

Maryland Enters Phase Two: Non-Essential Retail Reopens with Restrictions

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Maryland Governor Larry Hogan has signed a new [Executive Order](#) allowing the reopening of more workplaces and non-essential businesses, subject to limitations and local regulation.

These changes, effective June 5, 2020, signal the beginning of phase two of the Governor's [Maryland Strong: Roadmap to Recovery](#). (See our articles, [Maryland Governor Outlines Phased Reopening Plan Post-COVID-19 Shutdown](#) and [Maryland Begins to Gradually Reopen Its Economy](#).)

Businesses That Can Reopen

In general, the Order allows businesses that are not part of the critical infrastructure sectors, which were previously prohibited from opening, to reopen. (Businesses that are part of the critical infrastructure sectors are identified by the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency in the [CISA Memo](#).)

The Order also allows the following specific businesses, which were previously prohibited from opening, to reopen:

- *Businesses that offer personal services, including tattoo parlors, tanning salons, massage parlors, and nail salons, but these businesses must operate by appointment only and only up to 50% capacity. Additionally, after each service is performed, the establishment must clean and disinfect the area where the service was performed, in accordance with Centers for Disease Control and Prevention (CDC) and Maryland Department of Health (MDH) guidance. Further, all staff must wear face coverings in areas open to the general public and in areas in which interaction with other staff is likely; and customers over the age of two are required to wear face coverings while inside these establishments, except where wearing a face covering would make it impossible for services to be performed.*
- *All retail businesses, but only up to 50% capacity. Previously, only retail stores that principally sell goods were permitted to open. Retail businesses must comply with physical distancing measures and may require customers or staff to wear face coverings (details below).*

Several other businesses were allowed to reopen in recent weeks, including the following:

- *Beauty salons providing hair services and barbershops were permitted to reopen on May 15, 2020, subject to the above restrictions regarding personal services.*
- *Certain outdoor recreational establishments, including drive-in movie theaters, outdoor swimming pools, outdoor day camps, and tour boats reopened on May 29, 2020, with [pools](#) and [outdoor day camps](#) subject to certain MDH restrictions. Golf*

courses and driving ranges, outdoor archery and shooting ranges, marinas and watercraft rental businesses, campgrounds, and horse boarding and riding facilities were permitted to reopen on May 7, 2020.

- *Restaurants, bars, and social clubs with dining facilities* were permitted to reopen on May 29, 2020, for outdoor dining, subject to the following restrictions:
 - Staff must wear face coverings;
 - Customers must be seated at least six feet away from each other (except for households seated together);
 - Groups of six or more may not be seated together (with the exception of households);
 - Food may not be served in a buffet format; and
 - Businesses must clean and disinfect each table between each seating in accordance with CDC and MDH guidelines.
- *Manufacturing businesses and facilities* were permitted to reopen on May 15, 2020.
- *Churches and other houses of worship* were permitted to open and begin to hold religious services on May 15, 2020, but only up to 50% capacity and with outdoor services strongly encouraged.

Operational Guidelines for All Businesses Permitted to Open

Pursuant to the Order and consistent with the Governor's previous orders, the above types of reopened businesses, organizations, establishments, and facilities:

1. Must comply with applicable social distancing guidelines; and
2. May require their customers over the age of two, visitors over the age of two, or staff to wear face coverings and, if so, must post signage at each entrance advising customers, visitors, or staff about its face covering requirement.

Retail establishments that were open during the Stay-At-Home Order (*i.e.*, grocery stores, pharmacies, liquor stores, public transportation, and restaurants serving take-out) must continue to comply with the Governor's April 15, 2020, [Executive Order](#) requiring face coverings and physical distancing measures. (For details, see our article, [Maryland Mandates Face Coverings at Retail Stores, On Public Transportation under COVID-19 Emergency.](#))

Businesses That Must Remain Closed

Despite the lifting of several restrictions, many businesses must remain closed.

These businesses include:

- Senior centers;
- Restaurants and bars (with respect to indoor dining);
- Fitness centers (with respect to indoor fitness activities);
- Live and motion picture theaters (with respect to indoor entertainment);
- Enclosed shopping malls (excluding shops that can be entered directly from the outdoors); and
- Recreational establishments, such as bingo halls, bowling alleys, pool halls, amusement parks, roller and ice skating rinks, mini-golf courses, and social clubs.

Staff and owners at these closed businesses can continue to be on-site to conduct minimal operations, such as facilitating remote work by other staff, maintaining essential property, preventing loss of or damage to property, performing essential

administrative function, and caring for live animals.

Additionally, social, community, recreational, leisure, and sporting gatherings and events of more than 10 people remain prohibited.

Flexibility for Local Jurisdictions

As with phase one, the Order provides a flexible and community-based approach to reopening, which allows county leaders to make decisions on the timing of reopening in their individual jurisdictions.

The following jurisdictions in Maryland are not following the Governor's phase two reopening plan at this time:

- *Baltimore City* – On June 5, 2020, Baltimore City Mayor Bernard C. Young announced that beginning June 8, 2020, Baltimore City will enter the first stage of the Governor's reopening plan.
- *Montgomery County* – On June 4, 2020, Executive Marc Elrich told residents during a conference call town hall that Montgomery County would remain in phase one. Executive Elrich did not set a target for moving into the phase two stage.
- *Prince George's County* – County Executive Angela Alsobrooks said that Prince George's County will consider moving into a "modified phase two" reopening on June 15.

Reopening orders contain extensive requirements creating compliance issues that can vary significantly depending on the specific state or local jurisdiction. Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance and are available to help employers weed through the complexities involved with state-specific or multistate-compliant plans.

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our COVID-19 team.

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