

D.C. Closes Non-Essential Businesses, Expands Leave in Response to COVID-19: What Employers Need to Know

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In an effort to mitigate the spread of the coronavirus (COVID-19) pandemic, D.C. Mayor Muriel Bowser has issued [Mayor's Order 2020-053](#), requiring the temporary closure of the on-site operation of all non-essential businesses and the prohibition of gatherings of 10 or more people.

The intent of the Order is to temporarily cease all non-essential business activities, including:

- Tour guides and touring services;
- Gyms, health clubs, spas, and massage establishments;
- Theaters, auditoriums, and other places of large gatherings;
- Nightclubs;
- Hair, nail, and tanning salons and barbershops;
- Tattoo parlors;
- Sales not involved in essential services;
- Retail clothing stores; and
- Professional services not devoted to assisting essential business operations.

Under the Order, non-essential businesses can operate, but they must do so in a way that they maintain the minimum necessary activities to facilitate teleworking or the delivery of services formerly provided in-person by the business.

In addition to the Mayoral Order, the D.C. Council has taken measures to respond to COVID-19 by unanimously passing the [COVID-19 Response Emergency Amendment Act of 2020](#). Among other things, it provides the following:

- Employees who lose their jobs due to COVID-19-related reasons are eligible for unemployment insurance regardless of whether the employer provides a date certain for the employee's return to work or if they have a reasonable expectation to return to work with the same employer;
- Declaration of Emergency (DOE) Leave applies for employees who are unable to work as a result of the circumstances giving rise to the public health emergency. Such leave is triggered once an employee presents a medical recommendation that the employee self-quarantine or self-isolate. This provision applies regardless of the number of employees employed by the District employer; and
- The District of Columbia Family and Medical Leave Act of 1990 is amended to include leave that is taken as result of COVID-19. The one-year employment requirement and 1,000-hour requirement are removed.

Federal Families First Coronavirus Response Act

These developments come as employers with fewer than 500 employees are gearing up to comply with the expanded protected leave under the Family and Medical Leave Act (FMLA) and new paid sick leave under the Families First Coronavirus Response Act (FFCRA) that will

take effect no later than April 2, 2020.

The FFCRA expands reasons for FMLA leave to include an employee who is unable to work or telework due to a need to care for the employee's child if the child's school or daycare has been closed (or the childcare provider is unavailable) due to a public health emergency with respect to COVID-19 declared by federal, state, or local authority.

The FFCRA also provides mandatory paid sick leave of up to 80 hours for, among other reasons, an employee who is caring for the employee's own child if the child's school or daycare has been closed (or the childcare provider is unavailable) due to COVID-19 precautions.

For more information on the FFCRA and requirements for unpaid and paid leave, see our article, [The New Employer Obligations under the Slight Revised Families First Coronavirus Act \(H.R. 6201\)](#).

Additional Jackson Lewis resources to assist employers:

- Jackson Lewis [COVID-19 Task Force](#)
- Jackson Lewis state-by-state summaries, including the District of Columbia, on furlough/layoff information and issues including benefits, unemployment, and wage hour requirements. Please contact a Jackson Lewis attorney.
- For benefits issues specifically, see our article, [Employee Benefits Issues to Consider Before Deciding to Furlough or Terminate Employees During the COVID-19 Pandemic](#)

Jackson Lewis is committed to providing updates and clarifications to help employers make the best business decisions. Please contact a Jackson Lewis attorney if you have questions or need guidance handling issues pertaining to COVID-19.

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