

HR Heads-up

PERIODIC UPDATES ON IMPORTANT HR LEGAL ISSUES

MAY 14, 2020

Wisconsin Supreme Court Overturns Statewide Safer at Home Order, but Local Restrictions Remain

On May 13, 2020, the Wisconsin Supreme Court overturned the Department of Health Service's (DHS) Emergency Order #28, which extended Governor Evers's March [Safer at Home order](#) through May 26, 2020. In its decision, the Wisconsin Supreme Court declared Emergency Order #28 "unlawful, invalid, and unenforceable" and immediately lifted the statewide restrictions put in place on private businesses and industries by the Safer at Home order. The full decision may be found [here](#).

Unless restricted by a contrary local order, the Wisconsin Supreme Court decision means that businesses throughout Wisconsin may reopen and resume normal operations. However, under Wisconsin law, local government units (Wis. Stat. § 323.11) and local health officials (Wis. Stat. § 252.03) have the power to declare public health emergencies and enact measures to prevent the spread of communicable disease. Although the Wisconsin Supreme Court declared the statewide Safer at Home restrictions unenforceable, several localities have enacted restrictions similar or identical to the statewide Safer at Home order. The Wisconsin Supreme Court decision did not strike down local orders and those restrictions, whether enacted prior or subsequent to the Wisconsin Supreme Court's decision, likely remain in effect until further notice.

So far, the following localities have enacted public health safety measures and orders that place restrictions on business, travel, and group gatherings:

- Dane County (including the City of Madison). Dane County has adopted the state Safer at Home order and those restrictions remain in effect until May 26, 2020. The order may be found [here](#).
- Brown County has issued an [order](#) adopting the state Safer at Home restrictions through May 20, 2020.
- Green County has adopted the state Safer at Home order which remains in effect through May 26, 2020. The order may be found [here](#).
- Kenosha County issued an [order](#) adopting the state Safer at Home restrictions through May 26, 2020.
- Rock County has enacted a local Safer at Home order that remains in effect through May 26, 2020. More information can be found at the [Rock County Public Health Department](#).

- Sauk County has not issued a local order, but the Sauk County Public Health department has issued guidelines for businesses as they prepare to reopen. The guidance from SCPH may be found [here](#).
- Milwaukee Mayor Tom Barrett issued a statement that the City of Milwaukee’s Safer at Home order enacted in March remains in effect until it is rescinded or changed by the Milwaukee Health Commissioner. The full order may be found [here](#).
- The City of Racine issued an [order](#) adopting the state Safer at Home restrictions through May 26, 2020.

This list is non-exhaustive and we anticipate more local governments and health departments may issue new orders and/or may extend current orders in the near future. The legal landscape of local restrictions continues to change rapidly. Businesses are encouraged to check with their local health departments and municipal and county clerks to confirm what local rules apply before resuming operations.

Governor Evers and the Wisconsin Legislature are expected to engage in a rulemaking process to establish new statewide regulations. It is uncertain at this time how long that process will take and how broad new statewide restrictions, if any, will be. Boardman Clark’s Labor & Employment team will continue to monitor local and statewide regulations as they develop. Please contact any Boardman Clark attorney or your regular Boardman Clark contact if you have any questions.

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