

# Coronavirus: Legal and Practical HR Guidance for Employers – Live Q&A Webinar



# Bernstein Shur's Coronavirus Labor & Employment Legal Response Specialists



Ann M. Freeman  
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(Employment / Municipal)

Ann is a Shareholder in the labor and employment practice group who regularly advises both private and public sector clients on a variety of labor and employment matters including the ADA, FMLA, drug testing and marijuana in the workplace, disciplinary matters, and labor relations and negotiations. She regularly appears on behalf of her clients before the Maine Human Rights Commission, the Maine Labor Relations Board and state and federal courts. She is particularly adept at understanding her client's business needs while assuring compliance with the law.



Tara A. Rich  
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(Labor & Employment)

Tara practices in all areas of labor and employment law, providing counsel and representation to employers throughout northern New England. As the former Legal & Policy Director of the ACLU of Alaska, Tara created and managed a full legal docket from scratch, while simultaneously creating and managing a lobbying program on the federal, state, and local levels as their chief lobbyist. She successfully defended against repeated attacks to repeal the state's newly enacted criminal justice reform law, safeguarding over one million dollars in key funding for the state's public defender agency. She now leverages these years of experience as a successful communicator to advocate on behalf of employers, whether she's negotiating settlements or representing clients in trial or arbitration, Tara provides thoughtful, balanced advice—all while keeping the mission on its course.



# Governor's Plan to Restart Maine's Economy

## Phase 1 (commencing May 1):

### *What's the same?*

- No gatherings of more than 10 people;
- All people entering or returning to Maine must quarantine for 14-days;
- Continue working from home if you are able to do so, including State employees;
- Continue strict requirements for long-term care facilities;
- Certain coastal state parks remain closed.

### *What's New?*

- Wearing cloth masks in public settings where social distancing is difficult to maintain (guidance forthcoming);
- Limited expansion of certain business, religious, and quality of life activities with appropriate safety precautions

# Governor's Plan to Restart Maine's Economy

## Limited expansion of certain business, religious, and quality of life activities

- Health Care from Maine-licensed providers
- Personal Services: Barber shops, hair salons, and pet grooming
- Drive-in Movie Theaters
- Limited drive-in, stay-in-your-vehicle religious services
- Outdoor recreation: guided outdoor activities (hunting and fishing) and restricted use of golf and disc golf courses
- State parks, state owned public land trails, and historic sites
- Auto dealerships and car washes

# Governor's Plan to Restart Maine's Economy

## Phase 2 (commencing June 1\*):

- Limitations on gatherings from less than 10 to less than 50 people;
- All people entering or returning to Maine must quarantine for 14-days;
- Certain fields will be permitted to reenter the office as needed, including State employees;
- Maintain special precautions for older Mainers and those at risk of COVID-19;
- Some degree of opening with reservations, capacity limits and other safety measures for:
  - Restaurants; fitness and exercise centers; nail technicians; retail stores for broader in-store shopping; lodging and campgrounds for Maine residents and those who have met 14-day quarantine requirement; day camps for Maine children and those who have met 14-day quarantine requirement; coastal state parks

# Governor's Plan to Restart Maine's Economy

## Phase 3 (commencing July/August\*):

- Maintaining gatherings of less than 50 people;
- All people entering or returning to Maine must quarantine for 14-days;
- With appropriate safety measures, some degree of opening for:
  - Lodgings, such as hotels, campgrounds, summer camps, or RV parks for Maine residents and visitors; outdoor recreation such as charter boats and boat excursions; bars; personal services such as spas, tattoo and piercing parlor, and massage facilities, among others

# Governor's Plan to Restart Maine's Economy

## Phase 4 (Timeline Undetermined\*):

- Lifting restrictions and allowing all business and activities to resume with appropriate safety precautions

# City of Portland's Order

- Stay at home order extended to May 18 *BEFORE* Governor Mill's announcement
- City officials have said that City people and businesses should plan to follow the State's Order in terms of Stage 1 (which begins May 1)
- At May 4<sup>th</sup> Council Meeting, Mayor Kate Snyder will be asking the Council to consider repealing the local stay at home order and instead have Portland businesses comply with State order
- Stay tuned....

# OSHA Guidance on Preparing Workplaces for COVID-19

As we begin a phased reopening under Governor Mills's new order, this is a good time to revisit what is being said about ensuring employees' safety in the midst of a pandemic.

- April 17, 2020: **Guidance on Preparing Workplaces for COVID-19**
  - **Policies and practices to identify and isolate the sick or exposed, where appropriate.**
    - Identification and isolation of sick workers, self-monitor and reporting policies, immediate isolation.
  - **Flexibility is key: working from home, leave, adapt with new training and education as we learn more.**
    - Allowing non-punitive sick leave, caring for family members, concerns regarding safety and health for vulnerable workers.
  - **"Hierarchy of controls" to limit workplace hazards (engineering, administrative, personal protective equipment "PPE")**
    - Air filters, ventilation rates, plexiglass, discontinuing travel unless absolutely essential, staggered return, alternating shifts, training and mandating proper protection.

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- Risk Pyramid



**Very High:** Healthcare or mortuary workers and procedures generate aerosols or with known COVID-19 specimens.

**High:** Healthcare workers with known or suspected COVID-19 patients, medical transport, mortuary workers with known or suspected COVID-19.

**Medium:** Frequent and/or close contact (i.e. within 6 feet) of people with COVID-19, community transmission, or travelers.

**Low:** Everyone else, office workers, no close contact with general public.

# Practical Guidance on Employee Safety

- Are masks required?
  - Consider allowing for everyone, mandating for employees at greater risk. OSHA says medium exposure risk includes jobs that require frequent and/or close contact (within 6 feet) of other people who may be infected with SARS-CoV-2.
- Should I be installing plexiglass?
  - What is the exposure risk? If the person is having regular contact with members of the public, transactions, now is the time to be thinking through these steps.
- Should I be adopting new policies and procedures?
  - Consider the recommendation that flexibility is key. Self-reporting policies may be appropriate, but think through a regular evaluation or recommendation as new information becomes available.
- What if my workers aren't willing or able to come back?
  - Business continuity planning, contract employees; cross training; plan for when workers become sick.

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