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Erin M. Edgerton Hall, AWI-CH

Teresa M. Thompson

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## Question of the Day: Impact of Minnesota's May 13 Executive Orders

**Legal Update**

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By Teresa M. Thompson and Erin M. Edgerton

**Question**

**How do the new Minnesota executive orders impact my business as we look to return to work?**

**Answer**

Governor Walz issued four new executive orders on May 13, 2020. The executive orders outline requirements for certain businesses to reopen and contain reminders about obligations employers owe to their employees. We have outlined a few key takeaways from the executive orders to consider as you complete your return to work planning.

**Requirements Related to Reopening Your Business**

- Minnesota's Stay-at-Home Order will expire at midnight on Monday, May 18, 2020, allowing many businesses to reopen. However, those employees who can work from home **must** continue to do so.
- Businesses must create a COVID-19 Preparedness Plan in order to reopen. The State has provided an optional template for these Plans. This requirement does not apply to critical sector businesses that have been open throughout the Stay-at-Home period.
- Customer-facing businesses have additional responsibilities, including additional Preparedness Plan provisions to protect the public and workers, monitoring for a maximum occupancy for customers of 50 percent of normal occupancy and posting signage to discourage gathering.
- Restaurants, bars, salons, spas, barbershops and other places of public accommodation that require close physical proximity to do business may not reopen yet. The State will release a progressive plan for reopening these businesses by May 20, 2020.

## Reminders Related to Work Health and Safety

Executive Order 20-54 recognizes that workers continue to raise concerns about the safety of their working environment due to COVID-19 and that it is important that they continue to do so. As a result, the executive order reminds employers about health and safety rights and obligations under federal and Minnesota state law including the following:

- Employers have an obligation to make reasonable accommodations under the ADA and MHRA and to engage in the interactive process to determine what accommodations are reasonable. This obligation applies to employees with health conditions who are at high-risk of contracting COVID-19. Reasonable accommodations may include adjusting work schedules or work stations, allowing employees to work from home or permitting use of leave.
- Workers have the right to refuse to work under conditions that they, in good faith, reasonably believe present an imminent danger of death or serious physical harm.
- Workers have the right to raise health and safety concerns without fear of retaliation.
- Workers have the right to request a Department of Labor and Industry inspection if they believe there is a violation of safety and health standard that threatens physical harm or creates imminent danger.
- Workers who quit because an employer has failed to correct an adverse work condition related to the pandemic may, under certain circumstances, be eligible for unemployment compensation.

## Reminders that Employers Should Not Discriminate or Retaliate

Executive Order 20-54 also reminds employers to refrain from discriminating or retaliating against employees for:

- refusing in good faith to perform certain tasks if an employer has not corrected a hazardous work condition;
- reporting unsafe conditions internally or to a government agency;
- having been under an isolation or quarantine order, or caring for someone under such an order;
- requesting a government inspection of the workplace; or
- wearing gloves, a cloth face covering, eye protection or other protective gear which the worker has personally procured and reasonably believes will protect them, their coworkers or the public against COVID-19 in the course of their work, **provided that the protective gear which the worker has personally procured does not violate industry standards or existing employer policies related to health, safety or decency.**

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- Note, however, that employers may require the use of employer-provided protective gear that meets or exceeds the effectiveness of protective gear procured by employees.

The most recent executive orders focus on the health and safety of workers and serve as a good reminder to employers to review their workplace policies and practices as they create their return to work plan.

Please contact your Fredrikson & Byron attorney if you have questions about reopening your business.

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