

Governor Baker Issues Clarifications for Retailers

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Governor Baker on May 4, 2020 issued some important [clarifications](#) for retailers regarding the Governor's prior orders closing non-essential businesses' brick and mortar premises to customers and most employees. While such businesses must remain closed to customers, the new guidance permits non-essential businesses to bring in a small number of employees to brick and mortar premises for the purpose of fulfilling online and phone orders. This change was urged by many retailers looking for ways to remain solvent as customers have shifted to ordering products from home.

Under the guidance, employees undertaking remote fulfillment of orders are required to follow strict guidelines, with only three employees at a time allowed in stores under 10,000 square feet, five employees in stores up to 30,000 square feet, and seven employees allowed in stores larger than 30,000 square feet. Employees will also have to practice by-now familiar social distancing precautions, remaining at least six feet apart and wearing face coverings at all times. Employees will also have to pass a temperature check prior to each shift. Employers will be required to disinfect work surfaces regularly and provide sufficient hand sanitizer and hand washing facilities on site.

More broadly, the updated guidance provides a sneak peek of the kinds of requirements the Governor is likely to impose as part of the eventual phased re-opening of the Massachusetts economy. The Governor is set to receive on May 18 a much-anticipated report from the Reopening Advisory Board on strategies to begin gradually to re-open businesses and public spaces. The Governor has downplayed the importance of the May 18 deadline, emphasizing that re-opening will be slow, gradual, and informed by the guidance of public health officials. But it is likely that many of the features of the updated guidance – temperature checks, significant restrictions on numbers of employees, and so forth – will form important parts of the re-opening strategy.

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