



Ohio Releases Responsible RestartOhio Plan Allowing Many – But Not All – Businesses in Ohio to Reopen

APRIL 2020

On April 27, 2020, Ohio Governor Mike DeWine announced the Responsible RestartOhio (RestartOhio) plan – which is designed to slowly allow businesses in the state to resume operations while, at the same time, minimizing the spread of COVID-19 – and over the following two days, clarified and revised some of the plan's requirements. Lieutenant Governor Jon Husted indicated that future guidance and FAQs will be issued in the coming days.

Phased Reopening

Under the RestartOhio plan, many businesses that are not already open as essential businesses will be permitted to reopen in phases. In the first phase, manufacturing, distribution, construction, and general office businesses are permitted to reopen starting May 4, 2020. On May 12, consumer, retail, and service establishments will be permitted to reopen. For now, schools and daycare facilities, as well as popular establishments like bars, restaurants (except for carryout), hair salons, and fitness centers will remain closed, and the state has yet to provide a date for when those businesses can expect to be permitted to reopen.

Requirements for All Employers to Reopen

Importantly, businesses that are permitted to reopen under the RestartOhio plan may do so only if they adhere to certain health precautions intended to prevent the spread of the virus. Further, those same requirements also apply to those businesses that have continued to operate as essential businesses throughout the COVID-19 crisis. Therefore, all essential businesses should reevaluate their operations to make sure they are complying with these new requirements.

- **Face Coverings:** All employees are now required to wear face coverings (masks, bandanas, scarves, etc.) at all times, except when doing so is otherwise prohibited by law, against documented industry best practices or company safety policies, not advisable for health reasons, or when there is another practical reason why the face covering cannot be worn. Employees are also not required to wear face coverings when they are working alone in an enclosed office space. Whenever any of these exceptions to the general

requirement for employees to wear face coverings at all times applies, employers must be prepared to provide written justification for the exception if requested. It is also strongly recommended that all customers and guests wear face coverings when entering business establishments, and businesses are permitted, but not required, to deny entry to individuals who are not wearing face coverings. Finally, while not expressly stated in the written materials issued by the Ohio Department of Health, Governor DeWine announced that all employers must provide the required face coverings to their employees; therefore, employers should secure a supply of masks to provide to their employees before reopening.

- **Hygiene and Social Distancing:** All businesses that seek to reopen (or those essential businesses that have continued operations) must require regular handwashing by their employees and “ensure” a minimum of six feet between employees, customers, and guests. If maintaining the six-foot social distancing requirement is not possible due to the nature or physical characteristics of the workplace or business, employers must install barriers to prevent the spread of the virus between individuals. As examples of these measures, many grocery stores have instituted one-way aisles to ensure that customers do not pass too closely to each other and have installed clear, plastic barriers between cashiers and customers who must come within six feet of each other at checkout. All businesses will now be required to evaluate and explore similar options to ensure proper physical distancing. Finally, each business must establish a maximum capacity for its establishment to maximize social distancing at or below 50% of applicable fire code limits.
- **Health Assessments:** Employers also must require their employees to stay home if they are symptomatic. In order to do so, employers must require that their employees perform daily symptom checks (self-evaluation) to monitor for fever, coughing, and trouble breathing and stay home if they are experiencing symptoms.
- **Cleaning and Sanitation:** Employers also are required to clean and sanitize workplaces throughout the day, at the close of business, and between shifts. Specifically, manufacturing, distribution, and construction businesses are required to disinfect desks and workstations and perform a deep disinfection of high-contact surfaces daily. Office locations are required to perform “frequent” disinfection of desks, workstations, and high-contact surfaces and disinfect common areas daily. Retail and service establishments are required to disinfect high-contact surfaces hourly, clean merchandise before stocking it if possible, clean high-touch items (carts, baskets) after each use, and place hand sanitizer in high-contact locations.
- **Teleworking:** Despite the fact that certain businesses are permitted to reopen, employees who can work from home are required to do so when possible and feasible with business operations; therefore, businesses that are permitted to reopen under the RestartOhio plan should carefully evaluate which employees can perform their job duties remotely and have them do so. This will also reduce the number of employees who need to physically return

to the workplace, maximizing required social distancing measures.

Specific Industry Requirements

Several requirements of the RestartOhio plan are specific to each of the designated industries. The specific requirements for each of those industries can be found [here](#):

- **Manufacturing, Distribution, and Construction:** Manufacturing, distribution, and construction businesses, in addition to the requirements described above, are required to change shift patterns, stagger lunch and break times, regulate the number of people in cafeterias and common areas, and space the factory floor to maximize physical distancing. It is also recommended as a best practice but not required that these businesses reduce the pace of production to allow for fewer employees per line, split workers into subteams and limit contact across those subteams, and provide stipends to workers to allow for private transportation.
- **General Office Environments:** Requirements specific to employers who operate in an office environment include reducing the sharing of work materials, limiting travel, staggering arrivals of employees and guests, canceling in-person events when safe-distancing protocols cannot be maintained, and posting signage on health and safety guidelines in common areas. Office employers are also encouraged, but not required, to enable natural ventilation, screen employees' temperatures and symptoms before they enter the workplace, close cafeterias and gathering spaces (or conduct regular cleanings), and divide essential employees into groups and rotate shifts. It is also recommended that office employers have three weeks of cleaning supplies available.
- **Consumer, Retail, and Service:** These businesses, in addition to the requirements for all businesses, must also specify designated hours for at-risk populations (e.g., elderly), ask customers not to enter if they are symptomatic, stagger entry of customers, post social-distancing signage, discontinue self-service food stations and product samples, and close food courts. They are also recommended but not required to group employees by shifts to reduce exposure, conduct symptom checks at entry points, provide face coverings to customers, increase curbside pickup, suspend returns, and admit customers by appointment only where possible. Finally, these businesses are recommended to close once a week for deep cleaning, use contactless payment where possible, and place floor markers or use alternate registers to maximize social distancing at checkout.

Infection Response

Finally, the RestartOhio plan provides requirements and recommendations for businesses whenever an individual displays symptoms or tests positive for COVID-19. First, employers are required to immediately isolate and seek medical care for any individual who develops

symptoms while at work and contact the local health department with any suspected cases or exposures. Any business with a suspected case or exposure should also close temporarily for deep sanitation whenever possible. It is also recommended that businesses work with their local health department to identify potentially infected or exposed individuals for contact tracing and notification, and, once testing is more readily available, test all suspected infections or exposures and initiate contact tracing when appropriate. In conjunction with announcing Ohio's RestartOhio plan, Governor DeWine also announced a significant scaling up of testing and contact tracing throughout the state through the month of May to make those recommended steps possible.

Additional Information

For more information, please contact:

- [Christine M. Snyder](mailto:christine.snyder@tuckerellis.com) | 216.696.5593 | christine.snyder@tuckerellis.com
- [Carl F. Muller](mailto:carl.muller@tuckerellis.com) | 216.696.5619 | carl.muller@tuckerellis.com
- [Melissa Z. Kelly](mailto:melissa.kelly@tuckerellis.com) | 216.696.2067 | melissa.kelly@tuckerellis.com
- [Thomas R. Simmons](mailto:thomas.simmons@tuckerellis.com) | 216.696.5290 | thomas.simmons@tuckerellis.com

This Client Alert has been prepared by Tucker Ellis LLP for the use of our clients. Although prepared by professionals, it should not be used as a substitute for legal counseling in specific situations. Readers should not act upon the information contained herein without professional guidance.