

NEWS ALERT

RETAIL, RESTAURANT & HOSPITALITY



Important COVID Updates For Connecticut And Massachusetts

By Robert E. Kaelin, James F. Radke, Zachary J. Gregoricus and Joseph D. Szerejko | April 30, 2021

It is hard to believe we have passed the one-year anniversary of the COVID-19 crisis and the dramatic impacts it has caused on our lives, businesses and the economy (and continues to cause in many respects). However, as many optimists like to say “there is light at the end of the tunnel.” A year ago we were first starting to deal with Local Governmental Executive Orders and the impacts (and closures) on businesses and the closing of the Courts. With the “light at the end of the tunnel,” our Retail & Hospitality Practice Group wanted to alert you of very recent changes being announced in Connecticut and Massachusetts – both in terms of easing and/or lifting COVID restrictions and what is now happening in the State Courts.

UPDATES ON CONNECTICUT GOVERNMENTAL COVID RESTRICTIONS

Effective Saturday, May 1, 2021

- All restaurants, entertainment, recreation, and theaters will be subject to a 12:00 a.m. closing time (as opposed to previous 11:00 p.m.). Gyms and Fitness Centers were previously allowed to go back to 100%, subject to masks and social distancing, back on March 19, 2021.
- Food Service continues to be required with alcohol service indoors—indoor bars that only serve beverages must remain closed. No standing bar service is allowed indoors outside of private events. Tables continue to be subject to an 8-person capacity limit indoors.
- Food Service will no longer be required with alcohol service outdoors—outdoor bars that only serve beverages may open. Standing bar service is allowed outdoors. There will no longer be an 8-person table limit outdoors.

Effective Wednesday, May 19, 2021

- All remaining business restrictions will be lifted, except masks will continue to be required in all indoor public settings where social distancing is not possible. These changes are contingent upon a low incidence of COVID-19 and the Connecticut population continuing to get vaccinated.

UPDATES ON MASSACHUSETTS GOVERNMENTAL COVID RESTRICTIONS

- On March 22, 2021, Massachusetts advanced to Step 1 of Phase IV of the Commonwealth’s reopening plan, which opened a range of previously closed business sectors under tight capacity restrictions, including large capacity sports and entertainment venues.
- As of April 27, 2021, all communities in Massachusetts remain in Step 1 of Phase IV of the reopening plan.

UPDATES ON MASSACHUSETTS GOVERNMENTAL COVID RESTRICTIONS (continued)

- Restaurants may currently operate at one hundred (100) percent capacity. However, social distancing protocols, limits of six (6) people per table, and ninety (90) minute time limits remain in place. (More information here: <https://www.mass.gov/news/baker-polito-administration-announces-plans-for-continued-reopening>).
- Other businesses currently remain restricted to fifty (50) percent capacity and no more than five hundred (500) people. The fifty (50) percent capacity does not apply to employees.
- On April 27, 2021, Governor Charlie Baker announced that Massachusetts' outdoor mask mandate will be lifted effective April 30, 2021 and masks will no longer be required outdoors as long as the person can maintain social distancing.
- At the April 27 press conference, Governor Baker stated that "The light at the end of the tunnel, thanks to the hard work of so many, is getting closer, and we can start to look ahead with real optimism at the path forward."
- Governor Baker also announced that Massachusetts will advance to Step 2 of Phase IV over the coming weeks and months, which further loosens capacity restrictions and reopens certain businesses and industries.

Effective May 10, 2021

- Specifically, certain outdoor industries, such as amusement parks, theme parks, and water parks, will be permitted to operate at fifty (50) percent capacity effective May 10, 2021 after submitting safety plans to the Department of Public Health.
- Also effective May 10, indoor and outdoor stadiums, arenas, and ballparks may increase capacity from twelve (12) to twenty-five (25) percent.

Effective May 29, 2021

- Effective May 29, street festivals and parades may operate at fifty (50) percent capacity, bars, beer gardens, breweries, wineries, and distilleries may open subject to restaurant rules, and restaurant guidance will be updated to increase the maximum table size to ten (10).

Effective August 1, 2021

- On August 1, 2021, all industry restrictions will be lifted, and capacity will be increased to one hundred (100) percent for all industries, with businesses encouraged to continue following best practices.

GENERAL UPDATES ON CONNECTICUT STATE COURTS:

- Currently, all civil and housing matters in Connecticut state courts are being heard, except Jury Trials. That said, Connecticut state courts continue to conduct civil and housing business remotely, and are only conducting business in-person for certain limited matters. Until further notice, most Pretrial and Status Conferences, Judicial ADR Events, Oral Arguments, Evidentiary Hearings, and Courtside Trials still are being conducted remotely in state courts. Nearly all remote matters in Connecticut state courts are being conducted through the Microsoft Teams software platform. In an April 16, 2021 statement from Chief Court Administrator Patrick L. Carroll III, the Connecticut Judicial Branch stated in part that it "is now in a position to cautiously and incrementally move forward with plans to further increase the scope and volume of judicial business being conducted by its judges and employees." The Judicial Branch further stated that "[t]he goal is to safely return to near normal operations over the next few months."
- As of February 1, 2021, all virtual, on-the-record, civil and housing court proceedings in state courts have been livestreamed on the Judicial Branch's YouTube Channels for the various Judicial Districts (which can be found at this link: <https://jud.ct.gov/PublicAccess/>).
- Although the Connecticut Supreme and Appellate Courts were also conducting Oral Arguments on their livestreamed YouTube Channels, the Courts announced on April 27, 2021 that going forward, Oral Arguments will be heard in person.
- As of March 1, 2021, Connecticut state courts resumed conducting the Foreclosure Mediation Program for non-federally-backed mortgages. Like many other civil matters, however, these Mediation Sessions are being conducted remotely.
- On April 9, 2021, the Judicial Branch instructed Jurors not to report for duty at least until May 31, 2021, despite the fact that Summonses were still being mailed out.

GENERAL UPDATES ON CONNECTICUT STATE COURTS: (continued)

- On April 26, 2021, the Judicial Branch announced that the following state courthouses where operations previously had been suspended are currently being inspected for safety and health compliance, with the goal of resuming in-person operations on May 17, 2021:
 - Geographical Area No. 5 Courthouse in Derby;
 - Geographical Area No. 10 Courthouse in New London;
 - Geographical Area No. 12 Courthouse in Manchester;
 - Judicial District Courthouse in Putnam; and
 - Juvenile Matters at Rockville in Rockville.

Updates on Connecticut Summary Process (Eviction) and Collection Matters:

- Commercial Landlords are permitted to terminate leases by causing Notices to Quit to be served and Commercial Summary Eviction Actions are proceeding on a relatively normal schedule (other than being handled remotely). Summary Process Executions are being issued – meaning tenants can in fact be physically evicted.
- Similarly, Commercial Landlords, along with any other kind of creditor, are able to commence and prosecute to judgment Collection Actions (albeit still remotely for the time being). Judgments are being entered and post-judgment proceedings are being permitted.

UPDATES ON MASSACHUSETTS STATE COURTS:

- Massachusetts courts continue to conduct business both in-person and virtually and courthouses remain physically open to certain members of the public. Additionally, judges continue to schedule and conduct bench trials and other hearings both in-person and virtually.
- On April 15, 2021, the Massachusetts Supreme Judicial Court entered an updated Order stating that Phase 3 of the resumption of jury trials in Massachusetts state courts will commence on May 1, 2021. During Phase 3, courts will conduct trials to juries of six (plus alternates) and twelve (plus alternates), with priority given to jury trials in criminal cases. The Order provides that “civil cases in the Superior Court and Housing Court that typically would be tried to juries of twelve . . . shall be tried to juries of six, with or without the consent of the parties.”
- In a press release announcing the updated Order, Supreme Judicial Court Chief Justice Kimberly Budd stated that “We are ready to increase the number and locations of jury trials but our courts will need to follow recommended health and safety practices, including mask-wearing, frequent hand washing, physical distancing, and courtroom and courthouse occupancy, for some time to come.”

Updates on Massachusetts Summary Process (Eviction) and Collection Matters:

- The Commonwealth’s moratorium on evictions ended on October 17, 2020. Accordingly, Massachusetts commercial landlords are free to move forward with summary process proceedings against commercial tenants in breach of a lease agreement and/or for non-payment of rent.

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