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Berrien County law enforcement receives guidance from Attorney General's Office

Berrien County Prosecutor Michael Sepic, after consulting on a conference call with a criminal division assistant Attorney General, has today given local law enforcement guidance on the enforcement of Governor Whitmer's Executive Order, 2020-21.

Sepic has encouraged local law enforcement to demonstrate to the public the importance of the "Stay at Home" Executive Order. He says the reasons and importance in light of the current situation with the coronavirus need not be restated. Sepic says it will be important for law enforcement to follow up on conduct they observe which may be in violation of the Order as well as take complaints from the public. Law enforcement is in a position to educate the public on the importance and the breadth of the Order. While originally the Attorney General believed her office would be in the forefront of enforcement and prosecution of Executive Order violations, EO 2020-21 has created far too many questions from the public and local law enforcement for one agency to handle. Thus, local authorities will deal with enforcement and prosecution.

Sepic has advised local law enforcement the use of warnings will be preferred to accomplish compliance in the first instance. Citations under MCL 33.10, a 90-day/\$500 misdemeanor should be issued for non-compliance for technical violations where warnings are ignored. If the situation is one that appears to have clear public health consequences, an order by law enforcement to cease and desist that is ignored could result in an arrest for Resisting and Obstruction a Police Officer, a 2-year felony. He says some agencies are already inspecting businesses and issuing warnings.

Here is a link to the EO 2020-21:

https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-522626--,00.html

One source of information that is rather easy to read and make analogies to your situation is the Governor's FAQ. This site will be updated occasionally.

Frequently Asked Questions for EO 2020-21:

https://www.michigan.gov/coronavirus/0,9753,7-406-98178_98455-522631--,00.html

All of Governor Whitmer's Executive Orders can be found here:

https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705---,00.html

The Attorney General's office will likely continue to review cases of price gouging which

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is the subject of EO 2020-18, link here:

https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-522503--,00.html

Some businesses are specifically listed in EO 2020-21 as necessary to sustain and preserve life:

- Health care and public health.
- Law enforcement, public safety, and first responders.
- Food and agriculture.
- Energy.
- Water and wastewater.
- Transportation and logistics.
- Public works.
- Communications and information technology, including news media.
- Other community-based government operations and essential functions.
- Critical manufacturing.
- Hazardous materials.
- Financial services.
- Chemical supply chains and safety.
- Defense industrial base.

In addition, here are some examples of businesses not specifically listed that may operate but under the constraints of EO 2020-21 using a minimum number of workers and complying with social distance requirements:

- Oil change shop
- Logging truck
- Fixing farm machinery
- Deliveries - if permissible activity
- Medical marijuana store
- Construction and repair of roads
- Craft store supplying mask material

And here are some examples of businesses that cannot open to the public:

- Residential construction
- Door to door sales
- Golf courses
- Landscaping Nursey
- Florist
- Pet store (exclusively dealing with pets)

However, some of these businesses may fall under paragraph 4 and 4(b) (see below) which allows them to conduct minimum business operations “to maintain the value of inventory and equipment, care for animals, ensure security, process transactions (including payroll and employee benefits), or facilitate the ability of other workers to work remotely.”

Questions about EO 2020-21 enforcement should be directed to local law enforcement agencies using non-emergency numbers.

4. 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 or to conduct minimum basic operations.
 - a. For purposes of this order, workers who are necessary to sustain or protect life are defined as “critical infrastructure workers,” as described in sections 8 and 9.
 - b. For purposes of this order, workers who are necessary to conduct minimum basic operations are those whose in-person presence is strictly necessary to allow the business or operation to maintain the value of inventory and equipment, care for animals, ensure security, process transactions (including payroll and employee benefits), or facilitate the ability of other workers to work remotely.

Businesses and operations must determine which of their workers are necessary to conduct minimum basic operations and inform such workers of that designation. Businesses and operations must make such designations in writing, whether by electronic message, public website, or other appropriate means. Such designations, however, may be made orally until March 31, 2020 at 11:59 pm.