

INSIGHTS + NEWS

Client Alert: Lockdown Breakthrough? Remote Fulfillment Guidelines Permit Partial Re-Opening of Retail Establishments

BY PETER J. MARTIN • MAY 5, 2020

In a revised set of FAQs issued May 4, the Executive Office of Housing and Economic Development provided guidance to non-essential businesses who wish to resume operations to remotely fulfill online or phone orders. Under the existing guidance, employees of non-essential businesses were prohibited from returning to their place of employment, except for purposes of facility maintenance or attending to perishable goods. Now, so long as these new guidelines are followed, such a return is permitted for the purpose of fulfilling remote sales and orders.

The new guidance still bars the manufacture of goods at non-essential business places. However, the “packaging and delivery/shipping of phone and online orders” is now permitted at non-essential businesses if:

- Employees wear face coverings and maintain 6-foot social distancing when on-site
- Deliveries are performed in a “no-contact” manner, such as items left in mailboxes, lobbies, doorsteps or other no-contact drop-off points
- Operating hours must allow for adequate off-hour sanitation/cleaning and start-stop times and lunch times must be staggered to minimize contact
- The facility must have accessible hand sanitizer and hand washing facilities and employees must self-administer a temperature check prior to each shift
- The facility must have enough space to allow for 6-foot social distancing between employees
- Only a limited number of employees may be in the facility at any one time: for facilities up to 10,000 square feet, no more than three employees; for facilities between 10,000 and 30,000 square feet, a maximum of 5 employees; and in facilities over 30,000 square feet, no more than 7 employees are permitted

Specific instances of re-opening for remote fulfillment activities include car dealerships, where in addition to the above restrictions, sales must be conducted solely through phone or online, document processing should be done electronically where feasible, and the delivery of vehicles must occur at the dealership or at the customer’s residence. Other examples in the new FAQs of businesses that may re-open for the limited purpose of remote fulfillment include office supply or electronics stores, flower and book shops.

Business owners should evaluate whether they can re-open under these restraints and be among the first non-essential businesses to begin to emerge from the pandemic lockdown. Re-opening for remote fulfillment operations might be a first step in a phased plan to resume normal business operations. Such a plan should involve consideration of the CDC re-opening guidance.

Business and property owners looking for additional information about re-opening can review our Client Alerts on the [CDC Re-Opening Guidance](#) and the [Massachusetts Essential Services List](#). In addition, we invite you to register and tune in to MassEcon's upcoming May 7, 2020 webinar, "[Re-Opening Commercial Operations: Considerations for Property Owners and Business Tenants as Massachusetts Restarts in a COVID-19 World](#)." The webinar will include a moderated discussion and Q&A with practical, legal, and health & safety workplace experts, including Bowditch Partner [Paul Bauer](#).