



Alcohol
and Gambling
Enforcement

Bureau of
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The Department of Public Safety's Guidance¹ to Local Law Enforcement Agencies Related to the Enforcement of Executive Order 20-99

On November 19, 2020, Governor Walz' issued Executive Order 20-99 *Implementing a Four Week Dial Back on Certain Activities to Slow the Spread of COVID-19* (EO). It went into effect on Friday, November 20, 2020 at 11:59 pm and remains effective until Friday, December 18, 2020 at 11:59 pm.

Throughout the month of November, the data has made clear with each passing day that we need to take decisive and aggressive action to contain the most recent phase of the pandemic. Minnesota recently topped 200,000 total confirmed COVID-19 cases. It took Minnesota more than 6 months to record 100,000 COVID-19 cases, but only 42 days to add an additional 100,000 cases. We averaged a state record of almost 6,000 cases per day the previous week, breaking single-day records for COVID-19 deaths (58) on November 11 and new cases (8,689) on November 14. The Minnesota Department of Health's (MDH) most recent weekly COVID-19 report found that the current average rates of new COVID-19 cases, hospitalizations and intensive care unit admissions, and deaths are the highest they have been since the pandemic began. This far exceeds the numbers we saw during the worst of our surges in April and May. We need strong action to control our future case numbers.

Education and Enforcement by Law Enforcement Agencies

DPS suggests law enforcement agencies seek to educate instead of taking an enforcement approach when they observe or are notified of a possible EO violation. We believe that officers can address most complaints of violations of the EO on a case-by-case basis, beginning with an educational discussion rather than an enforcement action. These are opportunities to talk about why and how federal, state, and local authorities are taking action to slow the spread of COVID-19.

The Bureau of Criminal Apprehension (BCA) Duty Officer has been established as a clearing house for call-in complaints received on the State Emergency Operation Center Hotline (651-297-1304 or toll free 1-800-657-3504). Officers may be asked to investigate these complaints. If formal enforcement action is taken (e.g., a tag or

¹ This guidance is focused on law enforcement encounters, but is not meant to anticipate every situation. It will be updated or clarified as needed. Refer to EO 20-99 for detailed information.

arrest), please let the Duty Officer know for tracking purposes. Local law enforcement may be sent to a home or a place of business based on a report that it is in violation of this EO. DPS recommends that officers attempt to investigate through voluntary cooperation of the homeowner, tenant, or business owner and remind them of the EO. Treat these gatherings as you would treat a loud party or disturbance call. Have people safely disperse. Officers should inform them of the violation, ask that they cease and desist, and then document the incident by preparing a report. If there is no apparent violation, the officer should contact the complaining party to obtain any additional information supporting the alleged complaint.

Businesses regulated by Minnesota Department of Public Safety's Alcohol Gambling Enforcement (AGE) division that fail to cooperate or have documented violations should be reported to AGE or to the Minnesota Department of Labor and Industry (DLI). Minn. Stat. § 12.45. MDH will also be checking on bars where they are seeing the spread and officers may get calls to assist. In addition to a criminal charge, liquor business may be subject to "a fine of up to \$2,000 for each violation" in accordance with Minn. Stat. § 340A.402. Businesses in violation of DLI rules may be subject to the regulatory action. Cases may be pursued either criminally through local city or county attorneys and/or civilly by AGE and/or DLI. Failure to comply should be documented in the police report, ideally by a photo of an open container, sample contents, or a purchase.

Many restaurants and bars must obtain two licenses, one from the State and one from the municipality in which they are located. Both local and state regulatory agencies may investigate violations of the EO.

Pursuant to Minn. Stat. § 12.45, an individual who willfully violates the EO may be charged with a misdemeanor and upon conviction, punished with a fine not to exceed \$1,000 or imprisonment of not more than 90 days. Any business owner, manager, or supervisor who requires or encourages any of their employees, contractors, vendors, volunteers, or interns to violate the EO may be charged with a gross misdemeanor and upon conviction, punished with a fine not to exceed \$3,000 or imprisonment of not more than a year. Officers may invoke other statutes and local ordinances at their discretion.

In addition to criminal penalties, in accordance with Minn. Stat. § 8.31, the Attorney General and local city/county attorneys may investigate and seek civil relief for violations or threatened violations of the EO.

The enforcement clause of the EO is not intended to be invoked for all violations, but rather for those who refuse to, or fail to, comply with the officer's attempts to gain compliance. Local sheriffs have asked that arrests be a last resort as they are trying to prioritize the jail population for violent and felony offenders.

Tribal Properties

Tribal properties are sovereign and exempt from this EO, but may be subject to restrictions made by tribal authorities. Most have already issued their own EOs, some of which are more stringent than the Governor's EOs. Please check with the local tribal authority for further information.

SUMMARY OF THE EO

Social Gatherings

Social gatherings, with some exceptions listed below, are prohibited. Social gatherings are defined as groups of individuals, who are not members of the same household, congregated together for a common or coordinated social, community, or leisure purpose—even if social distancing can be maintained. This prohibition includes planned and spontaneous gatherings as well as public and private gatherings.

To enable safe congregation of people, drive-in gatherings are permitted, provided that all participants remain in their own vehicles and follow the applicable guidance available at the Stay Safe Minnesota website (<https://staysafe.mn.gov>).

Faith-Based Communities, Houses of Worship, Weddings, and Funerals

These types of *services* are not affected by the EO, but all receptions, gatherings, parties, celebrations or other events that involve uncontrolled movement or mingling are prohibited, whether connected to the services mentioned above or as stand-alone events. This prohibition includes communal eating and drinking before or after a planned service or ceremony.

Key requirements:

- Ensure a minimum of 6 feet of distance between people from different households.
- Limit indoor occupant capacity to no more than 50% up to 250 persons.
- Do not exceed 250 persons in outdoor spaces.

Places of Public Accommodation

Closed to members of the public - restaurants, food courts, cafes, coffeehouses, bars, taverns, breweries, microbreweries, distilleries, brewer taprooms, micro distiller cocktail rooms, tasting rooms, wineries, cideries, clubhouses, dining clubs, tobacco product shops, hookah bars, cigar bars, vaping lounges, and other Places of Public Accommodation offering food, beverages (including alcoholic beverages), or tobacco products for on-premises consumption.

Exceptions - delivery service, window service, walk-up service, drive-through service, or drive-up service. And up to five people are allowed inside to pick up a food or beverage order.

Hotels, motels, inns, facilities used for lodging are considered “homes” in the definition of the EO and are unaffected.

Retail shopping is unaffected.

Closed to the public - gymnasiums, fitness centers, recreation centers, indoor sports facilities, indoor climbing facilities, trampoline parks, indoor and outdoor exercise facilities, martial arts facilities, and dance and exercise studios. This includes shared or communal facilities serving more than a single household, regardless of whether such facilities are open to the public, including but not limited to those facilities located in an apartment building, condominium, or housing complex.

Exception for indoor gun ranges – closed to the general public, but may reopen only to provide qualification shooting or skills maintenance to licensed Minnesota peace officers, law enforcement officers, and federally-sworn law enforcement officers assigned to work within the state of Minnesota. Face masks/coverings, social distancing, and other safety precautions should be maintained.

Open to the public - barbershops, salons, and other Establishments Providing Personal Care Services may remain open. Occupancy must not exceed 50 percent of the normal occupant capacity with a maximum of 250 people. Workers, customers, and clients must follow all requirements, including face-covering requirements, in accordance with the applicable guidance available on the Stay Safe Minnesota website (<https://staysafe.mn.gov>).

Higher education institutions, in consultation with their governing boards, may offer in-person classes or activities consistent with MDH guidelines.

Outdoor Recreational Activities

Refer to the EO for the extensive list of permitted outdoor recreational activities. Individuals *must not* engage in outdoor recreational activities if they cannot maintain a distance of six feet from other individuals from different households.

Prohibited outdoor recreational activities include performances, competitions, team events, tournaments, races, rallies, organized sports, organized group classes, spectator events, fairs, or any other events that involve the gathering of individuals from more than one household.

Adult and Youth Sports

Youth and adult sports are subject to the following provisions:

- NO in-person *organized* youth and adult sports activities, including practices, group workouts, games, tournaments and competitions.
- Members of a single household may participate in physical activities alone or with one another, but may not participate in physical activities with persons from other households (e.g., members of the same household may walk, run, sled, cross-country ski, or play hockey at an outdoor rink, but may not participate in those physical activities with members of another household).
- Youth and adults may participate in virtual practices, and engage in skills and fitness development, either alone or with other members of their household.

“Youth Programs” are distinguished from organized youth sports and may remain open. A “youth program” is defined as providing care or enrichment to children or adolescents that require registration and have on-site supervision. This includes certified child care centers, youth enrichment programs, programs exempt from licensure, community education classes, community center based programs, school age care, programs operated by public and private schools, parks and recreation programs, art programs, and day (no overnight) camps.

Collegiate or university institution teams or athletes may participate in intercollegiate athletics in accordance with MDH guidelines.

As always, the objective of any enforcement action related to face coverings should be to achieve compliance with the EO to protect the health of all Minnesotans.

Carpe Diem
John M. Harrington
Commissioner