

Massachusetts COVID-19 Workplace Safety Regulations

COVID-19 has created one of the worst worker health and safety crises in history. Since the beginning of the pandemic, workers on the frontlines – healthcare workers, first-responders, grocery store workers, public transit workers, and others – have been getting sick and dying from workplace exposure to SARS-CoV-2, the virus that causes COVID-19. Massachusetts COVID-19 Workplace Safety Regulations provide some protections for most workers in Massachusetts.

However, these workers are exempt from the regulations:

- Any health care facility or licensed health care provider
- Public and private elementary and secondary (K-12) schools
- Residential and day schools for special needs students
- Licensed, approved, or exempt childcare programs and any emergency childcare centers and emergency residential programs operating under emergency authorization
- Facilities operated by the Department of Correction or any Sheriff
- Facilities operated, contracted or licensed by the Department of Youth Services, Department of Mental Health, Department of Public Health, or the Department of Developmental Services
- Facilities that provide safe spaces for the unstably housed such as homeless and domestic violence shelters
- Any other facilities or workplaces that the Commissioner of Public Health has exempted in writing

Health and Safety Protections Provided by the Regulations:

There are many flaws with these regulations. Most notably, they do not address airborne aerosol transmission, which is one of the key ways that workers are exposed. Airborne aerosol transmission occurs when someone breathes air that contains live virus had exhaled by an infected person. On October 5, the Centers for Disease Control (CDC) updated its [guidance about how COVID-19 is spread](#) to affirm that the virus can be spread by airborne transmission. Still, it is important to understand your rights to protections that do exist.



Social Distancing: Your employer must establish protocols and provide signage to ensure that you can remain at least 6 feet apart from all other persons including workers, customers and vendors.

Face coverings: Your employer must require face coverings or masks for all workers. The regulations do not require that the masks be provided by your employer, however, the OSHA Personal Protective (PPE) Equipment standard requires that employers provide the appropriate PPE.

Handwashing: Your employer must provide opportunities for frequent hand-washing, adequate supplies to do so, and hand-washing capabilities throughout the workplace.

Cleaning and Disinfecting: Your employer must establish and maintain cleaning protocols “specific to the enterprise. Disinfection of all common surfaces must take place at intervals “appropriate to said workplace.” If a worker is diagnosed with COVID-19, cleaning and disinfecting must be performed.

Sanitation: Your employer must provide regular sanitization of high-touch areas, such as workstations, equipment, screens, doorknobs, and restrooms throughout the workplace. Note that sanitizing is generally a little gentler than disinfecting. So while sanitizing refers to lowering the number of germs to a safe level by either cleaning or disinfecting, disinfecting itself refers to killing nearly 100 percent of germs on surfaces or objects, according to the CDC.

Training: Your employer must provide training for workers regarding COVID-19 safety which includes at least: signs and symptoms of COVID-19; risk of asymptomatic spread of COVID-19; employee and employer requirements under the COVID-19 Workplace Safety Regulations, including sector specific standards (see below). Training must also include information on anti-retaliation protections. Your employer must document this training and it must be provided at no cost to the employee and during working hours.

Written Control: Your employer must create a COVID-19 “written control plan.” Massachusetts offers employers this [template](#), which is essentially a checklist that they are complying with regulations. However, employers can – and should – go beyond this basic checklist.

Return-to-Work Plan: Employers must also create a plan to address workers who become ill from COVID-19 at work and a return-to-work plan,

following guidance issued by the Massachusetts Department of Public Health found [here](#) on the Attorney General's Website.

Notification of Positive Cases: If the employer is notified of any positive case at the workplace, the employer must immediately notify the Local Board of Health (LBoH) in the city or town where the workplace is located. Employers must cooperate with contact tracing and COVID-19 control instructions from the LBoH and the Department of Public Health or other designated public health authority. Department of Health guidance also requires that if an employee is confirmed to have COVID-19 infection, employers should inform fellow employees of their possible exposure to COVID-19 in the workplace but maintain confidentiality as required by the Americans with Disabilities Act (ADA).

Notices and Posters: Employers must post the Employer Guidance Poster and Employee Guidance posters that can be found in multiple languages [here](#). In addition, they must post any sector-specific required poster.

Sector-Specific Rules: In addition to these regulations, there are "[sector-specific rules](#)" for the sectors listed below. Were the COVID-19 Workplace Safety Rules conflict with the Sector-Specific Rules, the Sector-Specific Rules apply.

- arcades and other indoor and outdoor game and recreation businesses
- close contact personal services
- construction
- drive-in movie theaters
- driving and flight schools
- fitness centers and health clubs
- golf facilities
- indoor and outdoor events
- laboratories
- libraries
- manufacturing
- museums, cultural and historical facilities, and guided tours
- office spaces
- operators of lodgings
- places of worship
- restaurants
- retail businesses
- theaters and performance venues

What if my employer is not following these regulations?

Employers must self-certify that they are following these regulations by checking the boxes and hanging [this poster](#) where it will provide reasonable opportunity for all workers, customers and the public to read.

If you would like to report that your employer is not complying with these regulations or the sector-specific rules, contact the Local Board of Health (LBoH). Contact information for your Local Board of Health can be found [here](#).

You may also report non-compliance to the Department of Labor Standards (DLS) through their hotline (508) 616-0461 x 9488, by completing this [online form](#), or by sending an email to safepublicworkplacemailbox@mass.gov.

Inspections: When they receive a complaint, the department or the LBoH will review the complaint to determine if further action like an inspection is warranted. If the Department of Labor Standards or the Local Board of Health conduct an inspection, a representative of the employer and a representative authorized by the workers shall be given an opportunity to accompany an authorized inspector during the physical inspection of any workplace.

Penalties: Businesses that don't comply with these regulations can be issued a civil fine of up to \$300 per violation per day. However, the Department of Labor Standards or Local Boards of Health can issue a verbal or written warning prior to issuing a fine. The Department of Labor Standards can also issue a cease and desist letter, file an injunction to enforce compliance, or request the assistance of state and local law enforcement authorities if a compliance issue presents an immediate threat to health and safety or a risk of confrontation.

OSHA Regulations Provide Additional Protections:

The General Duty Clause, Section 5(a)(1) of the Occupational Safety and Health (OSH) Act of 1970, 29 USC 654(a)(1), requires employers to furnish to each worker "employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm."

OSHA's Personal Protective Equipment (PPE) standards (in general industry, 29 CFR 1910 Subpart I) require using gloves, eye and face

protection, and respiratory protection where needed. [Click here to read the full text](#) of the standards.

When respirators are necessary to protect workers or where employers require respirator use, employers must implement a comprehensive respiratory protection program in accordance with the [Respiratory Protection standard \(29 CFR 1910.134\)](#).

OSHA's Bloodborne Pathogens standard (29 CFR 1910.1030) applies to occupational exposure to human blood and other potentially infectious materials that typically do not include the kind of respiratory secretions that could transmit coronavirus. However, the provisions of the standard offer a framework that may help control some sources of the virus, including exposures to body fluids (e.g., respiratory secretions) not covered by the standard. See: www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.1030.

OSHA's Sanitation standard (29 CFR 1910.141 for general industry, and 1926.51 for construction) requires workplaces to have sufficient, sanitary bathrooms that are accessible and available to workers whenever necessary. An employer cannot forbid you from using the bathroom and cannot assign you so much work that you do not have time to use the bathroom. See: https://www.osha.gov/SLTC/restrooms_sanitation/

To report noncompliance with OSHA regulations, public sector workers should contact the Department of Labor Standards at (508) 616-0461 ext. 9488 or [online](#). Private sector workers should contact OSHA at (617) 565-9860 or [online](#).