

COVID-19/CORONAVIRUS – EMPLOYER CONCERNS AND QUESTIONS MARCH 18, 2020 UPDATE – UPDATE #4 – EXECUTIVE ORDERS 20-06 and 20-07

On March 17, 2020, Governor Walz issued two additional Executive Orders, 20-06 and 20-07. Executive Orders can be found on the Governor’s website:

<https://mn.gov/governor/news/executiveorders.jsp>

Executive Order 20-06 lifts certain restrictions on motor carriers and drivers in Minnesota that are directly involved in emergency relief measures (transporting certain specified goods within the state).

Executive Order 20-07 begins the process for the state to provide paid sick leave to executive branch employees, and retract limitations on their employment relationships with the state to better allow the state to mobilize employees without impediments such as collective bargaining agreements.

Below is a deeper look at each Executive Order.

Emergency Executive Order 20-06 Providing for Emergency Relief from Regulations to Motor Carriers and Drivers Operating in Minnesota

Executive Order 20-06 limits restrictions, limitations, and safety regulations on vehicles operative on Minnesota roadways in response to the COVID-19 pandemic. It is in addition to the Federal Motor Carrier Safety Administration’s national emergency declaration. The intent of the Executive Order is to provide for the continued efficient movement of essential supplies, including food, medical supplies, and household items to Minnesotans.

The Executive Order, orders the following:

1. Vehicles and drivers providing direct assistance for emergency relief efforts are exempted from certain regulations.
 - a. “Direct assistance” is defined as transportation by a motor carrier or its driver(s) incident to the immediate restoration and/or delivery of essential supplies including food, medical supplies, and household items, related to the COVID-19 pandemic.

2. Weight regulations in Minn. Stat. 169.80, 169.823 (pneumatic-tired vehicle), 169.824 (axle weigh limits) and 169.87 (gross weight limits, forest products) are temporarily suspended to the extent the provisions require a special permit or restrict the movement of essential supplies.
3. This applies to all roads within Minnesota, except vehicles of 80,000 pounds may not use the interstate system.
 - a. Vehicles may not exceed the maximum axle weight limits under Minn. Stat. 169.824 (axle weight limits) by more than 12 ½ percent (12.5%), the maximum axle weight limit of 20,000 pounds, or 90,000 pounds gross weight.
 - b. Vehicles must comply with posted limits on bridges.
4. Pursuant to Minn. Stat. 221.0269, subd. 1 (relief from safety regulation), conditions exist to require relief from regulations in Minn. Stat. 221.0314, subd. 9 (federal safety regulations, adoption – hours of service of driver), pertaining to hours of service for carriers and drivers of commercial motor vehicles providing direct assistance to relief efforts.
5. Those providing direct relief are exempted from CFR title 49, part 395.3, which is incorporated in Minn. Stat. 221.0314, subd. 9 (federal safety regulations, adoption) pertaining to hours of service.
6. The Executive Order does not impact requirements of driver qualifications, licenses, drug/alcohol testing, or equipment/parts/accessories necessary for the safe operation of vehicles.
7. No carrier shall require or allow a fatigued or ill driver to operate a commercial motor vehicle. A driver who informs a carrier that he/she needs immediate rest shall be relieved of all duty and responsibilities and be given at least 10 consecutive hours of off duty before the driver is required to return to service.
8. Once this Executive order is expired or direct assistance to emergency relief is done, the driver must receive a minimum of 10 hours off duty.

This Executive Order remains in effect for 30 days or until direct assistance has ended, whichever occurs first. It does not include routine commercial deliveries or transportation of mixed loads that include freight that is not being transported as part of emergency relief efforts. Direct assistance to emergency relief ends when the driver of a commercial motor vehicle is used to transport cargo not destined for emergency relief or when the carrier dispatches the driver or vehicle to another location to begin operations in commerce.

Relevant statutory language can be located here:

<https://www.revisor.mn.gov/statutes/cite/169>

<https://www.revisor.mn.gov/statutes/cite/221>

Emergency Executive Order 20-07
Providing for State Workforce Needs During the COVID-19 Peacetime Emergency

Executive Order 20-07 addresses executive branch employees only (defined below). It provides the Commissioner of Management and Budget to evaluate current impediments (including collective bargaining agreements) and address them to better allow the state to mobilize their workforce to address this peacetime emergency. It also requires the development and implementation of paid leave for executive branch employees.

This Executive Order directs the following to be done:

1. The Commissioner of Management and Budget to develop and implement a policy of paid leave to executive branch employees.
 - a. “Executive branch employees” include employees of the Minnesota State Retirement System, the Public Employee’s Retirement Associate, the Teacher’s Retirement System, and the Minnesota State Colleges and Universities system.
2. Suspend the 35-day waiting period necessary for new insurance for eligible executive branch employees.
3. For employees of Minnesota State Colleges and Universities and the executive branch, the Order suspends certain collective bargaining agreement terms related to schedules, vacation, work locations, etc. It allows for more flexibility to mobilize the workforce.
4. The Commissioner of Management and Budget is to evaluate policies, procedures, rules, collective bargaining agreements, etc. to identify what unnecessarily impedes the ability of state agencies to efficiently and effectively address the peacetime emergency. To the extent deemed necessary, such provisions will be suspended.
5. Suspension of 21-day posting requirements for classified managerial positions and waiver of 45-day limitation on employment and length of emergency appointments.

OTHER EMPLOYMENT GUIDANCE AND CONCERNS

For related guidance and questions about other employment topics related to COVID-19, please see Lind Jensen Sullivan & Peterson’s earlier guidance:

<http://www.lindjensen.com/news/>

WORKERS’ COMPENSATION CONCERNS

For related guidance and questions about workers’ compensation concerns related to COVID-19, please see Lind Jensen Sullivan & Peterson’s separate guidance:

<http://www.lindjensen.com/covid-19-and-workers-compensation-in-minnesota/>

If you have any employment or other questions regarding the ongoing COVID-19 pandemic as it relates to your employees, please do not hesitate to contact our employment team at Lind Jensen Sullivan & Peterson by email or phone (612) 333-3637.

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