



## Department of Public Health and Human Services

Office of Legal Affairs ♦ PO Box 4210, 111 N. Sanders ♦ Helena, MT 59604-4210

Telephone: 406-444-6902 Fax: 406-444-9744

**Steve Bullock, Governor**

**Sheila Hogan, Director**

TO: Nick Domitrovich, Deputy Chief Legal Counsel

FROM: Robert Lishman, Staff Attorney

DATE: April 7, 2020

RE: Application of March 26, 2020, Directive to craft and hobby stores

This memorandum addresses whether craft and hobby stores constitute non-essential businesses that must cease retail operations under Governor Bullock’s March 26, 2020, *Directive Implementing Executive Orders 2-2020 and 3-2020 providing measures to stay at home and designating certain essential functions* (“Directive”).<sup>1</sup>

The Directive requires businesses to cease all activities unless the business is an essential business or the business activity meets the definition of Minimum Basic Operations. Directive, p. 2. The term “Minimum Basic Operations” includes activities necessary to maintain the value of business inventory, preserve the condition of physical plant and equipment, ensure security, process payroll/employee benefits, and related functions. Minimum Basic Operations does not include the continuation of retail sales. See Directive, p. 8.

The Directive specifically sets forth the categories of businesses that are considered essential and may continue operations. Directive, pp. 5-8. Craft and hobby stores are not specifically designated as essential businesses. The closest essential business category under which these stores might fall is “Supplies for Essential Businesses and Operations.” Under this category, a business is considered essential if it supplies another business with necessary materials to operate, including sanitary equipment and personal hygiene products. Directive, p. 7. Craft and hobby stores do not operate for the primary purpose of providing sanitary equipment and personal hygiene products to other businesses. Rather, these stores operate for the primary purpose of supplying consumers with materials for hobby activities.

The intent of the Directive is to slow the spread of COVID-19 to the greatest extent possible by ensuring that people self-isolate in their places of residence to the maximum extent feasible, while enabling only essential services to continue. Directive, p. 9. Characterizing craft and hobby stores as essential businesses on the basis that a de minimis amount of total materials sold might be used by others to assemble masks would frustrate the purposes of the Directive.

It is my opinion craft and hobby stores are non-essential businesses under the Directive. The Directive requires craft and hobby stores to cease brick and mortar retail activity and close to the public.

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<sup>1</sup> A copy of the Directive is electronically accessible at:

<https://covid19.mt.gov/Portals/223/Documents/Stay%20at%20Home%20Directive.pdf?ver=2020-03-26-173332-177>.