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## Reopening retail: How retailers are safely and successfully restarting their physical stores

By Staci Jennifer Riordan and David Kaufman

On April 29, we presented a [checklist of items for retailers to consider](#) when reopening their physical locations that were closed due to the coronavirus (COVID-19) virus outbreak. Since that time, we have seen most states and local jurisdictions allow for some type of in-person retail operations for previously classified as nonessential stores. How is it going? What is working for retailers, and where are they struggling when it comes to reopening?

### No national standard

Many retailers are dealing with the fact that there is no national standard for reopening guidelines. Just as most state and local orders closing down retail operations were inconsistent in timing and definition across state and local boundaries, the guidelines for opening up stores also vary greatly across the U.S. Some areas are just now allowing for curbside pickup by customers, while others are already moving into in-person shopping with extensive restrictions. Retailers must consider the local rules when determining when and how they reopen.

Fortunately, large national retailers can use their websites to inform customers of just what to expect in the way of operations at their local stores. Department store chain Macy's posted this message to customers on its website—"Stores are opening! Whenever you're ready, we'll be ready for you. We're taking every precaution to keep your family and ours safe, including modified store hours. Plus, Contact-Free Curbside Pickup is now available at select locations. Find more details about your store." Retailers need to be transparent and specific about what the retail experience looks like at a particular location.

### Staff recruitment

Even with historically high unemployment, some retailers are having trouble ramping up their employment. Many essential businesses, including retail companies, have increased their wages during the pandemic. Plus, the federal government has added \$600 per week in unemployment benefits. The landscape for traditional employment has changed over the last few months. Retailers even looking to hire back their own furloughed workers are sometimes having a tough time. Some state governments are attempting to help out by expanding their "work share" programs. Employees work reduced hours but keep their unemployment benefits. This approach works for

many retailers as it allows them to bring folks back to work—but may not be able to provide full-time work. Retailers are also looking at accommodating requests by employees to have less customer interaction. The [California COVID-19 INDUSTRY GUIDANCE: Retail](#) issued on May 19, suggests “[c]onsider offering workers, who request modified duties, options that minimize their contact with customers and other employees (e.g., managing inventory rather than working as a cashier or managing administrative needs through telework).”

## **Training staff**

Once retailers bring staff back to work, the protocols those employees must follow go well beyond the typical customer service aspects of the business. Managers have an increased burden of making sure their employees, delivery people, service staff, and, of course, customers remain healthy. Retailers need to aggressively revamp their manager and employee training regimens to cover all the relevant guidance regarding safety in the retail workplace. Many stores are relying heavily on web-based and other online training tools.

## **Clean, clean, clean**

One of the areas that employees need to be trained on is cleaning. The head of department store retailer Boscov’s described his company’s approach to cleaning — “We’ve intensified cleaning high volume areas such as bathrooms, railings, doors, and shopping carts. Registers will be disinfected after each transaction. Hand sanitizers are available throughout the store.” While stores are employing outside services to do more robust nightly or weekly cleanings, the need for cleaning and disinfecting throughout the day is critical. Also, retailers are learning that customers want to see the cleaning actually occur. Retailer American Eagle requires associates to clean fitting rooms (door handles, clothes hooks, etc.) in full sight before the customer enters the room.

## **Masks and temperatures**

One of the trickiest areas for retailers is handling customer behavior and reaction to protocols. In most areas, employees and customers are required to wear masks in the stores. There have been incidents where customers in essential businesses reacted with violence when required to wear masks to shop. Well-considered policies and procedures must be developed—and employees must be trained to handle customers not inclined to comply with store (and/or governmental) requirements. Some states and local jurisdictions encourage or mandate temperature checks for shoppers. This also must be handled with care. A retailer was prepared to conduct these screenings using oral thermometers—even going through the process of ordering a large quantity of those age-old tools. That type of personal interaction should be avoided. Technology for the “touchless” screening of customers is now available.

## **Merchandise at a distance**

Retailers are revamping the way their stores look to accommodate the need for social distancing. The California guidelines call for retailers to “[i]mplement measures to ensure physical distancing of at least six feet between workers and customers. This can include the use of physical partitions or visual cues (e.g., floor markings, colored tape, or signs to indicate where workers and/or employees should stand).” They are learning that to allow for six-feet of distance for customers a large amount of fixtures (and inventory) may need to be removed. Retailers are also limiting the number of customers into their stores at any time—with some even requiring appointments to assist in metering shopper levels.

## Look, don't touch

Retailers are also looking to find ways for customers to experience their products without actually touching them. That's a challenge because one of the advantages of traditional brick-and-mortar retailing was the ability to actually assess the look and *feel* of the product in real life. That touching, however, in the age of the coronavirus, can cause problems. Stores are experimenting with merchandising that allows for a better view of the product and its details (like size) without requiring physical manipulation. Staff is also encouraged to assist shoppers better see the attributes of the product without the customer touching the product. And, retailers are removing interactive terminals and other experiences in stores. Plus, fewer fitting rooms are being utilized, and any merchandise not selected for purchase is being held off the floor for a period of time (24–48 hours).

## Return policies

Many retailers pressed the pause button on customer returns when they closed their physical locations—essentially delaying indefinitely the deadline to return unwanted merchandise. Some put in a new deadline (like 14 days after the store reopens). Retailers are now contemplating a rush of returns and the logistics of dealing with merchandise that has been in someone's house, car, etc. Some retailers are extending out the return dates for merchandise even after the store opens and looking to “quarantine” returned items for a period of time before processing. In most states, return policies are heavily regulated and require advance publication. Therefore, retailers should be careful when altering their policies in a way that negatively impacts the consumer.

While many retailers have put a lot of time and effort into developing reopening plans, this is still an incredible novel environment. Nobody is actually sure how consumers will respond as retailers open up their stores again. Plus, it is unclear how these new protocols and procedures will be able to hold up if demand does increase, especially as we head into the holiday season. Nixon Peabody LLP has been advising retailers through every phase of this crisis and will continue to monitor the guidelines and other trends that impact retailers during this unsettled time. For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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