

COVID-19: How the Recent Michigan Supreme Court Decision Affects Businesses.

October 5, 2020

Last Friday, the Michigan Supreme Court issued a decision that strikes down Governor Whitmer's authority to unilaterally impose COVID-19 restrictions. As a result, the COVID-19 restrictions set forth in the Governor's executive orders issued after April 30, 2020 are no longer enforceable. Because the Supreme Court's decision took effect on Friday, businesses must decide now, based on their risk tolerance and the best interests of customers and employees, how to respond.

Businesses in Oakland County must adhere to the Oakland County Health Department's October 3, 2020 Order requiring that masks be worn over an individual's nose and mouth:

- When in any indoor public space, including all students in grades kindergarten through twelve;
- When outdoors and unable to consistently maintain six feet of distance from another individual who is not a member of their household;
- When waiting for or riding on public transportation, whether a taxi, ride-sharing vehicle, school bus, or private car service; and
- When athletes are training for, practicing for, or competing in an organized sport when unable to maintain six feet of distance from another.

Whether businesses are located in Oakland County or not, they should continue diligently following health authority guidelines, remembering that MIOSHA requires businesses to create safe workplaces for employees and that county health departments are authorized to shut down or implement other penalties against businesses that become sources where the virus is widespread. Businesses can continue to implement their own policies, including mask mandates, even if they can no longer point to the Governor's executive orders as the basis for those policies.

As a best practice, businesses should clearly communicate the company's policies with employees and that the failure to comply with company policies may result in disciplinary action. Businesses should also educate employees on responding to customers who refuse to comply with COVID-19 policies.

GMH's Coronavirus Task Force is here to answer your questions. Please contact any of the below lawyers for more Coronavirus support.

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