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STATE OF MINNESOTA
Executive Department

Governor Tim Walz

Emergency Executive Order 20-54

Protecting Workers from Unsafe Working Conditions and Retaliation During the COVID-19 Peacetime Emergency

I, Tim Walz, Governor of the State of Minnesota, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic presents an unprecedented challenge to our State. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. After notifying the Legislature, on April 13, 2020 and again on May 13, 2020, I issued Executive Orders extending the peacetime emergency declared in Executive Order 20-01.

The COVID-19 pandemic has caused a public health crisis of significant proportions. Frontline health care workers, emergency responders, and other workers are doing their jobs under dangerous, demanding, and stressful conditions to provide critical services to Minnesotans. Many of these workers are in direct contact with persons who have contracted COVID-19, putting them at increased risk of exposure and infection. Infection of health care workers and emergency responders from COVID-19 poses an immediate threat to the health care system and the ability to provide critical medical services to those infected with COVID-19 and others in need during this emergency. This increased risk is a threat to the public health of Minnesotans.

Although frontline workers are at heightened risk, all workers need protection from unsafe work conditions during this pandemic. Workers whose jobs place them in regular proximity to co-workers or require regular engagement with the public are also at increased risk of COVID-19 exposure. Workers with an increased risk of exposure also have an increased risk of transmitting the virus to others, including patients, residents, family-members, co-workers, and the public.

Workers continue to raise concerns regarding the safety of their work environments. For example, recommended equipment to protect workers against COVID-19 is not always available or being provided by employers, causing workers to raise concerns about the lack of protection and to secure protective equipment on their own. Recent news reports contain accounts of workers facing discipline or retaliation for raising concerns about protective equipment and their safety, or for wearing protective equipment.

Workers should not have to sacrifice their health and safety for economic security. It is important for workers to raise safety and health concerns freely and without fear of retaliation. Workers should be protected from loss of income if they refuse to work under unsafe or unhealthy conditions.

Furthermore, under federal and state anti-discrimination laws, including the Minnesota Human Rights Act ("MHRA"), employers have an obligation to provide reasonable accommodation to qualified employees with disabilities, which may include employees with health conditions who are at high-risk, as determined by relevant guidelines from the Center for Disease Control and Prevention ("CDC") or Minnesota Department of Health ("MDH"), if they are exposed to or if they contract COVID-19. Employers have an additional obligation to comply with the requirements of Minnesota Statutes 2019, section 144.4196, for purposes of any qualifying employee who has been subject to isolation or quarantine due to COVID-19.

Employees with disabilities can and should ask for reasonable accommodations when needed related to COVID-19 and employers should engage in the interactive process to seek out reasonable accommodations to ensure the health and safety of employees with disabilities.

In Minnesota Statutes 2019, section 12.02, the Minnesota Legislature conferred upon the Governor emergency powers "to (1) ensure that preparations of this state will be adequate to deal with disasters, (2) generally protect the public peace, health, and safety, and (3) preserve the lives and property of the people of the state." Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 1, the Governor has general authority to control the state's emergency management as well as carry out the provisions of Minnesota's Emergency Management Act. Pursuant to subdivision 3 of that same section, the Governor may "make, amend, and rescind the necessary orders and rules to carry out the provisions" of Minnesota Statutes 2019, Chapter 12. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision of the state are suspended during the pendency of the emergency.

For these reasons, I order as follows:

1. Pursuant to Minnesota Statutes 2019, section 182.654, subdivision 9, and Code of Federal Regulations, title 29, section 1977.9(c), employers must not discriminate or retaliate in any way against a worker communicating orally or in writing with management personnel about occupational safety or health matters related to COVID-19, including asking questions or expressing concerns.

2. Employers must not discriminate or retaliate in any way against any worker for wearing gloves, a cloth face covering, eye protection, or other protective gear which the worker has personally procured and reasonably believes will protect them, their coworkers or the public against COVID-19 in the course of their work, provided that the protective gear which the worker has personally procured does not violate industry standards or existing employer policies related to health, safety, or decency. Employers may require use of employer-provided protective gear that meets or exceeds protective gear procured by employees.

3. Pursuant to Minnesota Statutes 2019, section 182.654, subdivision 11, workers have the right to refuse to work under conditions that they, in good faith, reasonably believe present an imminent danger of death or serious physical harm. This includes a reasonable belief that they have been assigned to work in an unsafe or unhealthful manner with an infectious agent such as COVID-19. Employers must not discriminate or retaliate in any way against a worker for the worker's good faith refusal to perform assigned tasks if the worker has asked the employer to correct the hazardous conditions but they remain uncorrected. These situations should be immediately reported to the Minnesota Department of Labor and Industry ("DLI").

4. Pursuant to Minnesota Statutes 2019, section 182.654, subdivisions 8 and 9, workers and authorized representatives of workers have the right to request that DLI conduct an inspection of their workplace if they believe that a violation of a safety or health standard that threatens physical harm exists or that an imminent danger exists. Employers must not discriminate or retaliate in any way against a worker because such worker has requested an inspection or exercised any other right under Minnesota Statutes 2019, Chapter 182.

5. DLI has authority to receive complaints about violations of paragraphs 1 through 4 and enforce these provisions using the procedures contained in Minnesota Statutes 2019, section 182.669, including awards of backpay and compensatory damages.

6. Pursuant to Minnesota Statutes 2019, section 268.095, any worker who quits their employment because the employer has failed to correct an adverse work condition related to the pandemic which would compel an average, reasonable worker to quit, if the worker has complained to the employer about such adverse work condition and has given the employer a reasonable opportunity to correct such adverse work condition, to no avail, or has been retaliatorily terminated from their employment as a result of exercising the worker rights described in paragraphs 1 through 4 of this Executive Order, shall not lose unemployment insurance benefits eligibility under existing law and Executive Order 20-05. Examples of an adverse work condition include an employer's failure to develop or implement a COVID-19 Preparedness Plan, as required by applicable Executive Orders, or failure to adequately implement Minnesota OSHA Standards or MDH and CDC Guidelines in the workplace related to COVID-19.

7. Pursuant to the MHRA, Minnesota Statutes 2019, Chapter 363A, and the existing authority of the Commissioner of Human Rights, I authorize and direct the Commissioner of Human Rights to issue guidance, as necessary, consistent with federal and state anti-discrimination laws, including the MHRA, regarding employers' obligations to provide reasonable accommodations related to COVID-19 for qualified employees with disabilities, as defined in the MHRA, which may include employees with health conditions who are at high-risk, as determined by relevant guidelines from the CDC or MDH, if they are exposed to or if they contract COVID-19.

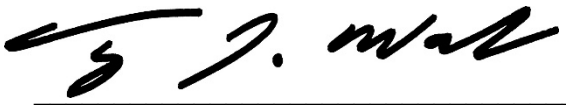
8. Reasonable accommodations related to COVID-19 for such employees may include, but are not limited to, adjusting schedules or work stations, allowing employees to work from home, or permitting use of leave.

9. The rights and protections set forth in this Executive Order are available to all workers regardless of immigration status, and in addition to any other rights or protections established by any other law, rule, regulation, executive order, contract, or collective bargaining agreement.

Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately upon approval by the Executive Council. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on May 13, 2020.

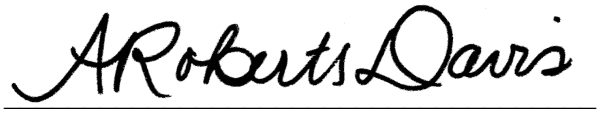


Tim Walz
Governor

Filed According to Law:

Steve Simon
Secretary of State

Approved by the Executive Council on May 13, 2020:



Alice Roberts-Davis
Secretary, Executive Council

Filed May 13, 2020
Office of the Minnesota
Secretary of State,
Steve Simon

RESOLUTION

RESOLVED, by the Executive Council of the State of Minnesota, at its emergency meeting on May 13, 2020, that it approves Emergency Executive Order 20-54 pursuant to Minnesota Statutes 12.31 and 12.32.

Protecting Workers from Unsafe Working Conditions and Retaliation During the COVID-19 Peacetime Emergency.

Approved by Executive Council

DATE: May 13, 2020

BY: A Roberts Davis

Filed May 13, 2020
Office of the Minnesota
Secretary of State,
Steve Simon