

CLIENT ALERT: Massachusetts Poised to Enter Final Phase of Reopening

Effective March 1st, Governor Baker's new [Executive Order](#) allows Massachusetts communities to transition to Step 2 of Phase 3 of the Massachusetts Four-Phase Reopening Plan ("the Reopening Plan"). Mayor Marty Walsh has announced that the City of Boston will follow suit, with some limited exceptions. This client alert focuses on these recent updates to reopening the Massachusetts economy.

Step 2 of Phase 3

Beginning March 1, 2021, Massachusetts communities may transition to Step 2 of Phase 3 of the Reopening Plan. Step 2 of Phase 3 allows the reopening or expansion of the following businesses and services:

- Indoor performance venues used for live performances such as concert halls, theaters, and other indoor performance spaces not designated as Phase 4 enterprises will be allowed to reopen at 50% capacity with no more than 500 persons;
- Indoor recreational activities with greater potential for contact, including laser tag, roller skating, trampolines, and obstacle courses will be permitted to reopen at 50% capacity;
- For all sectors with capacity limits in place, those limits will be raised to 50% capacity and exclude employees; and
- Restaurants will no longer have a capacity limit and will be permitted to host musical performances so long as they continue to comply with social distancing, limiting seating to six people per table, and 90-minute table limits.

The City of Boston has announced that it will transition to Step 2 of Phase 3 on March 1st. However, Boston has identified that it will not allow the following activities until March 22nd: (1) reopening of indoor performance venues and indoor recreational activities with greater potential for contact and (2) live musical performances at restaurants.

Businesses permitted to reopen must continue to comply with all the applicable sector-specific safety protocols and best practices. In

anticipation of the transition to Step 2 of Phase 3, the administration has updated the Sector-Specific Protocols and Best Practices for the following businesses and services:

- [Arcades and Other Indoor and Outdoor Game and Recreation Businesses](#)
- [Close Contact Personal Services](#)
- [Driving and Flight Schools](#)
- [Fitness Centers and Health Clubs](#)
- [Golf Facilities](#)
- [Libraries](#)
- [Operators of Lodgings](#)
- [Museums and Cultural and Historical Facilities and Guided Tours](#)
- [Office Spaces](#)
- [Places of Worship](#)
- [Restaurants](#)
- [Retail Businesses](#)
- [Sectors Not Otherwise Addressed](#)
- [Theaters and Performance Venues](#)

Step 2 is the final step in Phase 3 of the Reopening Plan. Businesses that are not permitted to reopen until Phase 4 remain closed. Additionally, the administration's prior orders concerning [face coverings](#), [travel](#), and [gatherings](#) remain in effect.

Phase 4

Governor Baker also announced his plan to transition to the next and final phase of reopening, Phase 4, on March 22nd. This transition to Phase 4 will allow the reopening of previously closed business sectors under tight capacity restrictions that will continue to be adjusted over time dependent upon public health data metrics.

Phase 4 contains two steps. In Step 1 of Phase 4, the following businesses and services may reopen or expand their operations:

- Stadiums, arenas, ballparks, and other large capacity venues (indoor and outdoor) used for spectator sports, entertainment, or similar performances
- Exhibition and convention halls
- Overnight camps (beginning summer 2021)
- Dance floors at events only

Not until Step 2 of Phase 4 will these remaining businesses and services be permitted to reopen:

- Amusement parks, theme parks, indoor or outdoor water parks and indoor or outdoor ball pits
- Saunas, hot tubs, and steam rooms at fitness centers, health clubs, and other facilities
- Bars, dance clubs, and nightclubs – i.e., venues offering entertainment, beverages, or dancing and not providing seated food service prepared on-site and under retail food permits issued by municipal authorities
- Beer gardens, breweries, wineries, distilleries not providing seated food service prepared on-site and under retail food permits issued by municipal authorities
- Dance floors not at events
- Street festivals, parades, and agricultural festivals
- Road races and other large, outdoor organized amateur or professional group athletics events

Also on March 22nd, gatherings limits will increase to 100 people indoors and 150 people outdoors for event venues and in public settings. Gatherings in private residences, however, will remain limited to 10 people indoors and 25 people outdoors.

This alert aims to provide an overview of the Massachusetts and City of Boston reopening restrictions generally, though they are subject to change depending on future orders and guidance. MBJ attorneys are closely monitoring these changes. Employers should check local rules and be mindful that these issues remain fluid to ensure that decisions are made based on the most up-to-date information available.

For additional information, please read our other recent legal updates linked below:

- [Massachusetts Businesses Allowed to Increase Capacity Limits](#)
- [OSHA Issues Revised Guidance on “Mitigating and Preventing the Spread of COVID-19 in the Workplace” in Response to Executive Order](#)
- [The Proliferation of State Noncompetition Agreement Laws and the Potential Federal Response](#)
- [Unemployment Benefits & the Stimulus Package: What Employers Should Know](#)

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