

New Limits on Gatherings and Private Businesses in Wisconsin

Article
March 17, 2020

Executive Order #5

This afternoon, Governor Evers and Secretary Palm of the Department of Health Services issued Emergency Order #5 ("EO #5") in a further attempt to restrict the spread of COVID-19. EO #5 restricts mass gatherings of 10 or more people and will substantially impact businesses of all sorts across the State of Wisconsin.

"Mass gathering" is "any planned or spontaneous, public or private event or convening that will bring together or is likely to bring together 10 or more people in the same room or single confined or enclosed space." What this means is that any sustained contact of more than 10 people, whether planned or spontaneous, is at risk of violating the law.

If 10 people are in a single room or enclosed space, then the individuals must maintain social distancing of at least 6 feet of separation. Additionally, the gathering must follow all other Wisconsin Department of Health Services and Centers for Disease Control regulations. Failure to follow EO #5 is punishable by imprisonment of up to 30 days, fines up to \$250/day, or both.

Therefore, give serious consideration to the layout of your business, and whether EO #5 is implicated. Open-air common-share workplaces with 10 or more individuals would be in violation. Banks, theaters, libraries, gyms or fitness centers could likely be in violation of EO #5. Indoor malls are explicitly closed until further notice. Business owners and managers must review the layout of their business and operations to review whether they are impacted by EO #5.

Exempt Businesses

The following businesses are exempt: mass transportation, childcare locations, residential care centers, group homes, hotels, motels, most law enforcement and government buildings, relief facilities, apartment complexes and other residential buildings, nonprofit centers, and health care facilities, which includes hospitals, medical facilities, long-term care and assisted living facilities and pharmacies.

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RELATED SERVICES

Business Litigation

Stores

Stores are allowed to remain open as long as people are not within arm's length of one another for more than ten minutes. Grocery stores and large retailers may need to consider restricting the number of individuals allowed in the store at any given time to ensure compliance. Any size public retail store should seriously consider the number of patrons admitted at any time to ensure compliance. To that extent retailers can convert their business model to an on-line and delivery format, this will help continue business operations under these restrictions.

Offices, Manufacturing, Processing, Distribution, and Production Facilities

As for office spaces, manufacturing, processing, distribution, and production facilities, these are also exempt. However, such entities are encouraged to implement social distancing and teleworking as much as practicable. In order to prevent the spread of disease through such facilities, businesses are encouraged to determine "essential staff" and limit interactions between individuals.

Bars & Restaurants

The most impacted entities are bars and restaurants, which are closed except for take-out or delivery services. Restaurants may not provide seating and food may not be consumed at the restaurant. Grocery stores and other retailers who may provide hot or cold bar food must cease all self-service operations, close all seating, and prohibit customers from self-dispensing unpackaged food. Restaurants must comply with social distancing standards for all pick-up services. Any restaurants located in hotels or motels must also comply with these restrictions.

EO #5 is effective as of 5 pm on Tuesday, March 17, 2020, and will remain in effect indefinitely during the public health emergency.

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