



April 14, 2020

Sheriffs, Police Chiefs, District Attorneys General
c/o their respective associations

RE: Executive Order Nos. 22, 23, and 27 re: Staying at Home Unless Engaging in Essential Activities or Services

Dear Sirs/Madams:

By now you are aware that Executive Order Nos. 22 and 23 (the "Orders") were issued pursuant to emergency authority under Tenn. Code Ann. § 58-2-107 to limit the spread of the COVID-19 pandemic and were extended by Executive Order No. 27, issued yesterday. Copies of the Orders are attached for your convenience. These Orders have the force of law and are in effect until 11:59 p.m. on Thursday, April 30, 2020.

The purpose of this letter is to respond to inquiries seeking guidance regarding enforcement of the Orders, which require Tennesseans to stay at home except when engaging in Essential Activity or Essential Services. The Orders also require non-essential businesses to be temporarily closed for the health and welfare of the community.

The goal of these Orders is to ensure that, for a temporary period of time, Tennesseans remain home as much as possible, so that we can successfully contain the spread of COVID-19. Voluntary, good-faith compliance is essential to their effectiveness. So, my hope and expectation is that Tennesseans—in order to protect themselves, their loved ones, their customers, and their communities from the spread of COVID-19—will use their best, good-faith judgment in determining whether their operations constitute Essential Activity or Essential Services and limit those activities to what is truly essential, while allowing employees to work remotely and in accordance with the health guidelines whenever possible.

Since the Orders were issued, many questions have arisen over what is, should, or should not be covered in the list of Essential Activities and Essential Services. However, the purpose of the Orders was not to micromanage every person and business, but rather to provide a broad framework that results in Tennesseans staying home as much as possible, while allowing sufficient room for persons to exercise discretion and judgment based on their circumstances and the wide array of essential activity required to maintain the health and safety of Tennesseans.

Much is to be gained from local leaders playing a key role in providing voice to the goals expressed in the Orders, including emphasizing the importance of staying home and following the health guidelines and, where necessary, even applying social pressure on persons and businesses who choose not to act in good faith. Indeed, a community's leaders as well as its marketplace can

achieve powerful results by encouraging, inspiring, and rewarding those willing to make the difficult sacrifices for their community, compared to those who are not.

Having said that, under Tenn. Code. Ann. § 58-2-107(f), a governor may “give such direction to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with this chapter and the orders and rules made pursuant thereto.” Further, violation of an emergency Executive Order is also a Class A misdemeanor under Tenn. Code Ann. § 58-2-120. So, please interpret this letter as authority to take reasonable steps to implement the provisions of Executive Order Nos. 22, 23, and 27 in your jurisdiction.

In exercising this authority, you should utilize sound judgment, restraint, and discretion, particularly given that whether a person or business is engaging in an Essential Activity or Essential Service depends on the circumstances and specific work or activity involved, which can be difficult to judge because each situation and each community is different. For example, work that may not seem essential may in fact form a component part of an important good or service, and going for a walk or drive may serve as an important, safe way to get some fresh air.

Therefore, in all cases, law enforcement should review the Orders carefully, educate and warn persons and businesses regarding the provisions of the Orders, and provide them with a reasonable opportunity to comply before considering stricter enforcement measures. Further, any enforcement measures should be limited to clear violations and used only as a last resort if the person or business refuses to voluntarily comply. We should not be using the force of law in difficult times to punish our neighbors over genuine disagreements in gray areas.

Importantly, these Orders do not require a person to possess papers or documentary proof that they are engaging in Essential Activity or Essential Services, so requests should not be made for such documents. And these Orders do not encourage or recommend that an officer stop a person (or vehicle) simply for being out of the person’s home, absent evidence of criminal conduct.

Thank you for your cooperation in implementing the provisions of these Orders. This is a grave and unusual situation, and I wholeheartedly thank you for all of the work you are doing to protect the health and safety of Tennesseans during this difficult time.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Lee", with a stylized, cursive script.

Governor Bill Lee

cc: City and County Mayors