



Oregon's Reopening Plan

On May 7, 2020, Governor Brown issued Reopening Oregon, her first detailed plan on restarting public life and business. The plan calls for minor statewide changes and sets out a plan for reopening by county, discussed in more detail below.

When evaluating reopening in Oregon, it is useful to start with the Governor's current "Stay Home, Save Lives" Executive Order 20-12, which remains in place. The Order addresses retail businesses and other workplaces separately. Retail business must remain closed unless they can "establish, implement and enforce social distancing policies consistent with guidance from the Oregon Health Authority." Notably, financial institutions are not singled out in Oregon's Order and thus are "retail businesses." All other businesses are required to "facilitate telework and work-at-home by employees, to the maximum extent possible." Office work is prohibited if telework is available, in light of position duties, availability of equipment and network adequacy. If telework is not available, the business must establish, implement and enforce social distancing policies consistent with guidance from the Oregon Health Authority, and appoint an employee or officer to do so.

In her May 7th plan, the Governor has stated that "stand-alone retail" that can follow OSHA guidelines can open on May 15th statewide, along with childcare, summer school, camps and youth programs (with limits and specific guidelines to be issued by the State in the near future). Additionally, the Governor has identified a three-phase plan that will be operated on a county-by-county basis. Rural counties with few cases are eligible to seek permission to enter Phase I on May 15th. Counties must have declining COVID-19 prevalence, a minimum testing regimen and contact tracing in order to be permitted to enter Phase I, among other factors. The seven requirements for a county to enter Phase I can be found on pages 12 and 13 of the Governor's presentation, which is linked below:

- In Phase I, restaurants and bars with six-foot distancing may open, along with personal care services (salons, etc.) and gyms. Employees must wear cloth face coverings in all such businesses, along with other requirements, and those coverings must be provided by employers. If COVID-19 prevalence increases, tracing is not met or hospital admissions increase, restrictions will be re-imposed.
- After 21 days in Phase I, counties may be able to enter Phase II, which includes some office work. Details on Phase II will be released at a later date. Employers should expect that these restrictions will not include unrestricted staffing and will include significant social distancing and sanitation requirements.
- Phase III includes concerts, conventions and other large gatherings. These events are cancelled or significantly modified through at least September.

The Governor's Plan can be found [here](#).

In sum, the mandatory telework provisions and non-essential travel restrictions of the Order remain unchanged. The order is not particularly clear on whether all retail can open on May 15th so long as social-distancing is enforced and OSHA guidelines followed, but that appears to be the case. Employers outside of the personal service and bar/restaurant industries, such as office-based employers, must wait for their county to enter Phase II before making any changes. For metropolitan



area counties, this is likely at least 30 days away as they must enter and then remain in Phase I for 21 days first.

When permitted to reopen, employers in Oregon will be required to implement physical distancing. The Oregon Health Authority has published some guidance on physical distancing, including maintaining six feet between individuals, washing hands after contact with any surface, and wearing a cloth mask if you cannot maintain that six foot distance. We expect further guidance will be issued as counties begin to complete Phase I in early June. Employers who are preparing to reopen should begin drafting social distancing policies, stocking up on protective equipment such as gloves, masks, sanitizing supplies, considering physical changes to their workspaces and shift adjustments for their workforce.

If you have questions of a legal nature or would like specific employment advice, the employment law attorneys at Farleigh Wada Witt would be happy to help as you navigate reopening issues under Oregon's guidance.

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