

Wisconsin Supreme Court Strikes Down Statewide Mask Mandate

On Wednesday, March 31, 2021, the Wisconsin Supreme Court struck down Governor Tony Evers' statewide mask mandate. The mask mandate previously applied to all enclosed spaces open to the public within Wisconsin. The Wisconsin Supreme Court said, however, that Governor Evers overstepped his authority by extending the public health emergency without legislative approval, thus making the statewide mask mandate invalid.

While the statewide mask mandate is no longer in effect, employers should continue to monitor their local requirements as the Wisconsin Supreme Court's decision does not affect local municipalities' ability to institute their own mask mandates. Dane County, Rock County, the City of Milwaukee, the City of Green Bay and the City of Racine all have mask mandates that apply within their jurisdictions. Other local jurisdictions may choose to implement their own mask mandate with the statewide order no longer in place. Aside from these mask mandates, private businesses may choose to require that employees and/or customers wear masks.

In addition to local mandates, federal guidance on masks continues to impact an employer's determination on how to handle masks in the workplace. The Centers for Disease Control and Prevention (CDC) continues to require facial coverings be worn on public transit and recommends that individuals wear masks while elsewhere in public. Employers should also continue to monitor OSHA guidance on masks. In its recent guidance, OSHA recommends workplaces suppress the spread of COVID-19 by using face coverings. If an employer does not require masks, they should be able to ensure that they have implemented other safety policies and procedures that have sufficiently reduced the risk of exposure to COVID-19.

We anticipate continued changes at the federal, state and local levels on mask recommendations and requirements. One such example is whether OSHA will promulgate an emergency temporary standard related to COVID-19 and, if it does, what mask-related obligations are included.

If you have any questions about best practices in response to the COVID-19 pandemic or in complying with local rules, please contact [Shannon Toole](#), [Matthew DeLange](#) or your Reinhart attorney.

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