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EXECUTIVE ORDER 20-40 (MN)
SUMMARY
(current as of April 24, 2020)

On April 24, 2020, Governor Walz issued [Executive Order 20-40](#) Allowing Workers in Certain Non-Critical Sectors to Return to Safe Workplaces. The Minnesota Department of Employment and Economic Development (“DEED”) has also published a website with additional details, FAQs, and Preparedness Plan templates at: <https://mn.gov/deed/newscenter/covid/safework/>

Our summary of EO 20-40 is below:

Key Points

- Allows employees to return to work in certain industrial, manufacturing, and office-based businesses that have a COVID-19 Preparedness Plan in place (“Non-Critical Exempt Businesses”).
- Goes into effect at midnight on Monday, April 27, 2020.
- Anticipated to enable 80,000-100,000 Minnesotans to return to work.

Affected Non-Critical Exempt Businesses

- Industrial: businesses where goods are in the process of being created
 - Agriculture, forestry, fishing, hunting, mining, construction, utilities, and manufacturing; and
 - Wholesale trade and warehousing.
- Office: businesses where workers perform work within an office space, primarily at their desk, where work is not primarily customer-facing.
- Affected business may not:
 - Conduct customer visits in customer workplaces or homes
 - Invite customers into the workplace
 - Conduct meetings that don’t allow social distancing
 - Work right next to co-workers.
- EO 20-40 does not permit the operation of businesses that sell goods and services directly to customers (except to fulfill orders for electronic commerce)

- Critical Sectors are not affected by EO 20-40. They are governed by EO 20-33, as amended by EO 20-38.

Non-Critical Exempt Business Requirements

- A COVID-19 Preparedness Plan must be in place before workers can return to work, addressing these areas:
 - Telework. Ensure that all workers who can work from home continue to do so.
 - EO 20-40 states that “[n]othing in this Executive Order should be interpreted to allow or encourage workers who can work from home to leave home for work . . . all workers who can work from home **must** do so.” The DEED “Safe Work” website states “all workers who are able to work from home **should** continue to do so.” We recommend following the Order’s language requiring remote work where possible.
 - Sick Workers. Policies and procedures, including health screenings, that prevent sick employees from entering the workplace.
 - May include temperature taking or a symptom survey;
 - Prompt identification and isolation of workers with potential exposure;
 - Communication protocols when there is a case of potential exposure;
 - Adjustment of sick leave policies to reflect the need for isolation and to incentivize sick workers to stay home; and
 - Clear communication of policies.
 - Social Distancing. This includes compliance with MDH and CDC guidelines.
 - Workers must be six feet apart;
 - Stagger shifts if appropriate;
 - Limit non-essential worker interaction; and
 - Maximize use of telecommuting.
 - Employee Hygiene and Source Control.
 - Adequate handwashing station;
 - Provide recommended protective supplies, such as cloth masks, gloves, disinfectant and shields;
 - Post handwashing and hygiene signs; and
 - Prohibit onsite food prep and sharing.
 - Cleaning and Disinfection Protocols.
 - Ensure all areas are routinely cleaned and disinfected;
 - Clean high-touch surfaces at least daily;
 - Ensure hand sanitizer and cleaning products are available; and
 - Decontaminate the worksite if an employee tests positive for COVID-19.

- A template is available for Plan development:
<https://mn.gov/deed/newscenter/covid/safework/business/>
- The Plan does not need to be submitted to the state for review.
 - It must instead be certified by senior management responsible for implementation; and
 - It must be available to regulatory officials upon request.
- If businesses cannot access the supplies necessary to implement their Plan or cannot follow CDC guidelines, they should not reopen.
- A copy of the Plan must be disseminated to employees (electronically is acceptable) and posted at all worksites.
- Employees must be trained on the contents of the Plan and its procedures.
- Enforcement:
 - DLI and MNOSHA have the authority to issue citations or impose penalties or closure orders if businesses have unsafe or unhealthy conditions.
 - DLI may also penalize businesses that retaliate against employees who raise health or safety concerns.

Please note that these are fast-moving times, and the information provided is only accurate as of the day posted (April 24, 2020). The information provided does not, and is not intended to, constitute legal advice; instead, all information is prepared and provided for general informational purposes only.

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