

LEGAL UPDATES

PUBLISHED: APRIL 21, 2020

Service

Food Safety &
Regulation

Industry

Food Systems

2019 Wisconsin Act 185: Food and Personal Care Return Provisions

On April 15, 2020, Governor Evers signed into law the 2019 Wisconsin Act 185 with bipartisan support, a state response to the COVID-19 pandemic enacting certain provisions implemented in previously issued emergency orders. Several of the provisions focus on easing burdens imposed on healthcare providers and accessing federal funding impacting the healthcare industry. Key provisions relate to healthcare regulatory, health insurance, unemployment, K-12 education, food and personal care return, and property tax.

The Act contains several items affecting food and personal care return in Wisconsin.

Prohibition on return of food and certain products

The legislation prohibits retail establishments from accepting returns of fresh or packaged food, cleaning supplies, personal care products or paper products during the public health emergency for 30 days after the emergency ends. However, retailers can accept return of those products within 7 days of purchase for any reason or if the product is adulterated within the meaning of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 342) or defective due to a production error. Prior to the passage of this law, Wisconsin did not have a law that addressed product returns, and such returns and refunds for product were governed by a store's policy.

Many retailers have implemented similar product return restrictions voluntarily over the last several weeks to discourage consumers from stockpiling goods, and concerns regarding possible contamination of returned products.

The U.S. Food and Drug Administration and U.S. Department of Agriculture have stated that there is no evidence that food or food packaging are associated with the transmission of COVID-19. Instead, the virus is thought to be primarily spread person-to-person. However, it is possible that a person could get COVID-19 by touching a surface or object that has the virus on it and then touching their mouth, nose or eyes, but this is not the main way the virus spreads.

Comprehensive CARES Act and COVID-19 guidance

Husch Blackwell's CARES Act resource team helps clients identify available assistance using industry-specific updates on changing agency rulemakings. Our COVID-19 response team provides clients with an online legal Toolkit to address challenges presented by the coronavirus outbreak, including rapidly changing orders on a state-by-state basis. Contact these legal teams or your Husch Blackwell attorney to plan a way through and beyond the pandemic.