

## **Non-Life-Sustaining Businesses Licensed by the Department of Banking and Securities**

Many of the Department's licensees which have been determined to be Non-Life-Sustaining based on their NAICS code have asked the Department whether they can operate under their current county color phase. Much like a licensee cannot depend on the Department to ensure compliance with their applicable licensure law, a licensee must make the determination whether they can operate in compliance with all orders and guidance. This determination must include the unique details and facts of a licensee's operations including how they will comply and follow social distancing and other COVID-19 mitigation guidance provided by the Pennsylvania Department of Health and CDC including Business and Building Safety Orders.

**It is critical that a licensee and their legal staff review all guidance to make this determination and specifically review:**

- [Process to reopen Pennsylvania](#) (Specifics on the Red, Yellow, and Green phases)
- [Guidance for Businesses Permitted to Operate During the COVID-19 Disaster Emergency to Ensure the Safety and Health of Employees and the Public](#)
- [Life-Sustaining-Business FAQs](#)
- [Department of Community and Economic Development](#)

**Some highlighted sections of Red phase:**

**FAQ #7:** “Non-life-sustaining businesses in counties that have been designated as being in the Red Phase of Reopening may continue to operate remotely virtually or by telework (i.e. working from home) conducted individually, and in doing so must follow the social distancing and other COVID-19 mitigation guidance provided by the Pennsylvania Department of Health and CDC.”

**FAQ #16:** “A “one person” operation that operates out of my home, with no customer access or physical facility,” “may continue to work as you have no physical location. In-home businesses should suspend any in-person elements in which customers must come to the home business, unless engaged in life-sustaining business.”

Therefore, during the red phase, a non-life-sustaining business can continue to operate remotely virtually or by telework (i.e. working from home) conducted individually, and in doing so must follow the social distancing and other COVID-19 mitigation guidance provided by the Pennsylvania Department of Health and CDC.

**Some highlighted sections of Yellow phase:**

- “Telework Must Continue Where Feasible”
- “Businesses with In-Person Operations Must Follow Business and Building Safety Orders”
- “Stay at Home Order Lifted for Aggressive Mitigation”

Therefore, during the yellow phase, a non-life-sustaining business must continue to telework where feasible but where not feasible can open their physical location with no restriction on travel and must follow Business and Building Orders.