

## CLIENT ALERT

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## Statewide Mask Mandate Declared Unlawful

On March 31, 2021, the Wisconsin Supreme Court issued a [decision](#) declaring unlawful Governor Tony Evers' statewide mask mandate. This decision became effective immediately. However, local rules are still in place. The city of Milwaukee and surrounding cities, as well as several Wisconsin counties, still have mask mandates in place. Wisconsin small businesses should be aware of the decision's impact on them. This Client Alert provides an overview of the Supreme Court decision and how it applies to small businesses in Wisconsin.

### What does the decision mean for Wisconsin small businesses?

The decision means that businesses will need to look to local laws and ordinances at the county and city level to determine if a mask mandate applies to them.

### What does this decision actually say?

Under Wisconsin statutory law, the governor may declare a state of emergency and issue emergency orders for up to 60 days, at which point the legislature may choose to extend the state of emergency. Throughout the duration of the COVID-19 pandemic, Governor Evers issued new emergency orders as old emergency orders expired, without the legislature's consent. The Wisconsin Supreme Court concluded that this practice exceeded the scope of the governor's emergency powers.

### What does this mean for local mask mandates?

The Wisconsin Supreme Court decision does not address or change mask mandates issued by cities or counties.

### Where are mask mandates still in place?

The Milwaukee Journal Sentinel has a comprehensive [list](#) of cities and counties where mask mandates are still in place. Notably, mask mandates remain in place in Milwaukee and many other locations throughout Wisconsin.

### Even if there is no mask mandate required by local rules, can my business still require masks?

Yes. As a general rule, businesses are private entities that can set their own rules for conduct. For example, some businesses have a dress code and will refuse to serve customers that fail to meet their dress code. Similarly, your business may choose to continue requiring masks to provide services.

### What if I need additional help?

The [DHS website](#) and [WEDC website](#) contain resources regarding the COVID-19 pandemic. Small businesses in need of legal assistance should consult a licensed Wisconsin attorney. Businesses in need of an attorney should contact the [Wisconsin Lawyer Referral and Information Service](#) or the [Milwaukee Lawyer Referral and Information Service](#). Additionally, small businesses in southeastern Wisconsin are encouraged to apply for legal assistance from the [Marquette Law and Entrepreneurship Clinic](#), which remains open and is operating virtually during the pandemic.

***This Client Alert provides general legal information only and not legal advice. The information in this Client Alert is not comprehensive and may not be current. Individuals, and businesses, should consult with legal counsel before taking any action based on information in this Client Alert.***