



BULLETIN #77/2020 MAY 29, 2020

_CORONAVIRUS UPDATE #63

EPA ALERT ON CONTINUING DISINFECTING SPACES

DOL ALERT ON EMPLOYEE SOCIAL DISTANCING

**GOV. BAKER DISCUSSES RE-OPENING OF MORE SHUTTERED
BUSINESSES WITH RESTRICTIONS**

STATE GOVERNMENT NEWS RECAP FOR THE WEEK

**CDC WARNS EMPLOYERS ABOUT USING ANTIBODY TEST RESULTS TO
MAKE WORKPLACE DECISIONS**

NADA DEALERSHIP LIFELINE WEBINARS FOR NEXT WEEK

MASSACHUSETTS COVID-19 DAILY TRACKER

[This bulletin supplements our previous bulletins #11 and #16 through #76 on this subject matter. These bulletins are intended to be cumulative so we can avoid repeating the same information.]

EPA Alert Urges People to Continue Disinfecting Spaces

The Environmental Protection Agency and the Centers for Disease Control and Prevention released [updated guidance](#) to help facility operators properly clean and disinfect spaces. The guidance provides step-by-step instructions to clean public spaces, workplaces, businesses, schools, and homes. The EPA also compiled a [list of disinfectant products](#) that can be used against COVID-19.

DOL Issues Alert on Social Distancing to Keep Employees Safe at Work

The Department of Labor's Occupational Safety and Health Administration issued an [alert listing steps employers can follow](#) to implement social distancing in the workplace and help protect workers from COVID-19 exposure. Download NADA's [Safely Operating your Dealership During a Pandemic](#) for useful checklists.

New State Guidance Lets Restaurants, Lodging Prep for New Normal; Baker Cites "Real Progress," Urges Vigilance

[Courtesy State House News Service]

The restaurant and hospitality industries will need to wait another week to learn when they



The restaurant and hospitality industries will need to wait another week to learn when they can reopen or expand pandemic-affected operations, and once they do, business will look significantly different.

Gov. Charlie Baker and Lt. Gov. Karyn Polito outlined near-term changes today that the two industries -- among those hit hardest by the pandemic and the shutdowns it prompted - will need to make as they chart a path forward to find a new normal while abiding by mandatory safety requirements.

When they begin offering dine-in meals, restaurants will need to screen employees for COVID-19 symptoms, space out customers, prevent seating at bars and cap party sizes. Hotels and motels will not be allowed to open up function spaces once they start accepting guests, and will also need to keep people as far apart as possible.

"As we move forward in reopening our economy, we understand the importance of balancing public health and economic health, and we need to do everything we can to support both," Polito said at a press conference.

On Monday, Baker will issue an executive order enabling businesses covered by the second phase of the administration's re-opening plan to bring employees back to workplaces for preparation and training.

Restaurants have been limited to takeout and delivery during widespread public shutdowns to limit transmission of the deadly Coronavirus. The administration almost two weeks ago indicated that restaurants could expand operations alongside lodging starting in phase two, but the specific date of that phase is still not clear.

Baker said he will announce on Saturday, June 6, when phase two will begin. The earliest that phase two could start is June 8. [MSADA Note: Under the Baker-Polito re-opening plan, phase two includes the opening of dealership showrooms for "browsing".]

While the public health and virus numbers next week will determine whether the administration believes that target can be hit, Baker said Friday that the underlying metrics such as percent of tests with positive results and current hospitalizations "keep trending in the right direction."

"Just because we're gradually reopening the economy doesn't mean that we should let up on all those key practices that we can all do on a daily basis and had so much to do with getting us to where we are now," he said at his daily press conference. "The more we all do with this, the more likely we are to continue to move forward and back toward something more like what we used to call normal."

Through Friday, state officials [confirmed](#) 95,512 cases of COVID-19 and 6,718 deaths linked to the virus since the outbreak began.

The weighted seven-day average of positive test rates has dropped by almost three-quarters since April 15, while the three-day average of deaths are down nearly two-thirds in the same span.



"This is the only and best way we have to beat the virus to get our businesses and our routines back to something like normal," the governor said. "And thanks in large part to everybody's cooperation, we've made real progress in fighting COVID."

The administration released industry-specific guidelines for [restaurants](#) and [lodging](#) Friday to set expectations ahead of the shift. For both, business will not return to pre-pandemic norms.

Restaurants will be able to host outdoor dining at the beginning of phase two and indoor dining an unspecified amount of time later in the stage. Polito said she and Baker are working with the Legislature to "streamline the process for local permitting" for restaurants that did not previously place tables outside.

"I would fully expect that you're going to see, if we can get this worked out with the Legislature, you're going to see a lot of parking lots and other kinds of open spaces convert, which I think would be perfectly appropriate," Baker said.

Mandatory safety requirements restaurants face include limiting tables to six guests at most, placing tables six feet away from each other, and offering single-use menus whenever possible. Employees will be required to cover their faces at all times, as will customers who are not yet seated.

Any restaurant that detects a presumptive or positive COVID-19 case must immediately close for 24 hours for cleaning and disinfecting before reopening.

Hotels and other lodging businesses face similar requirements to keep patrons and employees socially distant. When possible, Polito said managers should place 24-hour buffer periods between room rentals to allow for deep cleaning, and workers should inform any travelers that state health officials recommend quarantining for 14 days after arriving from out of state.

Asked if the administration recommended travelers book an additional two weeks before their stays to allow for that quarantine period, Baker replied, "The guidance we have there is consistent with the guidance that almost every other state in New England and frankly in the northeast has right now, and I think part of that is just about being consistent with where everybody else has been."

Economic damage from the pandemic has been widespread, and food service and hospitality have been acutely impacted. Last week, state labor officials reported that 61 percent of jobs in leisure and hospitality in March were cut in April, a far higher percentage than any other industry.

Despite the strain many face, it remains unclear to what degree business will return once doors open. A [poll](#) released earlier this month by WGBH, the Boston Globe and Suffolk University found that almost 55 percent of Massachusetts residents would not be comfortable eating out once it was allowed. About a third would remain uncomfortable doing so if there were an effective treatment but not a vaccine for COVID-19.



The National Federation of Independent Business, an industry group representing more than 5,000 employers in Massachusetts, criticized the lack of a certain date for restaurants to reopen. NFIB Massachusetts State Director Christopher Carozzi said New Hampshire and Rhode Island already allow some form of in-person dining.

"Restaurants provide hundreds of thousands of jobs in Massachusetts and those business owners need to know as soon as possible a hard date of when they will be allowed to reopen to customers," Carozzi said. "The very gradual steps make it difficult to prepare and plan. We've already heard about too many restaurants closing their doors for good because they were shut down for so long."

Baker said his forthcoming executive order will also outline in greater detail which sections of the statewide economy fall into which part of the gradual ramp-up and will allow professional sports teams to practice in Massachusetts facilities.

The major leagues have not resumed live games, although a plan is in place to begin the National Hockey League playoffs.

Baker said he hopes opening practice facilities "will help make that happen a little sooner," lamenting the monotony of watching replays of old games.

"There's just so many times you can actually watch the Patriots beat the Falcons, or the Celtics beat the Lakers, or the Bruins beat the Canucks, or the Red Sox beat the Yankees, or the Cardinals, or the Angels," Baker said. "At some point it's got to be live."

"For all of us, live sports and especially pro sports would be a great thing to see again because not only will it be a significant milestone for those of us who are fans, but it will also send a big signal that we've continued to do all the things that we need to do to contain and control the virus and keep it in check," he continued.

Weekly Roundup - Too Close For Comfort; Recap and Analysis of the Week in State Government

[Courtesy *State House News Service*]

The global pandemic that has brought state economies to their knees may wind up being more than just a trim off the top. If the hope was for something akin to Gov. Charlie Baker's once-a-year charity buzz cut, the reality might look more like a shave with a rusty Bic razor.

The governor did, as it turns out, get his hair cut early Tuesday morning as barbershops and salons were among the businesses to get the go-ahead from the state this week to resume operations. He and his barber wore masks, his temperature was checked at the door, and Plexiglas separated his chair from other cutting stations.

Offices everywhere but Boston were also allowed to reopen under limited capacities, as were retail stores for curbside pickup and car washes and pet groomers. But it's going to take more than just a few new hair-dos to stabilize the state's fiscal slide.



As Congress bickers over the size and scope of the next federal relief package, the Massachusetts Taxpayers Foundation warned this week that the pillars of the state's economy - health care, higher education, tourism -- could be so fundamentally shaken that a sharp "V" shaped recovery is no longer possible.

A vaccine or viable treatment for COVID-19 remains the Holy Grail to resuming normal activities, and without it the fiscal watchdog group predicted that state tax revenue may not fully rebound until fiscal 2025.

What that means for next year, however, is still anyone's guess. Much remains unknown about how lawmakers will approach budgeting for the fiscal year that begins July 1, and how much money will be available to spend. MTF and others have predicted that as much as \$6 billion in anticipated revenues could disappear. But that's just a guess, and Congress could fill some of that hole.

More than 90 economists and the influential Raise Up Massachusetts coalition of community, faith and labor organizations implored Beacon Hill this week to consider tax increases -- namely on businesses -- before resorting to deep budget cuts that could erode important safety nets for struggling families.

But a vaccine or treatment is critical to more than just economic vibrancy. It's necessary, under Gov. Baker's reopening strategy, to unlock Phase 4 - "New Normal."

Without it, Boston Mayor Marty Walsh and the Boston Athletic Association determined that it was just too risky to try to run the iconic Boston marathon in September.

Officials had postponed the 123-year-old road race from April 20 to Sept. 14 with the hope that a large gathering of athletes and spectators from around the world might be safe by late summer. That is no longer the case. And so for the first time since 1897, there will be no official 26.2-mile road race. No special state holiday to celebrate that feat of athleticism. And no excuse to play morning baseball.

Walsh is proceeding much slower than what it would take to pull off any of that. For now, finding ways to clear sidewalk and street space for outdoor dining feel more achievable.

Baker and Lt. Gov. Karyn Polito said Friday that restaurants would be allowed to reopen to diners for outdoor service at the start of Phase 2, which won't begin until June 8 at the earliest. Indoor dining will follow in Phase 2, but just not at the start, and parties will be limited to 6, with no seating at the bar.

The governor said he will make the call on whether to proceed to the next phase of reopening on Saturday, June 6, depending on the health metrics that for much of this week showed encouraging, if slow, progress.

The other part of reopening that doesn't get as much attention is that even as businesses start to reawaken, consumers may not be in the right headspace to go back to life as they knew it. A MassINC Polling Center survey released this week found that 44 percent of



people were likely to take fewer trips outside their home than before the pandemic, and 28 percent said those trips were more likely to be alone in their car.

In fact, 67 percent said they weren't fully comfortable with the idea of returning to public transportation, underscoring the challenge facing public officials of not just restoring services like the MBTA, but restoring confidence in their safety.

MBTA General Manager Steve Poftak said that part of his agency's strategy will be to implement new "crowding thresholds" on buses and trains to enable mask-wearing passengers to also keep socially distant. Once that threshold is reached, Poftak said the T is looking at ways to bring on additional service, or to offer alternate but overlapping modes of transit, to help people safely get where they're going.

Convincing people to return to public transit is not the only sales pitch officials will be making this summer.

Education Commissioner Jeff Riley said that while it will ultimately be the governor's call, it's his intention to have K-12 schools "up and running" in the fall when classes would normally resume. This school year, obviously, got cut short, and Riley said the plan is also for high school sophomores that were supposed to take English and math MCAS exams this spring to instead get the test this winter.

As challenging, perhaps, as one of those MCAS questions, the state budget has understandably flummoxed legislators who can feel the fiscal ground shifting underneath them on a daily basis, but another matter that has vexed leaders for weeks got done.

The House and Senate finally came together to send Gov. Baker a bill that would require substantially more reporting on the impact of COVID-19 and testing efforts.

But there's no doubt the bill would have packed more punch if the branches didn't spend over a month passing it back and forth and arguing over who cares more about seniors. It took a "still, still, still further amendment" from the Senate to get the details just right, which is legislative parlance for too many changes.

In the intervening time, the administration's Command Center significantly ramped up its reporting efforts on the reach of COVID-19, especially at long-term care facilities. The state began publishing what will be new daily and weekly updates on testing at nursing homes, deaths by long-term care facility, city and town testing totals and positive test rates by municipality, among other metrics.

So will Baker sign it? He answered that question with a question Friday. "Can I read it first?" he asked.

The Legislature's bill does cover the state-run soldiers' homes in Chelsea and in Holyoke, where the governor was reluctant this week to say much, other than to defer to the special investigation he commissioned into the outbreak at the Holyoke hospital for veterans.

Baker maintains that he and Health and Human Services Secretary Marylou Sudders didn't find out about the outbreak in Holyoke until one Sunday night in March when it was too



late to contain. By morning superintendent Bennett Walsh had been removed, and Baker hired an outside lawyer to probe what had happened.

But Walsh's lawyer this week released emails, according to reports, that he and Walsh say prove that the superintendent had kept Veterans' Affairs Secretary Francisco Urena and Medicaid Director Dan Tsai apprised of what was happening with COVID-19 infections at the home throughout the outbreak.

Holyoke isn't the only long-term care facility in the crosshairs of investigators.

Attorney General Maura Healey said this week her office would be investigating Life Care Center of Nashoba Valley, where U.S. Rep. Lori Trahan said more than 20 residents and health care workers have died and dozens have tested positive.

The CDC Warns Against Using Antibody Testing Results to Make Workplace Decisions

[Courtesy of Mintz Levin law firm, an MSADA associate member]

This week, the Centers for Disease Control and Prevention (the “CDC”) released [interim guidelines](#) addressing COVID-19 antibody testing. The CDC expressed concerns about the current accuracy of antibody testing and **advised businesses against using the results of antibody testing (also known as serologic testing) to make any decisions about returning workers to the workplace.**

Although the guidance notes that antibodies may offer some protection from reinfection and may decrease the likelihood that an individual infects others, the CDC has determined that there are myriad issues with the effectiveness of current antibody testing, including widespread false positive results. The CDC guidance states that “additional data are needed before modifying public health recommendations based on [antibody] test results, including decisions on discontinuing physical distancing and using personal protective equipment.” The CDC also recommends that even if individuals have tested positive for COVID-19 antibodies, they should continue to take precautionary measures (such as wearing facemasks) to prevent the spread of infection.

As the U.S. Equal Employment Opportunity Commission (“EEOC”) has not weighed in on this issue to date, it is still unclear whether employers’ use of antibody testing to inform workplace return decisions might implicate the Americans with Disabilities Act (“ADA”) or other discrimination laws. But given the direct affirmative guidance from the CDC, employers should continue to refrain from using antibody or serologic testing results to determine which workers may return to the workplace.

NADA Dealership Lifeline Webinar Series for Next Week

NADA will conduct the following webinars next week:

- **Tuesday, June 2, 1pm-2pm ET:** [Optimize Your Digital Showroom for a Frictionless Shopping Experience](#). Jim Dodd, NADA 20 Group consultant, will



discuss best practices to help you identify where your digital showroom underperforms and what you can do to provide a frictionless shopping experience.

- **Wednesday, June 3, 1pm-2pm ET:** [*Preparing Your Parts Department for After COVID-19*](#). Andreas Ronneseth of RevolutionParts and Garry Ricci of Quality Dealerships will discuss how digital parts commerce can help dealerships during and after a crisis.
- **Thursday, June 4, 1pm-2pm ET:** [*The Future of Dealer Technology: Leading Innovation in Automotive*](#). Mike Trasatti, CEO of DealerBuilt, will discuss how business leaders are developing short- and long-term technology strategies to deliver superior customer experiences, optimize spend on enterprise technology and drive alignment and continuity across their organizations.
- **Friday, June 5, 1pm-2pm ET:** [*The Best Ideas from NADA 20 Groups, Part 6: In Times of COVID-19 Pandemic*](#). Tim Gavin, NADA 20 Group consultant, will review some of the best new ideas from NADA 20 Groups during these unprecedented times.

Recordings of [all webinars in NADA's Lifeline Series](#) are available to NADA and ATD members 24/7, free of charge. Click [here](#).

Daily Massachusetts COVID-19 Tracker

The state's COVID-19 Dashboard with up-to-the-date data can be found [here](#).