

Michigan Issues New COVID-19 Return to Work Rules With Enforceable Workplace Standards

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Courtney L. Nichols
(248) 594-6360
cnichols@plunkettcooney.com

On May 18, Michigan Gov. Gretchen Whitmer issued a new pair of Executive Orders 2020-91 and 2020-92, which reaffirmed many of the rules implemented for employers already operating in compliance with previous orders and added significant detail regarding a number of new requirements across a broader set of industries.

On May 21, Gov. Whitmer replaced 2020-91 and 2020-92 with 2020-96 and 2020-97. These latest orders reiterate the regulations on businesses once approved to resume activities and permit gatherings of individuals in groups of 10 or less while observing social distancing standards. Additionally, the orders expand access to retail establishments and auto dealerships in all parts of the state by appointment starting on May 26, subject to the regulations under these new orders.

The executive orders reaffirm that no person or entity shall operate a business or conduct operations that require workers to leave their homes or places of residence except to the extent that those workers are necessary to sustain or protect life (i.e. critical infrastructure workers), to conduct minimum basic operations, or to perform a specifically-identified resumed activity.

Executive Order 2020-96 provides details regarding eight separate state region designations to further facilitate the MI Safe Start Plan announced on May 7. Beginning on May 22 at 12:01 am, retailers, restaurants and bars, workers in office settings, and outpatient clinics in Regions 6 and 8 are permitted to return pursuant to the requirements under 2020-97. Executive Order 2020-96 does not contain dates for when the remaining regions will be re-opened and reiterates the Stay Home, Stay Safe order remains in place until May 28.

As mentioned above, auto dealership showrooms and in-person retail businesses may resume operations by appointment, and pursuant to the regulations under 2020-97 as of May 26 in every region of the state. Retail businesses must limit capacity to no more than 10 customers at any one time, and these businesses are defined as those “selling of goods and the rendering of services incidental to the sale of goods (e.g., any packaging and processing to allow for or facilitate the sale and delivery of the goods.” This definition does **not** include those places of public accommodation closed under

2020-69.

Executive Order 2020-97, titled: “Safeguards to protect Michigan’s workers from COVID-19,” creates **“an enforceable set of workplace standards that apply to all businesses”** as the state begins to gradually resume in-person work and governs activities that have already resumed or that were temporarily suspended under prior orders. The strict set of safety guidelines within 2020-97 have the force and effect of agency rules and will be “vigorously enforced” by the agencies that oversee compliance with our other health-and-safety rules throughout the state.

All businesses must maintain a record of compliance with the requirements related to its training of employees; daily entry screening; and confirmed COVID-19 case notification requirements. Executive Order 2020-97 cautions: “any failure to abide by the rules will also constitute a failure to provide a workplace that is free from recognized hazards within the meaning of the Michigan Occupational Safety and Health Act, MCL 408.1011.”

Requirements for all businesses allowed to continue or resume operations are found within Paragraph 1 of 2020-97. Subsequent paragraphs address additional requirements related to particular industry sectors or workplace environments and provide additional necessary measures for affected businesses.

Although the following will not replace a full reading of the newest orders, we hope the summary will assist you in identifying where you need to start, or problem areas to fix, in order to provide a safe and compliant space for employees and others pursuant to the requirements of **2020-97**.