

Stay at Home Order Frequently Asked Questions

1. Does the Governor have the authority to issue a Stay at Home order?

Yes. The Governor is the Commander of the Militia under Article IV, § 4 and Supreme Executive Power is vested within the Governor under Article IV, § 5 of the Idaho Constitution. This authority is codified throughout Idaho Law. The authority to issue orders such as the Stay at Home Order is found within Chapter 6, Title 46 of the Idaho Code. Additional authority is found within Chapter 10, Title 46. The specific statutes granting the Governor authority to issue such an order are Idaho Code § 46-601 and Idaho Code § 46-1008. It is important to note that both the Director of the Department of Health and Welfare and local public health districts have authority to issue orders of quarantine and isolation. Idaho Code §§ 56-1003(7) (Director) & 39-415 (Public Health Districts). The current order is an exercise of the combined authority of the Governor and the Director of the Department of Health Welfare. Violation of this order could be a misdemeanor. Idaho Code § 56-1003(7)(c).

2. Is my business exempt if I can make an argument that it's exempt?

The order cannot cover every single scenario and arguments for exemptions can be advanced. However, the purpose of the order is to stop the spread of a virus that will have fatal consequences for certain members of Idaho's population. As owners consider the status of their businesses, they should do so with the understanding that the goal of the order is for us to stay home and isolated to the maximum extent possible.

3. Who has the authority to enforce the order?

By statute, city police, county sheriffs, or Idaho State Police have the authority to enforce the order. The Governor, the Department of Health & Welfare, nor the Office of the Attorney General have enforcement authority under the statutes authorizing the order or under the order itself.

4. I'm out of milk and eggs. Can I leave my house to go to the store?

Yes, you may leave your house to get essentials. Your departure and return should be on as direct a route as possible to minimize the time that you may be exposed to the virus, or that you may expose others. These trips should be kept to a minimum.

5. My house is so stuffy. Can I go out for a walk, run or bike ride?

Yes. Under the Governor's order, you are allowed to leave your house to go for walks, runs, and bike rides. Please refrain from gathering in groups and remember to observe social distancing when in public. As you encounter other walkers, runners, or riders please do not come within 6-feet of others to minimize the likelihood of viral transmission. You may walk, run, or ride with your family members as well.

6. Gas prices, milk prices, and water prices appear to have gotten out of control at my local grocery store. How can I be sure that this isn't price gouging?

Concerns about price gouging should be reported to the Office of the Attorney General's Consumer Protection Division. Complaints can be filed online at <https://www.ag.idaho.gov/office-resources/online-forms/?form=File%20a%20Complaint&complaint=Consumer%20Complaint>.

Consumers may also contact the Consumer Protection Division at <https://www.ag.idaho.gov/office-resources/online-forms/> or by calling 1-800-432-3545 (statewide) or (208) 334-2424 (local) to obtain information about price gouging and other consumer matters.

Under Idaho Code § 48-603(19), price gouging investigations by the Attorney General are limited to fuel, food, pharmaceuticals and water for human consumption. If your complaint falls outside of these categories, the Attorney General lacks the legal authority to investigate.

7. Are units of government still required to follow Idaho's Open Meetings Law?

Yes. Government is still required to follow the Idaho Open Meetings Law. Notices and agendas should be posted in compliance with the law. In a recent proclamation, the Governor only suspended the "in-person" attendance requirement—but only if the governmental entity can ensure that the public has the opportunity to either listen in via teleconference, observe and listen through streaming, or attend via other online platforms. If the system for observing and listening is not functioning, government should postpone the meeting until the system is working. Additionally, there is no authorization within the law for the conduct of meetings or votes within boards by e-mail. Government should comply with the Open Meetings Law throughout the application of the Governor's orders.