



June 5, 2020

Re: Reusable Shopping Bag Prohibition, Food Service Establishment Guidelines, and Public Engagement with the Massachusetts Reopening Process

Dear Governor Baker, the MA Reopening Advisory Board, and the Restaurants, Accommodations, and Tourism Working Group:

The Surfrider Foundation Massachusetts Chapter is sincerely grateful for the efforts that you and your administration have put in to protect the health and wellbeing of workers, businesses, and the general public during the CoViD-19 pandemic.

As the Commonwealth embarks on its 4-phase reopening plan, we respectfully offer the following comments regarding the prohibition on reusable shopping bags, the anticipated additional guidance for the phased reopening of food service establishments, and increasing public engagement with the reopening process.

Recommendation 1: Immediately lift the prohibition of reusable shopping bags and the suspension of single-use plastic mitigation laws.

According to the US Centers for Disease Control and Prevention (CDC): "The virus is thought to spread mainly from person-to-person...between people who are in close contact with one another...through respiratory droplets produced when an infected person coughs, sneezes, or talks."¹ The CDC also states that transmission of the novel coronavirus to persons from contaminated surfaces "has not been documented."² Dr. Ben Locwin, an epidemiologist and consultant to the CDC says, "You really are almost at nil risk of getting a surface contact transmission of COVID-19."³ Given this present understanding, recommendations for the disinfection of surfaces are appropriately being made out of an abundance of caution.

Connecticut Governor Lamont issued Emergency Order 7N on March 26, which contained a section relevant to reusable shopping bags that simultaneously protects both front line workers and the environment:

"Prohibits employers from requiring employees to place items in customers' reusable bags: The order prohibits employers of any grocery store or retail business from requiring their employees to bag items into a customer-provided reusable bag. Customers are still permitted to use reusable bags, but they may need to bag their own items."⁴

If any restrictions on shopping bags are deemed necessary by state medical experts in the next phase of reopening, we recommend that Massachusetts immediately lift its ban on reusable bags and instead adopt the Connecticut strategy, while issuing guidance to help grocers and retailers transition out of emergency bagging protocols.



Only three U.S. states have banned reusable shopping bags in response to COVID-19 (Illinois, New Hampshire and Massachusetts). Many states that suspended local or state plastic bag laws also issued statements qualifying the decision as a means to reduce checkout complications that may arise from implementing new laws, and out of deference to front line workers needing to maintain physical distancing.

Allowing the 136 Massachusetts municipalities that have passed single-use plastic bag reduction laws to again have jurisdiction to enforce their laws as they deem fit, while adhering to state-issued safety guidelines modeled after Connecticut's Executive Order 7N, would follow the best available science and achieve the collective goals of public safety, worker safety, and environmental protection.

Recommendation 2: Establish and publish final guidelines allowing and encouraging food service establishments to employ reusable foodservice ware and menus.

We are encouraged and grateful to see many of our recommendations reflected in the recently released preview mandatory safety standards, recommended best practices, and checklist for restaurants. We reiterate the facts below to strongly emphasize that encouragement of safe and responsible reusable consumer items should remain a guiding principle throughout the Commonwealth's entire reopening process and into the new normal.

The comprehensive guidelines established by the US Food and Drug Administration Food Code, including those sections adopted as regulations by the Massachusetts Department of Public Health as part of 150 CMR 590.000 (State Sanitary Code Chapter X – Minimum Sanitation Standards for Food Establishments) in late 2018, have long been held as a model of practical, science-based guidance to safeguard public health and mitigate risk factors that may cause or contribute to illness outbreaks associated with retail and foodservice establishments.

Even as scientific understanding of the novel coronavirus continues to improve, it is very clear that lipid-enveloped viruses like SARS-CoV-2 are swiftly and effectively destroyed by soap and water. This is especially true in commercial dishwashers, which are simply a more aggressive version of the frequent hand-washing with soap universally recommended as effective by public health and food safety experts.⁵

The US EPA has also published best practices on their website for effectively cleaning and disinfecting surfaces, which also includes a list of EPA-registered disinfectants.⁶

While the present CoViD-19 outbreak clearly necessitates certain precautions above and beyond minimum sanitation standards, especially regarding physical distancing and the wearing of face coverings, discouraging or disallowing reusable food service items and menus as part of this is not a data-driven decision. Indeed, as reusable foodservice ware is designed to be readily disinfected onsite in accordance with existing washing and handling regulations, these items can be used with the peace of mind that comes from knowing where they have been since the last time they were disinfected. The same cannot be said for most disposable items, which are typically used without cleaning at the end of a long supply chain with many hands along the way.

In developing additional guidance for the reopening of restaurant dining areas in Phase 2, we recommend considering the following:

- The State of Rhode Island's 'Phase I guidelines for Restaurants' are a good model to follow that reiterate existing food safety guidance and regulations while introducing CoViD-19 specific precautions.⁷
- The US FDA has developed extensive recommendations that include items such as discontinuing operations that require customers to use common utensils or dispensers, like buffets.⁸ They encourage



spacing between customers and emphasize the need to wash, rinse, and sanitize food contact surfaces, dishware, utensils, food preparation surfaces, and beverage equipment after every use.

- The [National Restaurant Association](#) recommendations include requiring the person in charge of foodservice be a certified food safety manager, eliminating table presets, sanitizing reusable menus, and installing touchless hand sanitation stations and sneeze guards where needed. Face coverings and employee temperature checks are also listed as suggestions.⁹
- **Storage:** Food establishments should store foodware after it has been sanitized and develop a protocol for handling foodware from the kitchen to the customer without cross-contamination. This should include avoiding pre-setting tables. Restaurant managers should work with their staff to develop a plan that minimizes the need for multiple staff to come in contact with a meal and associated foodware as it goes from prep to consumption.
- **Menus:** Full menus can be posted online to allow many customers to view from their own device. Onsite, establishments can consider using a reusable chalkboard or other large display visible upon entry instead of handing out individual menus. Guidance can be provided to avoid the need for disposable menus by collecting and properly sanitizing menus that are circulated to customers after each use, as has been included in guidelines provided by our neighboring New England states.
- **Condiments:** Condiments and seasonings, such as salt and pepper, should be provided only upon request and ideally served in reusable ramekins that are filled at the time of request. Guidance should be provided to properly clean and sanitize ramekins after each use.
- **Payment:** Recommending contactless payment options as a best practice would provide a way forward that avoids the exchange of potentially contaminated paper/plastic/coin currency and eliminates the need for communal pin pads.
- **Refills of Reusables:** Systems designed to provide no contact between the customer's reusable cup, container, or bag and retail surface areas can protect workers, and are consistent with an abundance-of-caution approach to addressing COVID-19 transmission. Working systems are in place and can be adapted for use in Massachusetts. As part of its coronavirus response, [New Zealand](#) has allowed reusable cups to be filled at coffee shops, ensuring contactless refills by having the cup placed on a sanitized surface by the customer, pouring in the ordered beverage, and re-sanitizing the surface once the cup is removed by the customer.¹⁰
- **Food Delivery:** A number of excellent food delivery models are in place that prove reusables can be a safe and effective option. For example, [Dispatch Goods](#), a reusable container system for takeout and to-go orders, has completed a number of successful pilots involving supplying restaurants with stainless steel containers which are then collected by Dispatch employees, undergo a three-stage sanitization process, and are returned to the restaurants. Other similar examples include [Coffee Cup Collective](#), [Just Salad](#), [rCup](#), [Vessel](#), [DeliverZero](#), [GO Box](#), among others. These systems are already active in a range of cities, including Boston. All of these systems have carefully thought out sanitation procedures that fully comply with health and safety codes. They also often involve minimum points of contact between sanitation and the customer, unlike with most disposables.



Recommendation 3: Take immediate steps to improve the transparency of and ease of public engagement with the reopening process.

We are sincerely grateful for the tremendous amount of thought and work that has been put in by your administration, by members of the Reopening Advisory Board (RAB), and by all relevant subcommittees, including meetings with some stakeholder groups. However, we must point out that there remain significant opportunities for increasing transparency and public engagement with this critical process that will profoundly affect all Massachusetts residents. In particular:

- The RAB should make every effort to publish full drafts of all plans and guidelines for public review, with enough time before implementation for robust public comment and feedback. The fact that over 4500 distinct public comments were received by the RAB prior to Phase 1 clearly shows keen public interest to participate in this process.
- Decision-making timelines for reopening plans and guidelines should be publicized in advance using a wide range of means, including Mass.Gov, broadcast media, social media, print media, etc. to ensure that all interested parties, regardless of background, are aware and able to participate meaningfully in the reopening process.
- The RAB and relevant sub committees should publicize agendas and dates for scheduled meetings, provide phone lines for interested members of the public to listen to deliberative sessions, and to provide a mechanism for public comment during at least a portion of such meetings. A similar model has been used with great success and high public engagement by New Hampshire's Re-Opening Task Force.¹¹
- A complete list of the members of the Restaurants, Accommodations, and Tourism Working Group (and any other reopening (sub)committees) should be prominently published on Mass.gov, along with contact e-mails for the submission of public comment, segmented by topic.
- Any technical or artificial limitations to the length, content, and formatting of submissions to public comment website forms should be minimized.
- In addition to full representation of business and commercial interests on the Restaurants, Accommodations and Tourism Working Group, there should be equitable representation of voices for environmental, social, and racial justice, including those from both inside and outside of state government. It also critical to provide representation for front-line workers who are disproportionately people of color and who will be personally impacted by the state's reopening guidelines and regulations, as well as the municipalities that will be responsible for interpreting and enforcing published rules.

Especially amidst these challenging times, thank you again for your attention to these issues and for taking our comments under consideration. Please do not hesitate to contact the Surfrider Foundation Massachusetts Chapter if any further details from us would be helpful to you.



Sincerely,

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¹ "Coronavirus Disease 2019: How it Spreads." *US Centers for Disease Control and Prevention*. <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>. Accessed: May 13, 2020.

² "Interim Recommendations for U.S. Households with Suspected or Confirmed Coronavirus Disease 2019 (COVID-19)." *US Centers for Disease Control and Prevention*. <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cleaning-disinfection.html>. Accessed: May 13, 2020.

³ Dr. Benjamin Locwin - statements made during April 30, 2020 webinar: <https://www.youtube.com/watch?v=xKG-DRAwIwPw&feature=youtu.be>

⁴ Connecticut Exec. Order No. 7N. March 26, 2020. <https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7N.pdf?la=en>

⁵ <https://www.cdc.gov/handwashing/show-me-the-science-handwashing.html>; <https://www.mass.gov/handwashing>; <https://www.vox.com/science-and-health/2020/3/11/21173187/coronavirus-covid-19-hand-washing-sanitizer-compared-soap-is-dope>

⁶ "List N: Disinfectants for Use Against SARS-CoV-2." *US Environmental Protection Agency*. <https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2> Accessed: May 13, 2020.

⁷ "Reopening RI: Phase I guidelines for Restaurants." *State of Rhode Island*. May 11, 2020. https://www.reopeningri.com/resource_pdfs/RI-Restaurant_Guidance_Phase-I-%2005.11.20.pdf

⁸ "Best Practices for Retail Food Stores, Restaurants, and Food Pick-up/Delivery Services During the COVID-19 Pandemic." *US Food and Drug Administration*. <https://www.fda.gov/food/food-safety-during-emergencies/best-practices-retail-food-stores-restaurants-and-food-pick-up-delivery-services-during-covid-19> Accessed: May 13, 2020.

⁹ "COVID-19 Reopening Guidance: A Guide for the Restaurant Industry." *National Restaurant Association*. April 22, 2020. <https://restaurant.org/Downloads/PDFs/business/COVID19-Reopen-Guidance.pdf> Accessed: May 13, 2020.

¹⁰ Woolf, A-L. "Coronavirus: Reusable cups at cafes are allowed, Ministry of Health says." *Stuff.co.nz*. April 30, 2020. <https://www.stuff.co.nz/life-style/food-wine/300001364/coronavirus-reusable-cups-at-cafes-are-allowed-ministry-of-health-says>; "Alert Level 3" *New Zealand Government*. <https://covid19.govt.nz/alert-system/alert-level-3/> Accessed: May 13, 2020.

¹¹ <https://www.nheconomy.com/reopeningtaskforce>

