, as long as we are wearing masks and social distancing, it seems obvious to me that we are working in hazardous circumstances,” said John T. Niccollai, president of United Food & Commercial Workers Local 464A, in Little Falls, New Jersey. At the beginning of the outbreak, many companies established a kind of “hero pay” to recognize the increased risk frontline workers were taking. The pandemic though, once expected to last only weeks, has turned into months and retail workers still face risk of infection while on the job. Many companies, including c-stores such as Wawa, Kwik Trip, Sheetz, 7-Eleven and others have taken proactive preventative measures to protect employees, including supplying PPE such as masks, gloves, and clear barriers at the register.

Still, until a vaccine is produced or herd immunity is reached, the threat of employees getting infected remains. At the same time, state economies are starting to reopen, and workers are returning to their restaurant and retail jobs. For retailers, everything is more expensive. While companies have increased minimum wages in many areas, retailers face new expenses, including protective equipment for employees and products to sanitize stores and warehouses. Companies such as Home Depot, Amazon, Target, Kroger and Walmart have all increased pay for workers either via hourly increases or bonuses. Now, they grapple with how long those are sustainable.

Amazon will provide extra pay for warehouse workers through the end of May, instead of ending May 16 as originally planned, and will return to regular wages in June, stating the extra pay was an incentive, not hazard pay, according to an Amazon spokeswoman. Kroger extended a \$2 hourly wage increase one final time to May 23 and offered a one-time payment of \$400 for full-time staff and \$200 for part-time staff. Meanwhile Target will continue on its \$2-per-hour pay increase through July 4 for its more than 350,000 workers, reports GroceryDive.com. In addition, the company will extend its other pandemic-related benefits, including a 30-day paid leave policy for high-risk workers and those 65 years and older, through June 30.

Source: NACS

JUDGE DENIES INJUNCTION AGAINST OWOSSO BARBER

A Shiawassee Circuit Court judge denied the Department of Health and Human Services' (DHHS) request for a temporary restraining order against Karl Manke, the Owosso barber who openly defied Governor Gretchen Whitmer's order closing nonessential businesses by opening during the new coronavirus pandemic.

DHHS had sought injunctive relief from the court to temporarily close Mr. Manke's shop until its civil lawsuit against the barber made its way through court. Judge Matthew Stewart said that while the threat of COVID-19 was chilling, DHHS could not connect the dangers of COVID-19 to any specific action occurring at Mr. Manke's shop outside of speculation, no matter how reasonable, that it could potentially spread the virus.

Mr. Stewart said that although he received an affidavit from DHHS Chief Medical Executive Dr. Joneigh Khaldun and various pictures and news articles showing a wide swath of people in or around Mr. Manke's shop, the judge concluded that those pieces of evidence weren't enough to tip the scales toward granting an injunction – an extraordinary remedy used sparingly by the courts – at this time.

Attend the Michigan Show—August 11-12, 2020
Same Great Show—Great New Dates
DeVos Place, Grand Rapids, MI
<https://www.mpamacs.org/tradeshow>