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Overview of Governor Jay Inslee's “Stay Home - Stay Healthy” Order (Proclamation Nos. 20-25, 20-25.1)

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Collection of Web Resources

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Understanding Governor Inslee's COVID-19 Proclamations and Guidance

Posted Apr 13, 2020

By Washington State Business & Real Estate Law Lawyer Todd J. Cook



On February 29, 2020, Washington State Governor Jay Inslee issued [Proclamation No. 20-05](#), where he “proclaim[ed] that a State of Emergency exists in all counties in the state of Washington, and direct[ed] the plans and procedures of the Washington State Comprehensive Emergency Management Plan be implemented.” Since that date, Governor Inslee has issued more than 40 additional COVID-19 Proclamations, each impacting nearly all facets of business and life in Washington State. These Proclamations include, among many others, [Proclamation No. 20-25](#) (Stay Home, Stay Healthy through April 6, 2020), [No. 20-25.1](#) (extending the Stay Home, Stay Healthy order through May 4, 2020), [No. 20-19](#) (Moratorium on Evictions), [No. 20-08](#) (School Closures), [No. 20-09](#) (Statewide K-12 School Closures), [No. 20.09.1](#) (School Closure Extension), [No. 20-27](#) (Electronic Notary Effective Date), and [No. 20-46](#) (High-Risk Employees – Workers’ Rights). A complete list of the Governor’s COVID-19 Proclamations can be found at <https://www.governor.wa.gov/office-governor/official-actions/proclamations>.


<https://beresfordlaw.com/understanding-governor-inslees-covid-19-proclamations-and-guidance/>

Governor Inslee's COVID-19 Proclamations

WASHINGTON GOVERNOR
JAY INSLEE

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Proclamations

Proclamations are formal public declarations from the governor. Often proclamations declare states of emergency or call the legislature into a special session. Proclamations on this page are unique from the [ceremonial proclamations](#) issued by the governor's office.

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Number	Issued	Title	Status
20-46	04/13/2020	COVID-19: High-Risk Employees – Workers' Rights	Active
20-45	04/10/2020	COVID-19: Protection Orders and Personal Service	Active
20-44	04/10/2020	COVID-19: Nursing Home Transfer or Discharge for COVID-19 Cohorting Purposes	Active
20-43	04/10/2020	COVID-19: OFM Annual Leave and Pay Procedures	Active
20-42	04/03/2020	COVID-19: DOL Driver License Suspension	Active
20-41	04/03/2020	COVID-19: DOL License Renewal Extension	Active
20-40	04/02/2020	COVID-19: Building Code Implementation Dates	Active

<https://www.governor.wa.gov/office-governor/official-actions/proclamations>

Proclamation No. 20-05 (Feb. 29, 2020)

- Declared state of emergency across entire state;
 - [RCW 43.06.220](#)
- Directed implementation of the Wa. State Comprehensive Emergency Management Plan;
- Activated Washington's organized militia, including the National Guard; and
- Directed state agencies to identify and provide appropriate personnel for incident related assessments.

45+ COVID-19 Proclamations

- Residential eviction moratorium ([No. 20-19](#))
- Electronic Notary services ([No. 20-27](#))
- Unemployment compensation (various))
- School Closures ([various](#))
- Leave and pay procedures ([No. 20-43](#))
- Licensing requirements (various)
- Childcare ([No. 20-31](#))
- High-risk employees / Workers' rights ([No. 20-46](#))
- “Stay Home – Stay Healthy” ([No. 20-25](#))

Stay Home – Stay Healthy

- 3/23/20 - Proclamation No. 20-25 - Imposed statewide “Stay Home” rules through midnight on April 6, 2020.
- 4/2/20 – Proclamation No. 20-25.1 - Extended “Stay Home” rules through May 4, 2020.
- “All other provisions of Proclamation 20-25 shall remain in full force and effect.”

Overview (Part 1)

- **Para. 1** - “Immediately cease leaving home except for:
 - “essential activities” (personal activities)
 - employment in “essential business services.”
- **Para. 2** - Immediately cease participating in all public and private gatherings and multi-person activities (both personal and business related).
- **Para. 3** - All non-essential businesses shall cease operations (outside of employee homes) except for performing basic minimum operations.

Overview (Part 2)

- **Para 3** – All essential businesses are encouraged to remain open and maintain operations.
- **Specifically Allowed:** Working from home, operating a single owner business with no in-person/on-site interaction, or restaurants and food delivery/takeout.
- All activities allowed outside of home must be done with social distancing and sanitation measures.

Personal Activities

Para. 1 – Cannot leave home for personal activities or gatherings, except to:

- Obtain necessary supplies and services;
- Engage in essential health / safety activities;
- Care for family and friends;
- Engage in outdoor exercise.

Para. 2 - “Activities and gatherings solely including those people who are part of a single household or residential living unit” are allowed.

Business Activities

Essential vs. Non-Essential Businesses

- **Employees are allowed to leave home to perform “essential business services.”**
- **Every company engages in at least some “essential business services.”**

Non-Essential Businesses

- “Essential Business Services” include “basic minimum operations.” [Para. 1(b)].
- “Activities necessary to maintain the value of the business’ inventory, preserve the condition of the business’ physical plant and equipment, ensure security, process payroll and employee benefits, facilitate employees being able to continue to work remotely, and related functions.” [Para. 3(d)].
- **NOTE:** No limitations on working from home.

Essential Businesses

- “Essential Business Services” include “an essential employee performing work for an essential business.” [Para. 1(b)].
- The Governor has “encouraged” essential businesses to “remain open and maintain operations.” [Para. 3].
- Must establish and implement social distancing and sanitation measures.
 - [OSHA Guidance](#)
 - [WA Dept. of Health Guidance](#)

Essential Businesses

- Essential employees / businesses are defined in the “Essential Critical Infrastructure Workers” list, which is linked in Para. 1(b) of No. 20-25.
 - Healthcare / Public Health
 - Emergency Services Sector
 - Food & Agriculture
 - Energy
 - Water & Wastewater
 - Transportation & Logistics
 - Communication & Information Technology
 - Other Community-Based Government Operations and Essential Functions

Essential Businesses

- “Essential Critical Infrastructure Workers” list (continued):
 - Critical Manufacturing
 - Hazardous Materials
 - Financial Services
 - Chemical
 - Defense Industrial Base

Essential Businesses

- The issue causing the most confusion right now is determining whether your business is an “essential business” because –
 - The list is poorly drafted and vague with broad and often overlapping categories; and
 - The list is based on the federal [Dept. of Homeland Security’s list](#), but the two lists are not identical and are being updated in an inconsistent manner.

State vs. Federal ‘Critical Workforce’ lists

- State “Essential Workforce” for Public Works:
 - “Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintain the safety, sanitation, and essential operation of residences.”
- Corresponding Federal Definition updated:

PUBLIC WORKS AND INFRASTRUCTURE SUPPORT SERVICES

- Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including bridges, water and sewer main breaks, fleet maintenance personnel, construction of critical or strategic infrastructure, traffic signal maintenance, emergency location services for buried utilities, maintenance of digital systems infrastructure supporting public works operations, and other emergent issues.
- Workers such as plumbers, electricians, exterminators, builders, contractors, HVAC Technicians, landscapers, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, businesses and buildings such as hospitals, senior living facilities, any temporary construction required to support COVID-19 response.

What Can You Do If You Are Confused?

- Call us.
- Seek clarification or inclusion in the Essential Workforce by using the [Governor's online form](#).
 - Responses have varied.
- Review [Governor's online guidance](#).
 - Consolidated in my April 13th blog entry:
<https://beresfordlaw.com/understanding-governor-inslees-covid-19-proclamations-and-guidance/>

Essential Workforce Updates

- The Governor has issued several “Guidance Bulletins” addressing various fields:
 - Automotive
 - In-Home Care
 - Maintenance
 - Recreation
 - Retail
 - Funerals

Additions to ‘Essential Workforce’ list

For example, the Governor has added the following to the definition of “Essential Workforce” under the heading “Other Community-Based Government Operations and Essential Functions”:

- Workers providing, maintaining and repairing heating, cooling and refrigeration services.
- Professional employer organizations providing payroll benefits, regulatory assistance and HR services.
- Laundromats and laundry services.
- Outdoor maintenance, including vegetation, is deemed essential only when necessary to prevent spoliation, avoid imminent damage, or address emergency repairs.
- Retail which is, in part, deemed essential shall, in total, be deemed essential. This does not apply to non-essential retail that is easily separable from the essential retail area. Easily separable means separate locations or buildings, separate staff, etc., such that the closure of the nonessential retail portion will not affect the essential portion.
- Tobacco and vapor sellers are deemed essential if they sell food.
- Nannies and other persons who are providing childcare in the child’s own home are essential workers if they are caring for the children of essential workers.
- Camping and workers supporting private campgrounds. Please be mindful that private campgrounds will remain open to ensure that long-term residents are not displaced. To the greatest extent possible, avoid using this bulletin to justify vacationing in an unsafe manner.
- Golf is not deemed essential.
- Neither recreational fishing nor recreational shellfish harvesting are deemed essential.

- These have been added to the Governor’s [“essential business” guidance page](#), but NOT to the [official list linked to No. 20-25](#).

What else should you know?

- No “pass” or permit required.
 - “No business pass or credentialing program applies to activities or operations under this Proclamation.”
- Violation of order punishable as Gross Misdemeanor.
 - Up to \$5,000 fine and 364 days in jail.
 - [Online form](#) created to report violating businesses.
 - “The governor said the first step law enforcement will take is to educate businesses and individuals about how their actions increase the risks to public safety.”
 - [See article dated March 30, 2020.](#)

THANK YOU!

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