

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



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DANA NESSEL
ATTORNEY GENERAL

March 30, 2020

JoAnn Fabrics
C/O Chris DiTullio
SVO, Chief Customer Officer
5555 Darrow Rd.
Hudson, Ohio 44236 USA

*Delivered via email only to
christopher.ditullio@joann.com*

Re: Cease & Desist Notice (Executive Order of the Governor 2020-21)

Dear Mr. DiTullio,

We have received your letter dated March 24, 2020, which seeks confirmation of JoAnn Fabrics interpretation that its employees are “Critical Infrastructure Workers” under Governor Whitmer’s Stay Home, Stay Safe Order (Executive Order, 2020-21) and requests permission to keep its stores open and fully operational.

As you know, on March 10, 2020, Governor Whitmer issued Executive Order 2020-4 declaring a state of emergency across the State of Michigan under sec. 1, art. 5 of the Michigan Constitution of 1963, the Emergency Management Act, MCL 30.401, *et seq.*, and the Emergency Powers of the Governor Act of 1945, MCL 10.31, *et seq.*

Pursuant to those authorities, she subsequently issued Executive Order 2020-21 which prohibits any person or entity from operating a business or conducting operations that require workers to leave their homes or places of residence, except to the extent those workers are necessary to sustain or protect life or to conduct basic minimum operations. The Order is to be “construed broadly to prohibit in-person work that is not necessary to sustain or protect life.” See EO 2020-21, ¶1.

The Governor has posted “Guidance for Business” on the State’s website (www.michigan.gov/coronavirus) to help assist businesses in determining if their on-site operations are “necessary to sustain or protect life.” This page also has a Frequently Asked Questions (FAQ) section to address specific questions of interpretation related to the Executive Orders issued by the Governor. These FAQs can be viewed by clicking “Executive Orders, Directives & FAQs” on the black panel on the left side of the page. (https://www.michigan.gov/coronavirus/0,9753,7-406-98178_98455-522631--,00.html)

The Governor has posted the following guidance relevant to JoAnn Fabrics' current on-site business operations on the FAQ website.

Q: May craft/hobby stores continue to remain open to the public?

A: No. The Executive Order specifically contemplates that people may leave their homes to obtain services or supplies necessary to maintain the safety, sanitation, and basic operation of their residences, and encourages obtaining such services or supplies via delivery to the maximum extent possible. The provision of items used for crafts or hobbies are not considered necessary to maintain the safety, sanitation, and basic operation of residences under the order.

Your letter dated March 24, 2020, indicates that JoAnn Fabrics remains open to the public based on the company's belief that its on-site operations are necessary to sustain and protect lives because "hundreds of hospitals and thousands of generous volunteers are turning to JoAnn" for raw materials like custom cut fabric, marine vinyl, crafting foam, and other goods that are finished into face masks, face shields and hospital scrubs and gowns.

We appreciate the contributions that you have devoted to addressing the current crisis. Nevertheless, while certain products from your store may be used to craft personal protective equipment, the Governor's Order carefully balances the danger to the public and to workers when on-site operations continue versus the need for those on-site operations to sustain and protect life. As your letter points out, JoAnn Fabrics can supply these important materials through other means like online sales or by shipping from its stores or distribution centers.¹ In light of these options, maintaining store fronts open to the public is both unnecessary and violative of Executive Order 2020-21.

¹ Your letter generally mentions Section 9(b)(1) in support of your store openings but you do not indicate which business or operation has designated JoAnn Fabrics as a supplier under that section. These types of designations are not self-made. Moreover, under Section 9(b)(2), these types of suppliers are only able to designate critical infrastructure workers to the extent necessary to support the work of the original businesses' operations. Thus, such a designation would not provide JoAnn Fabrics with a blanket exemption to allow its stores to be open to the general public.

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Accordingly, we ask that you take immediate action to ensure that all JoAnn Fabrics stores in the State of Michigan are in compliance with the Governor's Order. We appreciate your prompt attention to this matter.

Sincerely,

/s/ Christina Grossi

Christina M. Grossi
Chief of Operations