

Kentucky Launches 'Healthy at Work' Plan for Reopening Economy Safely

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Kentucky Governor Andy Beshear is urging a gradual, phased re-opening of the economy — not just on a statewide basis, but on an individual business basis, too. Kentucky has adopted a phased reopening plan called [Healthy at Work](#). The Healthy at Work plan follows the federal and state protocols for limiting and preventing the spread of COVID-19.

Phase 1

Generally, in Phase 1 of the plan, the Department of Public Health will determine whether the state has met certain public health benchmarks. The benchmarks closely follow the White House's Guidelines for Reopening America, which includes 14 days of decreasing cases, among other measurements.

Phase 2

During Phase 2, the Department of Public Health will determine whether individual businesses are able to safely reopen.

Each business that is closed must submit an [online application](#) and be approved by the state to reopen. The online application states, "The Kentucky Department for Public Health has identified the following as criteria to be considered in evaluating whether your business can safely reopen. Please identify whether your business is able to do the following."

The Department has not indicated how each of the practices it identified is weighted or whether failing to adopt one or two practices will affect a business's application. The Department has identified the following practices:

- Return employees to work in phases;
- Have a designated safety officer at each workplace;
- Require employees to telework where feasible;
- Limit face-to-face group meetings;
- Close access to common areas;
- Minimize non-essential travel (adhere to Centers for Disease Control and Prevention (CDC) guidelines regarding isolation following travel);
- Supply personal protective equipment to employees (*e.g.*, masks, gloves, and face protection; no N95 masks);
- Mandate employees and customers wear masks (cloth is allowed);
- Conduct employee health checks;
- Temperature test each employee each day;
- Screen employees for exposure to COVID-19 persons;
- Sanitize the environment in the workplace in accordance with CDC guidance;
- Make special accommodations for personnel who are in vulnerable populations;
- Report positive tests to the Kentucky Department of Public Health or local health department; and
- Supply employees with a list of available leave options, such as sick, on-call, emergency sick leave, and paid time off.

Healthcare Services

Until Kentucky meets the Phase 1 state-readiness benchmarks, most businesses cannot reopen.

The one sector that will be permitted to reopen beginning April 27, 2020, is healthcare service

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providers of non-urgent/emergent services, diagnostic radiology and lab services in healthcare clinics and medical offices, physical therapy settings and chiropractic offices, optometrists, and dental offices (but not without enhanced aerosol protections).

However, even these businesses must change how they operate to comply with the state's reopening requirements to minimize the spread of COVID-19.

Next

As Governor Beshear pointed out, "Our new normal is not the old normal." Kentucky wants businesses to get ready to open safely. Start thinking about what social distancing will look like. There will be no waiting rooms anymore. Instead, consider establishing parking lot lobbies where customers check in and receive messages directing them to enter the business with a text or phone call. Telework should continue with everyone who can telework. According to Governor Beshear, other areas for consideration include how to check employees' temperature; how to handle employees symptomatic for COVID-19; and how to test and trace contacts of employees who test positive for COVID-19 to supplement that being done by the state.

Kentucky businesses previously permitted to continue operations do not need to submit an application to continue to operate. However, the state is inviting industry groups, trade associations, and individual businesses to submit proposals to reopen that discuss possible strategies and challenges their business or sector will face in safely reopening. The state will use these proposals to determine at what point different types of businesses may reopen safely and to establish a set of industry-specific requirements for each business sector.

Businesses that currently are open do not need to submit reopen proposals, but they must comply with new industry standards that the Governor's office will establish. If a business fails to comply with the new industry standards, it will not be able to reopen or continue to operate. The state has established a website and hotline citizens can use to report businesses that are out of compliance.

Kentucky businesses that are closed should take the time now to review and complete the online application to reopen. All businesses, whether open or closed, may also want to consider conducting a physical audit of their facilities to identify new physical barriers and other changes to increase social distancing and decrease the spread of COVID-19. In addition, all Kentucky businesses should consider submitting a reopen proposal to ensure the businesses' views are reflected in new industry guidelines Governor Beshear establishes.

Jackson Lewis has a [dedicated team](#) tracking and responding to the developing issues facing employers as a result of COVID-19. Please contact a team member or the Jackson Lewis attorney with whom you regularly work if you have questions or need assistance.

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