

Featured Professionals

Amanda L. Welters

Quick Reference Guide to Minnesota's COVID-19 Stay-At-Home Order

Legal Update

03.26.2020

By Joseph J. Schauer, Chad A. Ambroday, Amanda L. Welters and Evan J. Skaar

Minnesota Governor Tim Walz issued an emergency order on March 25, 2020, directing all persons living in Minnesota to stay at home as part of the state's response to the COVID-19 pandemic. The order takes effect on Friday, March 27, 2020, at 11:59 p.m. and ends Friday, April 10, 2020, at 5:00 p.m.

The following is a quick reference guide that summarizes how this emergency order may affect your business and workforce:

Are Minnesota Businesses Required to Close?

This order does not expressly require Minnesota businesses to close, although prior executive orders still apply, including closure of places of public accommodation (e. g., restaurants, bars, theatres, fitness centers and others). Instead, this order focuses primarily on whether workers are permitted to travel to and from their place of work. The order directs all workers who can work from home to do so.

Workers who perform certain job functions within a "Critical Sector" and who are unable to work from home may continue to travel to and from their place of work. The Critical Sectors largely correspond to the 16 critical infrastructure sectors outlined by the U.S. Cybersecurity and Infrastructure Security Agency (CISA), with certain additions and limitations.

The Critical Sectors include certain workers in, among others:

- Healthcare / Public Health
- Law Enforcement, Public Safety and First Response
- Food and Agriculture
- Energy
- Water and Wastewater
- Transportation and Logistics
- Public Works

- Communications and Information Technology
- Other Community-Based Government Operations and Essential Functions
- Critical Manufacturing
- Hazardous Materials
- Financial Services
- Chemical
- Defense Industrial Base
- Federal, State, and Tribal Government Branches and Functions
- Houses of Worship and Places of Religious Expression
- Education
- Construction and Critical Trades
- Childcare
- Hotels, Residential Facilities and Shelters
- Charitable and Social Services Organizations
- Critical Labor Union Functions
- Laundry Services
- Animal Shelters and Veterinarians
- Legal, Notary and Real Estate Services
- Businesses Selling Items to Support Critical Sectors

How Do I Determine Who Can Travel to and from Work?

The Minnesota Department of Employment and Economic Development (DEED) website has posted clarifications with respect to the order, including the following three ways to determine if workers are in a Critical Sector and can travel to and from work:

First, workers are permitted to travel to and from work if their job function is identified in CISA's *Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response*, dated March 23, 2020. The CISA Guidance is attached to the end of the emergency order.

Second, the emergency order itself provides further guidance and additional categories of workers that are permitted to travel to and from work.

Third, the DEED website includes a listing of NAICS industry codes that identify businesses whose workers will also be considered to work within a Critical Sector. If the business falls within an industry description marked YES in the Critical Industry column, its workers can travel to and from work.

Please note that, even if a worker is in a Critical Sector, he or she is not permitted to travel to and from work if he or she can work from home. In addition, workers traveling to and from work should continue to follow state and federal guidelines related to COVID-19, including social distancing and hygiene. Willful violations of the order are punishable by a fine of up to \$1,000 or imprisonment for up to 90 days.

Can I Request Clarification?

A business that is unsure if it operates in a Critical Sector or if certain workers are permitted to travel to and from work may submit an online request for clarification on the DEED website.

Do Workers Need a Permit or Other Documentation to Travel to Work?

No. Workers that are permitted to travel to and from work are not required to carry a permit or other documentation with them. However, many businesses with Critical Sector workers are providing their workers with letters indicating that the workers are permitted to travel to and from work under the emergency order.

Businesses are also sending confirmation letters to suppliers and/or customers to help determine if their workers are within a Critical Sector or if adjustments to their supply chains are required.

Other Considerations

Many states, counties and cities have adopted similar orders restricting business operations, travel to and from work, and other activity. If you have a business that crosses state lines or has employees traveling to and from work across state lines, need assistance in preparing letters for employees, suppliers or customers, or otherwise have questions about these developments and how they may apply to your business, please contact Amanda Welters at Fredrikson & Byron.

Resources

Emergency Order

Emergency Executive Order No. 20-20 Directing Minnesotans to Stay at Home

CISA Guidance

Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response

MN DEED

Quick Reference Guide to Minnesota's COVID-19 Stay-At-Home Order



MN DEED: COVID-19 Resources
MN DEED: Critical Sector Work Exemption