

## CLIENT ALERT: Massachusetts Businesses Allowed to Increase Capacity Limits

In Massachusetts, beginning February 8th, several types of businesses were permitted to increase their capacity up to 40%, an increase for many from the temporary 25% threshold implemented on December 26th. Massachusetts remains in Phase 3, Step 1 of the Four-Phase Reopening Plan. For more information regarding which businesses were permitted to reopen in Step 1 of Phase 3, please refer to our previous client alerts from [July 7th](#) and [December 11th](#). This client alert focuses on the most recent updates and guidance pertaining to reopening the Massachusetts economy.

### Increased Capacity Limits

Following the expiration of the temporary 25% capacity limits at 5:00 am on February 8th, a variety of businesses and activities were permitted to increase their capacity up to 40% including the following:

- Restaurants
- Close Contact Personal Services
- Arcades and Recreational Businesses
- Driving and Flight Schools
- Gyms/Health Clubs
- Libraries
- Museums
- Retail
- Offices
- Places of Worship
- Lodging (common areas)
- Golf (indoor areas)
- Movie Theaters (no more than 50 people per theater)

For restaurants and close contact personal services, workers and staff are not counted towards the 40% limit.

In manufacturing, laboratory, and construction businesses, there is still no percentage capacity limit.

### Updated Sector-Specific Protocols and Best Practices

All businesses permitted to reopen must continue to follow the applicable sector-specific safety protocols and best practices. The administration has updated the Sector-Specific Protocols and Best Practices for the following businesses and services:

- [Restaurants](#)
- [Close Contact Personal Services](#)
- [Arcades and Other Indoor and Outdoor Game and Recreation Businesses](#)

- Drive-In Movie Theaters
- Fitness Centers and Health Clubs
- Golf Facilities
- Indoor and Outdoor Events
- Museums and Cultural and Historical Facilities and Guided Tours
- Retail
- Theaters and Performance Venues

Businesses that are not permitted to reopen until Phase 3, Step 2, which includes indoor performance venues and indoor recreation businesses like roller rinks and trampoline parks, remain closed.

### **Gathering Limits Remain Unchanged**

Per Governor Baker's recent [Gatherings Order](#), also effective February 8th, restrictions limiting indoor gatherings to 10 people and outdoor gatherings to 25 people remain in place. These gathering limits continue to apply to private residences, event venues, and other public spaces.

All other orders and safety guidance remain in place as the administration continues its work to fight COVID-19 and ramps up vaccination efforts.

Navigating these regularly changing reopening restrictions can be challenging for businesses. This alert aims to provide an overview of the administration's present reopening restrictions and gatherings limitations, though such guidance may be altered or modified by future orders and guidance from the administration. Employers with questions about how to comply with these requirements should consult with their MBJ attorney.

*Tracy Thomas Boland and Danielle Jurema Lederman are attorneys with Morgan, Brown & Joy, LLP, and may be reached at (617) 523-6666, or at [tboland@morganbrown.com](mailto:tboland@morganbrown.com) and [dlederman@morganbrown.com](mailto:dlederman@morganbrown.com). Morgan, Brown & Joy, LLP focuses exclusively on representing employers in employment and labor matters.*

This alert was prepared on February 9, 2021.

This publication, which may be considered advertising under the ethical rules of certain jurisdictions, should not be construed as legal advice or a legal opinion on any specific facts or circumstances by Morgan, Brown & Joy, LLP and its attorneys. This newsletter is intended for general information purposes only and you should consult an attorney concerning any specific legal questions you may have.