

Massachusetts Starts to Reopen

By Michael R. Bertoncini

May 18, 2020

Meet the Authors



Michael R. Bertoncini

Principal

(617) 305-1270

Michael.Bertoncini@jacksonlewis.com

Related Services

COVID-19

Disability, Leave and Health
Management

Workplace Safety and Health

Massachusetts Governor Charlie Baker has released a four-phase reopening plan allowing [certain identified businesses to reopen](#) as early as May 18 after certifying compliance with mandatory COVID-19 prevention measures.

Each phase of the reopening plan will last a minimum of three weeks. If public health data trends are negative, specific industries, regions, or the entire Commonwealth may need to return to an earlier phase.

Phase 1 Reopenings

In Phase 1, limited business sectors can open on the following timetable:

May 18, 2020

- Essential businesses – may stay open and continue to operate, but must comply with the state's new safety standards and self-certify compliance by May 25, 2020.
- Manufacturing
- Construction
- Worship
- Hospitals and community health centers – those that attest to specific public health or safety standards can provide high priority preventative care, pediatric care, and treatment for high risk patients.

May 25, 2020

- Laboratory and life sciences facilities
- Offices (excluding those in the city of Boston) – work from home is strongly encouraged; businesses should restrict workforce presence to less than 25 percent of maximum occupancy
- Hair salons and barbershops – by appointment only
- Pet grooming – by appointment only (curbside pet drop-off and pickup)
- Car washes – providing exterior car washing
- Recreation and outdoors – following certain guidelines
- Other healthcare providers – those that attest to specific public health or safety standards can provide high priority preventative care, pediatric care, and treatment for high risk patients
- Retail – remote fulfillment and curbside pickup

June 1, 2020

- Offices in the City of Boston – following applicable guidelines for the rest of the Commonwealth

Mandatory Safety Standards, Recommended Best Practices

On May 11, 2020, Governor Baker announced [Mandatory Safety Standards](#) that would

apply universally to all workplaces that are open in Phase 1. Those standards noted that sector-specific safety protocols would follow. The new [sector-specific guidance](#) is available on the state's [reopening website](#). For each sector the state has provided (1) a circular that includes standards to address COVID-19, (2) a protocol summary, and (3) a checklist. All businesses must adopt these standards and train their employees on them in order to reopen.

The circular includes mandatory safety standards and recommended best practices in social distancing, hygiene protocols, staffing/operations, and cleaning and disinfecting for each sector. The checklist is designed to serve as guidance for employers and businesses of all sizes as they adjust operations to address worker and customer safety.

The sector-specific standards and best practices encourage employers to stagger work schedules and develop work from home programs. In addition, the [Massachusetts Reopening Report](#) states that during the first three phases of the reopening plan, high risk populations [as defined by Centers for Disease Control and Prevention \(CDC\)](#) should work from home if possible and employers should give them priority consideration for workplace accommodations.

Significantly, during Phases 1 and 2 of the reopening plan, all travelers to Massachusetts are urged to self-quarantine for 14 days.

Required Control Plan, Postings

In order to reopen, businesses must develop a written COVID-19 Control Plan outlining how their workplace will prevent the spread of COVID-19. Control plans do not need to be submitted for approval, but must be kept on premise and made available in case of an inspection or outbreak. A [template control plan](#) is posted on the state's reopening site.

In addition to the COVID-19 Control Plan, businesses must display in areas open to employees and visitors a signed [poster attesting](#) that they have completed a COVID-19 control plan and post it in an area within the business premises that is visible to employees and visitors. Businesses must post [signs](#) and [posters](#) describing the rules for maintaining social distancing, hygiene protocols, cleaning, and disinfecting. Compliance with the reopening standards will be enforced jointly by local health boards and the Massachusetts Departments of Public Health and Labor Standards.

Additional Guidance for Healthcare, Higher Education

In addition to the Phase 1 reopening guidance for healthcare employers, there will be further reopening in Phases 2 and 3 for healthcare providers. This will include expanding ambulatory in-person routine care, such as:

- Less urgent preventative services, procedures, and care (*e.g.*, routine dental cleanings and certain elective procedures); and
- Day programs (*e.g.*, Adult Day Health and Day Habilitation)

For higher education, the [Reopening Massachusetts Report](#) provides that in all of the reopening phases, safety guidelines and health monitoring protocols will be implemented throughout all elements of campus life, including classrooms, housing, dining, facilities, and services.

In Phase 1, higher education institutions can repopulate research laboratories and medical, dental, veterinary, and allied health clinical education and services, and restart functions necessary to prepare campuses to reopen. All activities must observe applicable social distancing guidance.

In Phases 2 and 3, following public health guidance, each institution will develop its own plans for course delivery, which the report says likely will involve a combination of in-person and remote learning in order to allow for social distancing on campus.

Businesses Reopening in Phases 2, 3, 4

Additional business will be allowed to reopen in Phases 2-4 as follows:

Phase 2 (with restrictions and some capacity limitations)

- Retail
- Restaurants
- Lodging
- Additional Personal Services (*e.g.*, nail salons and day spas)

Phase 3 (with restrictions and some capacity limitations)

- Bars
- Arts and entertainment (*e.g.*, casinos, fitness, gyms, and museums)
- All other business activities resume, except for nightclubs and large venues

Phase 4

- Full resumption of activity (*e.g.*, large venues and night clubs)

As many employers continue to reimagine their workplaces, they should begin to develop their return to work plans using the tools on the Reopening Massachusetts webpage. Implementing these new standards will require a strong working knowledge of many aspects of an employer's operations, as well as the new health and safety protocols. Larger employers should consider forming a multidisciplinary team to adopt these measures and develop an employee communication program.

In addition, as a condition of reopening employers must provide training for employees regarding safety measures, including the social distancing and hygiene protocols.

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.

©2020 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on employment and labor law since 1958, Jackson Lewis P.C.'s 1,000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged and stable, and share our clients' goals to emphasize belonging and respect for the contributions of every employee. For more information, visit <https://www.jacksonlewis.com>.