



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF LABOR STANDARDS

CHARLES D. BAKER
GOVERNOR

ROSALIN ACOSTA
SECRETARY

KARYN E. POLITO
LIEUTENANT GOVERNOR

MICHAEL FLANAGAN
DIRECTOR

To Whom It May Concern

September 2, 2020

Per the SECTOR SPECIFIC WORKPLACE SAFETY STANDARDS FOR RESTAURANTS TO ADDRESS COVID-19 all bars must remain closed, including smoking bars.

Bars may reconfigure their operations to open as a restaurant providing they have all the necessary permits and licenses from the local board of health, building department, fire department and other regulatory agencies. Under COVID standards a restaurant is defined as, "...an establishment that provides seated food service that is prepared on-site and under a retail food permit issued by a municipal authority pursuant to 105 CMR 590.000. Potato chips, pretzels, and other similar pre-packaged, shelf stable foods, or other food prepared off-site, do not constitute food "prepared on-site." Note that smoking is not allowed in restaurants.

Due to the COVID-19 pandemic, the Department of Revenue is temporarily relaxing the requirement under M.G.L. c. 270, §22(h)(b) that smoking bars demonstrate that at least 51% of their revenue derives from tobacco products sold for on-premises consumption. Under Phase III – Step 1 of the Governor’s Reopening Plan, on-premises smoking is not permitted. To the extent that a smoking bar is currently closed or engaged in some other activity permissible under Phase III – Step 1 of the Governor’s Reopening Plan, such as restaurant or other retail functions, the Department will not suspend the establishment’s smoking bar license for failure to demonstrate its compliance with the 51% rule pursuant to 830 CMR 270.1.1(5)(b). Note that a smoking bar must be properly licensed in order to engage in such other activities, and must follow the workplace health and safety protocols for those activities.

All smoking bars must continue to file Smoking Bar Quarterly Declarations on Form SBQD with the Department on a quarterly basis. To the extent that a licensed establishment resumes smoking bar operations, the requirement that 51% of its revenue be derived from tobacco products sold for on-premises consumption will once again apply.

Sincerely,
Michael Flanagan
Director