

# Governor Walz Issues Executive Order 20-56, Signaling a Reopening of Minnesota

May 18, 2020

By [Patrick R. Martin](#)



On the evening of May 13, 2020, Minnesota Governor Tim Walz issued Emergency Executive Order 20-56, “Safely Reopening Minnesota’s Economy and Ensuring Safe Non-Work Activities during the COVID-19 Peacetime Emergency.” Executive Order 20-56 provides a loosening of both business restrictions and social restrictions in Minnesota.



On the evening of May 13, 2020, Minnesota Governor Tim Walz issued [Emergency Executive Order 20-56](#), “Safely Reopening Minnesota’s Economy and Ensuring Safe Non-Work Activities during the COVID-19 Peacetime Emergency.” Executive Order 20-56 provides a loosening of both business restrictions and social restrictions in Minnesota.

On the business front, Executive Order 20-56 expands upon earlier executive orders [20-40](#) and [20-48](#), which allowed the reopening of many non-critical businesses in the state (provided that those businesses ensured safe work environments through the drafting and implementation of preparedness plans). Specifically, Executive Order 20-56 loosens business restrictions in several ways by creating unique requirements for (1) critical businesses; (2) many non-critical businesses; and (3) certain other non-critical businesses that operate as bars, restaurants, and places of public accommodation. In creating two separate groups of non-critical businesses, Executive Order 20-56 will result in a two-stage reopening, with most non-critical businesses reopening on May 18, 2020, and bars, restaurants, and places of public accommodations likely reopening on June 1, 2020. Notably, some remaining types of non-critical Businesses will likely not reopen on June 1.

### **Critical Businesses**

Executive Order 20-56 makes clear that critical businesses may continue to operate in the same manner as provided by [Executive Order 20-48](#). Executive Order 20-48 provides a list of critical businesses (see page 7 at ¶6(a) through page 18 at 6(kk)), and it also requires that a critical business operate by

adhering to Minnesota Occupational Safety and Health Administration standards, as well as Minnesota Department of Health and Centers for Disease Control and Prevention guidelines related to COVID-19, including social distancing and hygiene practices (see page 18 at ¶17).

### **Many Non-Critical Businesses (Including Retail Stores and Malls)**

Executive Order 20-56 rescinds Executive Order 20-48 as of May 17, 2020, at 11:59 p.m. This rescinding of Executive Order 20-48 will result in a loosening of restrictions on most non-critical businesses starting on May 18, 2020. Indeed, on page 6 at ¶17(e), Executive Order 20-56 references non-critical businesses reopening and provides a [link](#) to a Minnesota Department of Employment and Economic Development (DEED) webpage entitled “Safely Returning to Work.” This DEED webpage declares that:

Executive Order 20-56 allows all retail stores, malls and other businesses that sell, rent, maintain and repair goods to open beginning on Monday, May 18 as long as they have adopted and implemented a COVID-19 Preparedness Plan including social distancing guidelines for workers and customers, and allow no more than 50 percent of the establishment’s occupant capacity at any time.

Thus, although Executive Order 20-56 does not explicitly allow all retail stores, malls, and similar retail businesses to reopen as of May 18, 2020, the order’s linked website (along with the rescinding of Executive Order 20-48) make clear that most non-critical businesses may reopen on May 18.

Notably, before reopening, a non-critical business must prepare a “COVID-19 Preparedness Plan” and train employees on the plan. The Minnesota Department of Labor and Industry’s (DLI) website includes a [COVID-19 preparedness plan template](#) and a [checklist of guidelines for creating a preparedness plan](#). At a minimum, each preparedness plan must address the following mandates and areas:

- “Require work from home whenever possible”
- “Ensure that sick workers stay home”
- “Social distancing”
- “Worker hygiene and source control”
- “Cleaning, disinfection, and ventilation protocols”

Customer-facing non-critical businesses must include additional preparedness plan provisions, including ensuring distancing of 6 feet and 50 percent occupancy limits. Preparedness plans must be posted and provided to employees, and employers must also train employees on the preparedness plans.

### **Certain Other Non-Critical Businesses (Bars, Restaurants, and Places of Public Accommodation)**

Bars, restaurants, and places of public accommodation will remain closed until May 31, 2020. But the commissioners of three Minnesota state agencies (Health, DEED, and DLI) will present a “phased plan to achieve the limited and safe reopening of bars, restaurants, and other places of public accommodation beginning on June 1, 2020.” The three commissioners must present their phased reopening plan by May 20, 2020. Thus, it appears that these businesses will be allowed to reopen in some fashion by June 1, 2020.

In determining which businesses will reopen on June 1, 2020, the phrase “other places of public accommodation” is not defined. Notably, [DEED’s updated website](#) contains a list of businesses under the heading “What cannot be open yet,” which includes barbershops, hair salons, nail salons, tattoo parlors, spas, massage settings, gyms, fitness studios, museums, zoos, concerts, race tracks, auctions, bowling alleys, and indoor event venues. Presumably, these types of businesses are “other places of public accommodation.” The question then becomes,

Which of these listed types of businesses—beyond restaurants and bars, which have been explicitly listed for reopening in Executive Order 20-56—will be included as “other places of public accommodation” that are allowed to be open in some fashion on June 1, 2020?

The answer to this question may not be resolved until the three agencies present their phased plan on May 20, 2020. Hair salons, spas, gyms, and fitness clubs will likely be allowed to open in some manner. But other closed businesses on this DEED list may be further delayed beyond June 1, particularly those that inherently have high concentrations of people in indoor spaces.

### **Social Restrictions**

In addition to loosening business restrictions, Executive Order 20-56 loosens social restrictions for Minnesotans by allowing outdoor recreation to open (including parks, trails, recreational lands, marinas, and other outdoor-affiliated public and private facilities). The permitted reopening of outdoor recreation does not extend to facilities whose operations involve close proximity among patrons (e.g., mini golf, pools, and concert venues). Further, Minnesotans now may attend gatherings of up to 10 people, who are not members of the same household, for a “coordinated social, civic, community, faith-based, leisure, or recreational purpose.”

Although many social restrictions will be lifted, Executive Order 20-56 still discourages unnecessary travel, and Minnesotans are still encouraged to use masks and face coverings in public.

### **Key Takeaways**

Here are the takeaways for Minnesota employers:

- Executive Order 20-56 signals a step toward a broad and cautious reopening of Minnesota, while also making clear that there will be a new normal for Minnesota businesses and citizens.
- Critical businesses may continue to operate as they have in the last several weeks.
- Many non-critical businesses may reopen on May 18, 2020, but must first prepare and implement a business preparedness plan.
- Bars and restaurants must anxiously await the May 20, 2020, phased plan for reopening from the commissioners of Health, DEED, and DLI. These businesses should expect that the phased plan will require them to create something akin to a preparedness plan—and likely something more robust than a preparedness plan—in advance of a June 1 reopening.
- Other businesses of public accommodation that are not bars or restaurants must also await the May 20, 2020, phased plan to see if they are allowed to join bars and restaurants in reopening on June 1, 2020.

Ogletree Deakins will continue to monitor and report on developments with respect to the COVID-19 pandemic and will post updates in the firm's [Coronavirus \(COVID-19\) Resource Center](#) as additional information becomes available. Important information for employers is also available via the firm's

webinar programs.

**Ogletree  
Deakins**

November 17, 2022

DOL Sued Over FOIA  
Request for Contractors'  
EEO-1 Reports

**Ogletree  
Deakins**

**Patrick R. Martin**

January 25, 2023

Managing Shareholder, Minneapolis  
OFCCP's Scheduling List  
Targets Contractors That  
Didn't Certify in OFCCP's  
Contractor Portal

## RELATED WEBINAR

**Ogletree  
Deakins**

February 9, 2023

I-9 Compliance Series: The  
Basics, Part 1—What Does  
Good Faith Compliance  
Mean? Contractors'...

RELATED SEMINAR

Ogletree  
Deakins

February 16 | Miami, FL

Employment Law Briefing

## Browse More Insights

PODCASTS

SEMINARS

WEBINARS



Sign up to receive emails about new developments and upcoming programs.

SIGN UP NOW



