



Good afternoon!

In an effort to continue providing you with the latest information and updates related to COVID-19, the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security (CARES) Act, we have gathered frequently asked questions and their answers below. Details about Tennessee’s “safer at home” order are also outlined.

Q: What does Tennessee’s “safer at home” order mean?

A: On Monday March 30, Tennessee Governor Bill Lee issued a safer at home order. The order closes nonessential businesses and recommends that people stay in their homes except to conduct essential activities such as going to the grocery store, picking up food from a restaurant, going to doctor’s appointments, getting medications, or going to work at an essential business. This takes effect at 11:59pm on Tuesday, March 31 and remains in effect through 11:59pm on Tuesday, April 14.

Q: What businesses are considered essential under the Tennessee “safer at home” order?

A: The order lists the following business types as essential:

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| Health Care and Public Health Operations | Mail, Post, Shipping, Logistics, Delivery, & Pick-up Services |
| Human Services Operations | Educational Institutions |
| Essential Infrastructure Operations, | Laundry Services |
| Essential Government Functions | Restaurants for Off-Premises Consumption |
| Food and Medicine Stores | Supplies to Work from Home |
| Food and Beverage Production and Agriculture | Supplies for Essential Businesses and Operations |
| Organizations that Provide Charitable and Social Services | Transportation |
| Religious and Ceremonial Functions | Home-based Care and Services |
| Media | Residential Facilities and Shelters |
| Gas Stations and Businesses Needed for Transportation | Professional Services |
| Financial Institutions and Insurance Entities | Manufacturing |
| Hardware and Supply Stores | Distribution and Supply Chain for Critical Products and Industries |
| Critical Trades | Hotels and Motels |
| | Funeral Services |

Employers should also note that even as an essential business, they cannot require or allow employees with COVID-19 to work until the employee has satisfied the conditions for discontinuing home isolation under CDC guideline which are listed here: <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>.

Q: If my employer closed my worksite before April 1, 2020 (the effective date of the FFCRA), can I still get paid sick leave or expanded family and medical leave?

A: No. If, prior to the FFCRA’s effective date, your employer sent you home because it does not have work for you to do, you will not get paid sick leave or expanded family and medical leave. However, you may be eligible for unemployment insurance benefits. This is true whether your employer closes your worksite for lack of business or because it is required to close pursuant to a Federal, State, or local directive.

Q: If my employer is open, but furloughs me on or after April 1, 2020 (the effective date of the FFCRA), can I receive paid sick leave or expanded family and medical leave?

A: No. If your employer furloughs you because it does not have enough work or business for you, you are not entitled to then take paid sick leave or expanded family and medical leave. However, you may be eligible for unemployment insurance benefits.

Q: There is a small business exception for the Emergency Paid Sick Leave Act and Emergency Family and Medical Leave Expansion Act. How do I know if my small business is exempt?

A: An employer, including a religious or nonprofit organization, with fewer than 50 employees (small business) is exempt from providing (a) paid sick leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons and (b) expanded family and medical leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons when doing so would jeopardize the viability of the small business as a going concern. A small business may claim this exemption if an authorized officer of the business has determined that:

1. The provision of paid sick leave or expanded family and medical leave would result in the small business's expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity;
2. The absence of the employee or employees requesting paid sick leave or expanded family and medical leave would entail a substantial risk to the financial health or operational capabilities of the small business because of their specialized skills, knowledge of the business, or responsibilities; **OR**
3. There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee or employees requesting paid sick leave or expanded family and medical leave, and these labor or services are needed for the small business to operate at a minimal capacity.

Details around applying for the exemption have not yet been released, but currently the DOL guidance states "you should not send any materials to the Department of Labor when seeking a small business exemption for paid sick leave and expanded family and medical leave."