



# Approaching Updated Travel Restrictions & Quarantine Rules

August 11, 2020

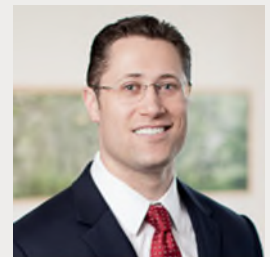
In our recent [webinar](#), *Approaching Updated Travel Restrictions & Quarantine Rules*, Goulston & Storrs attorneys discussed what the Massachusetts state quarantine order means for employers and employees, including the associated operational challenges and legal issues. Similar with quarantine orders and guidance in New York and Washington D.C., these requirements create vague employer obligations with employee personal and leisure travel, and they raise uncertainties about interstate business operations and undefined “business travel.”

**Massachusetts Travel Quarantine Order.** On July 24, 2020, Governor Baker issued COVID-19 Order No. 45 (the “Travel Order”), which institutes a mandatory 14-day quarantine for travelers arriving in Massachusetts. Effective August 1, 2020, all individuals entering Massachusetts (except for certain transitory visitors) must complete an online travel form and quarantine for 14 days. Individuals may be exempt from quarantine if (1) they are coming from a “lower risk” state, as determined by Department of Public Health; or (2) they received a negative COVID-19 antigen test taken up to 72 hours prior to their arrival in Massachusetts; or (3) they fall into one of the circumstance-specific exemptions listed in the Travel Order. Individuals may reduce the quarantine period by receiving a negative COVID-19 antigen test taken at any time during the 14-day quarantine period. In addition, employers are requested to “take measures to ensure employees comply with all State-issued rules concerning out of state travel for any employer-paid or employer-reimbursed travel” and are urged to “strongly discourage their employees from taking leisure travel to non-lower-risk destinations.” Violations of the Travel Order may result in civil fines and injunctive relief.

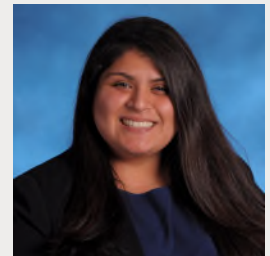
**Coordination With FFCRA Paid Sick Leave.** The federal Families First Coronavirus Response Act (“FFCRA”) entitles employees to 80 hours of paid sick leave if they are subject to a mandatory state or federal quarantine due to COVID-19. Employers may not directly or indirectly interfere with an employee’s entitlement to FFCRA sick leave. This sick leave entitlement and anti-retaliation protection is independent of an individual’s intent or culpability. For example, an employee may be subject to quarantine because they were involuntarily exposed to COVID-19 at work, or because they chose to vacation in a high-risk area. Under current guidance, both scenarios allow the employee to use FFCRA sick leave, but we expect to see further development in this area.

**Quarantine Limitations.** The Travel Order allows for individuals to avoid the quarantine by producing a negative COVID-19 antigen test taken 72 hours before arriving in Massachusetts (at their own expense), or to reduce the quarantine period by taking a test in Massachusetts and receiving a negative result during the quarantine period. However, quarantine is the default result; the Travel Order does not require a COVID-19 antigen test at all. Therefore, employers that *require* employees to take a COVID-19 antigen test (either to avoid or to shorten the quarantine) may have to pay for the test. Given the current demand for testing and delays in receiving test results, it may not be possible to receive a negative test result within the timeframe to either avoid quarantine or reduce the quarantine period by a meaningful amount of time. Therefore, it may not make logistical sense for an employer to require a COVID-19 antigen test from returning employees in an effort to avoid or reduce the quarantine period.

To stay updated on our latest **advisories, blogs,** and **guidance** related to COVID-19, please visit the Goulston & Storrs Online Resource Center [goulstonstorr.com/coronavirus-disease-2019-covid-19/](https://goulstonstorr.com/coronavirus-disease-2019-covid-19/)



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**Employee Travel Limitations.** Employers are placed in a difficult situation in trying to discourage employees from traveling to high-risk areas. Some states (like New York) prohibit an employer from restricting personal travel, while other states (like Massachusetts) do not.

Some employers with strong concerns about employee travel may elect to suspend vacation policies altogether during the pandemic. However, employers should be sensitive to the fact that employees may need to travel to high-risk areas for family emergencies, medical treatment, and other personal reasons like funerals.

In addition, personal travel restrictions may be difficult to enforce. If an employer implements a policy restricting travel and an employee travels to a high-risk area in violation of the policy (thereby triggering quarantine and FFCRA sick leave), the employer may want to discipline the employee for violating company policy. However, the employee may allege that the discipline was in retaliation for the employee using FFCRA leave, not for violating the travel policy.

**What Should Employers Do?** Employers should focus on educating employees on the risks of traveling to high-risk areas and ensuring that any business travel at the employer's request is limited to low-risk areas. Employers also may require all employees who travel for leisure to report their travel destinations in advance, so employers can anticipate potential quarantine leave and plan for any potential staffing shortfalls. This simple approach could help keep employees mindful of the health and well-being of their co-workers, while protecting employee privacy. Some of the other approaches mentioned in this article may be appropriate if state law allows. In all events, employers should consult with their counsel before implementing new travel policies and restrictions.

### For More Information

Have additional questions regarding travel restrictions or additional COVID-19-related guidance? Please contact your **Goulston & Storrs** [attorney contact](#).

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