



MassCOSH

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Worker Safety Group Give Gov. Baker's Reopening Plans Failing Grades

We are in the midst of an unprecedented worker health and safety crisis and need a plan for reopening the economy that truly protects workers and the public. The plan released by Governor Baker does not accomplish this vital task, and thus the Massachusetts Coalition for Occupational Safety and Health gives it failing grades. Over the last eight weeks, thousands of essential workers in Massachusetts have become ill and even died as a result of their exposure to SARS-CoV-2 (the virus that causes COVID-19) on the job. With the Occupational Safety and Health Administration, the federal agency charged with protecting workers, missing in action, Massachusetts workers have been left largely to fend for themselves, relying on collective actions, media attention, individual legal advice and in some cases, local boards of health, to force their employers to provide safe workplace conditions. Today, Governor Baker, relying on guidance from his Reopening Advisory Board, released the "Reopening Massachusetts" plan which clearly demonstrates the lack of real input from those left off the Governor's Reopening Advisory Board: frontline workers, unions and those with occupational health and safety expertise. The Administration has profoundly failed workers that have been working for the last two months and is now, with this plan, failing to robustly protect everyone who's going back to work. The failure of this plan isn't that it is opening up the economy too fast or too slow -- its failure lies in the plan's inability to adequately protect workers and the public from COVID-19. Below is our report card on the plan:

Worker Health and Safety Standards:

Grade: D

Following these standards alone will not protect workers from SARS-CoV-2, the virus that causes COVID-19.

The reopening plan's health and safety standards focus on recommendations about preventing the spread of the virus through social distancing, hygiene protocols, staffing and operations, and cleaning and disinfecting. While these measures are necessary, they are not sufficient. They do not require employers to provide a workplace

made safe through measures that include scheduling and staffing decisions and assignments designed to minimize exposure, Personal Protective Equipment (PPE) and training, assessments of the necessary respiratory protection, fit testing as needed, and sanitizing and storage of respirators. Nor do they address aerosol transmission of micro-droplets of the virus, which can travel distances of more than 6 feet, can linger in the air for significant periods of time, and can be inhaled by someone wearing a cloth face mask. These protections would include requirements for proper ventilation and adequate PPE. The reopening plan refers to forthcoming guidelines on what PPE will be required; however, those guidelines are not spelled out and only state that medical grade face coverings are not necessary for non-health care workers, which is not accurate for all non-health care workers. The reopening plan does require workers to wear face coverings, but does not require that employers provide or pay for them. While training is required in the Reopening Plan, it is focused on social distancing and hygiene protocols, and does not include important topics like basic rights on the job and proper fit-testing and donning and doffing for PPE. Training and training materials should be provided in workers' preferred languages. Finally, in many places, the standards are only required "if feasible" or "when possible" giving employers plenty of opportunities to avoid compliance.

Enforcement of Health and Safety Standards:

Grade: F

First OSHA failed workers, now Governor Baker is failing workers.

The Plan includes no planned or targeted inspections of workplaces and leaves workers (and customers) to notify authorities if there are unsafe conditions. Enforcement of the standards is given to local Boards of Health and the Department of Labor Standards (DLS). Neither of these have the staff or resources to enforce these protections on the scale necessary. Nowhere, in any of the documents released today, is there a clear number for workers to call in order to report unsafe conditions or file a complaint. Workers have no clearer guidance on where to get help for dangerous conditions with the release of these standards than they did before. The actual penalties to employers who don't follow standards are minimal and are only issued after verbal and written "redirection" is ignored. In some cases, this plan may actually weaken existing worker health and safety protections. Where continued non-compliance with a COVID-19 workplace safety standard may warrant the closing of a business to address inadequacies, the local board of health or DLS must now first seek a court injunction where before they could issue a cease and desist order on their own authority. The guidance also states that cities and towns should not adopt stricter-than-the-Commonwealth-of-Massachusetts rules or ordinances that are intended to address the risks of COVID-19. This again provides weaker protections than existed prior to this reopening plan, when, for example, the City of New Bedford issued more stringent protections for their manufacturing workers.

Protection of Workers Rights:

Grade: F

Workers voices were not at the table and now they lack rights.

The state abandoned essential workers for the first two months of this crisis, leaving them to fend for themselves with no protective standards in place. Then, it excluded them and their organizations from the Reopening Advisory Board. Now, their voices and the voices of all workers are missing from the Plan, it's industry specific standards, and their implementation. The Plan does not require that employers involve workers and unions in the process of creating workplace-specific COVID-19 Safety Plans, or any health and safety

procedures. At many places in the Reopening Plan and the Industry Specific Standards, it states that workers at high risk of contracting COVID-19 should work from home if possible (at least during Phases 1 and 2 – at Start/Cautious). However, the plan does not provide workers’ rights to job retention and protected right to return to work. In our recommendations to the Reopening Advisory Board, MassCOSH called for expanded anti-discrimination, disability and accommodation protection for workers who have recovered but have sustained health impairments, for pregnant workers, and those who are in high risk categories. In a glaring omission, the plan gives workers almost the sole responsibility to report unsafe conditions, but does not provide any whistleblower protections to protect and encourage workers’ reporting of hazardous conditions and non-compliance. It does not provide workers the right to refuse dangerous work when adequate safety protections are not provided, with no loss of pay. At a minimum, workers who leave their jobs to protect themselves or are fired for refusing to work under dangerous conditions should be granted “just cause”, and deemed eligible for unemployment insurance. All workers who have been exposed to SARS-CoV-2 should have a right to quarantine with pay for 14 days. And finally, workers’ compensation benefits should be mandated, using a conclusive presumption, for *all* workers who are exposed to other workers or the public at the workplace and become infected with COVID-19.

Testing and Tracing

Grade: D

Workplace exposure is a major way our residents are becoming ill and spreading the virus to their families and communities, yet we are not collecting and analyzing any data on the occupation and industry of COVID-19 cases.

By looking at patterns of COVID-19 across industry and occupation, it is possible to assess potential risks faced by different worker groups. The statewide public health surveillance system should collect information about whether individuals with COVID worked outside of their home in the 14 days prior to disease onset, and their occupation, industry and employer name and job site location. These data will allow us to assess which jobs in the economy may put workers at greater risk of illness and use that information to improve workplace protection. They will also allow us to identify employers that are failing to implement adequate steps, such as paid sick leave for isolation and quarantine, as well as adequate ventilation, social distancing, paid time for hand washing, etc. We should ensure that data collection includes information on race and ethnicity to describe the unequal burden of COVID-19 on communities of color and reveal how work is contributing to that disproportion. While some of the Industry Specific standards require that employers report known cases to their local boards of health, the Plan does not require investigation of outbreaks or clusters of COVID-19 in workplaces to assure that interventions to prevent or reduce exposures are implemented, nor does it establish procedures for closing workplaces due to COVID-19 infections and outbreaks.

An amended plan is needed immediately that will include these essential elements and truly protect workers - and the public - from COVID-19. In addition, the State must allocate the resources needed to build capacity to conduct worksite investigations, enforcement, data analysis and technical assistance to employers. For more information on how to provide a safe and just reopening in Massachusetts, go to MassCOSH’s May 11 recommendations to the Reopening Advisory Board:

<http://masscosh.org/sites/default/files/documents/MassCOSH%20Reopening%20Advisory%20Board%20Comments%205.11.20%20%282%29.pdf>