

Seeking Clarity around Governor's Order to Close Pennsylvania Businesses that are not "Life-sustaining"

In the late afternoon of March 19, 2020, and without advanced notice, Pennsylvania Governor Tom Wolf issued an Order for all "non-life-sustaining businesses" in the Commonwealth to close their physical locations. The Order was effective at 8 p.m. last evening with enforcement to begin at 12:01 a.m. on Saturday, March 21. A copy of the Order can be found [here](#). There are many questions that arise from the Governor's Order, and it can be expected that further clarifications will be forthcoming from the Governor's office. The Governor's office has also issued a [press release](#) with additional information.

In a press conference at 2 p.m. today, the Governor stated that the guidelines are being revised based upon feedback from businesses and other stakeholders, and that the forthcoming guidelines will be in line with the federal government's Cyberspace and Critical Infrastructure Security Agency (CISA) guidance that has identified 16 "Critical Infrastructure Sectors," as available [here](#). In addition, the Governor encouraged businesses to seek a waiver if they believe that they have been incorrectly categorized as "non-life-sustaining." The waiver process is meant to "cut through red tape" and the Governor stated that decisions will issue via email.

While further guidance remains pending, this Alert will summarize the current Order and suggest methods to address confusion regarding the Order or to seek relief from its provisions.

The Order provides that "No person or entity shall operate a place of business in the Commonwealth that is not a life sustaining business regardless of whether the business is open to the members of the public." The Order does not prevent working from home. The Order further provides specific guidance on what the Governor has decided is a "life sustaining business." A list of businesses and industries that "can remain open" and their classification can be found [here](#). No doubt the list was designed to attempt to provide clarity on what is a "life sustaining business." However, the list creates uncertainty regarding what businesses are covered by the Order and how to obtain relief from the Order.

There are options to seek clarity regarding the Order. Those options include pursuing an exemption or clarification through the Governor's office or an entity such as the Pennsylvania Department of Community and Economic Development ("DCED") or challenging the Order in Court. Waivers can be sought through an online form, available [here](#).

Babst Calland is closely monitoring the developments regarding the Order and providing input to our clients to address the Order and other risks caused by the novel coronavirus. If there are questions about the Order, please contact Jim Corbelli at jcorbelli@babstcalland.com or Molly Meacham at mmeacham@babstcalland.com.

MARCH 20, 2020

CONTACT

JAMES V. CORBELLI
jcorbelli@babstcalland.com
412.394.5649

MOLLY E. MEACHAM
mmeacham@babstcalland.com
412.394.5614

Pittsburgh, PA
Two Gateway Center
603 Stanwix Street
6th Floor
Pittsburgh, PA 15222
412.394.5400

BABSTCALLAND.COM

PITTSBURGH, PA | CHARLESTON, WV | HOUSTON, TX | SEWELL, NJ | STATE COLLEGE, PA | WASHINGTON, DC

Babst Calland was founded in 1986 and has represented environmental, energy and corporate clients since its inception. The Firm has grown to 150 attorneys who concentrate on the current and emerging needs of clients in a variety of industry sectors. Our attorneys have focused legal practices in construction, corporate and commercial, creditors' rights and insolvency, emerging technologies, employment and labor, energy and natural resources, environmental, land use, litigation, public sector, real estate and transportation safety. For more information about Babst Calland and our practices, locations or attorneys, visit babstcalland.com.

This communication was sent by Babst Calland, headquartered at Two Gateway Center, Pittsburgh, PA 15222.

This communication is privately distributed by Babst, Calland, Clements and Zomnir, P.C., for the general information of its clients, friends and readers and may be considered a commercial electronic mail message under applicable regulations. It is not designed to be, nor should it be considered or used as, the sole source of analyzing and resolving legal problems. If you have, or think you may have, a legal problem or issue relating to any of the matters discussed, consult legal counsel.

This communication may be considered advertising in some jurisdictions. To update your subscription preferences and contact information, please [click here](#). If you no longer wish to receive this communication, please [reply here](#). To unsubscribe from all future Babst Calland marketing communications, please [reply here](#).

©2019 Babst, Calland, Clements and Zomnir, P.C. All Rights Reserved.