

Checklist for Employers

Newsbrief

29 APR 2020

Hope this finds you well. Yesterday, Governor Greg Abbott announced an executive order that will re-open many businesses across the State of Texas. The executive order does not affect those businesses which have been deemed essential. However, the executive order does provide that certain non-essential businesses can re-open at 25% capacity, including the following:

1. a) In-store retail services
2. b) Dine-in restaurant services, provided, however, that (a) this applies only to restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages and are therefore not required to post the 51 percent sign required by Texas law as determined by the Texas Alcoholic Beverage Commission, and (b) valet services are prohibited except for vehicles with placards or plates for disabled parking;
3. c) Movie theaters;
4. d) Shopping malls, however, within shopping malls, the food-court dining areas, play areas, and interactive displays and settings must remain closed.
5. e) Museums and libraries, however, that (a) local public museums and local public libraries may so operate only if permitted by the local government, and (b) any components of museums or libraries that have interactive functions or exhibits, including child play areas, must remain closed.

In addition to the above businesses that can re-open at 25% capacity, the following businesses can re-open without the 25% restriction:

1. f) For Texas counties that have filed with DSHS, and are in compliance with, the requisite attestation form promulgated by DSHS regarding five or fewer cases of COVID- 19, those in-store retail services, dine-in restaurant services, movie theaters, shopping malls, and museums and libraries, as otherwise defined and limited above, may operate at up to 50 percent (as opposed to 25 percent) of the total listed occupancy.
2. g) Services provided by an individual working alone in an office.
3. h) Golf course operations.
4. i) Local government operations, including county and municipal governmental operations relating to permitting, recordation, and document-filing services, as determined by the local government.

5. j) Such additional services as may be enumerated by future executive orders or proclamations by the governor.

The executive order provides that people and businesses should follow the minimum standard health protocols recommended by the Texas Department of State Health Services (DSHS), found at www.dshs.texas.gov/coronavirus, and should implement social distancing, work from home if possible, and practice good hygiene, environmental cleanliness, and sanitation.

DSHS provided the following list of protocols that all employers who are re-opening must abide by:

- Train all employees on appropriate cleaning and disinfection, hand hygiene, and respiratory etiquette.
- Screen employees before coming into the business:
 - Send home any employee who has any of the following new or worsening signs or symptoms of possible COVID-19:
 - Cough
 - Shortness of breath or difficulty breathing
 - Chills
 - Repeated shaking with chills
 - Muscle pain
 - Headache - Sore throat
 - Loss of taste or smell
 - Diarrhea
 - Feeling feverish or a measured temperature greater than or equal to 100.0 degrees Fahrenheit
 - Known close contact with a person who is lab confirmed to have COVID-19
 - Do not allow employees with the new or worsening signs or symptoms listed above to return to work until:
 - In the case of an employee who was diagnosed with COVID-19, the individual may return to work when all three of the following criteria are met: at least 3 days (72 hours) have passed since recovery (resolution of fever without the use of fever-reducing medications); and the individual has improvement in respiratory symptoms (e.g., cough, shortness of breath); and at least 7 days have passed since symptoms first appeared; or
 - In the case of an employee who has symptoms that could be COVID-19 and does not get evaluated by a medical professional or tested for COVID-19, the individual is assumed to have COVID-19, and the individual may not return to work until the individual has completed the same three-step criteria listed above; or
 - If the employee has symptoms that could be COVID-19 and wants to return to work before completing the above self-isolation period, the individual must obtain a medical professional's note clearing the individual for return based on an alternative diagnosis.
 - Do not allow an employee with known close contact to a person who is lab-confirmed to have COVID-19 to return to work until the end of the 14 day self-quarantine period from the last date of exposure (with an exception granted for healthcare workers and critical infrastructure workers).

- Have employees wash or sanitize their hands upon entering the business.
- Have employees maintain at least 6 feet separation from other individuals. If such distancing is not feasible, other measures such as face covering, hand hygiene, cough etiquette, cleanliness, and sanitation should be rigorously practiced.
- If an employer provides a meal for employees, employers are recommended to have the meal individually packed for each employee.
- Consistent with the actions taken by many employers across the state, consider having all employees wear cloth face coverings (over the nose and mouth). If available, employees should consider wearing non-medical grade face masks.

Additional requirements for employers include regularly and frequently cleaning and disinfecting any regularly touched surfaces; disinfecting any items that come into contact with customers; make hand sanitizer, disinfecting wipes, soap and water, or similar disinfectant readily available to employees and customers, and; placing good hygiene practices signs in the workplace.

For reference, both the executive order and the DSHS protocols for all employers is attached to this email, as well. If you should have any questions, our labor and employment team is here to lend a hand.

We understand the order may be clarified later today and if so, we will update this as necessary.

Stay safe and keep the course. And please let us know if we can help.

Thanks, Jack, Elizabeth and Jim