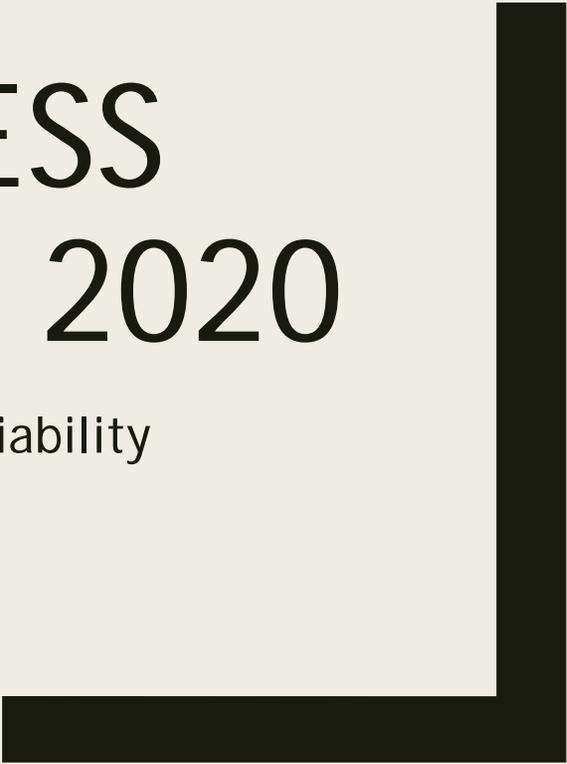




# SMALL BUSINESS WEBINAR SERIES 2020

Protecting Your Business From Legal Liability  
During Reopening





Montana. Social distancing since 1889. Helped along with some local news stations.

# Protecting Your Business From Legal Liability During Reopening

- Legal Liability
- Mitigating your risk
- Potentially impacted areas
- Resources

# What is legal liability?

The state of being bound or obliged in law or justice to do, pay or make good something; legal responsibility.

Black's Law Dictionary





This term "reasonable person" refers to an ordinary person who exercises care while avoiding the extremes of boldness and carefulness.

Black's Law Dictionary

The “reasonable person” standard is ultimately decided by your judge or jury.



Mother's Day diners in Castle Rock, CO after opening against state orders.

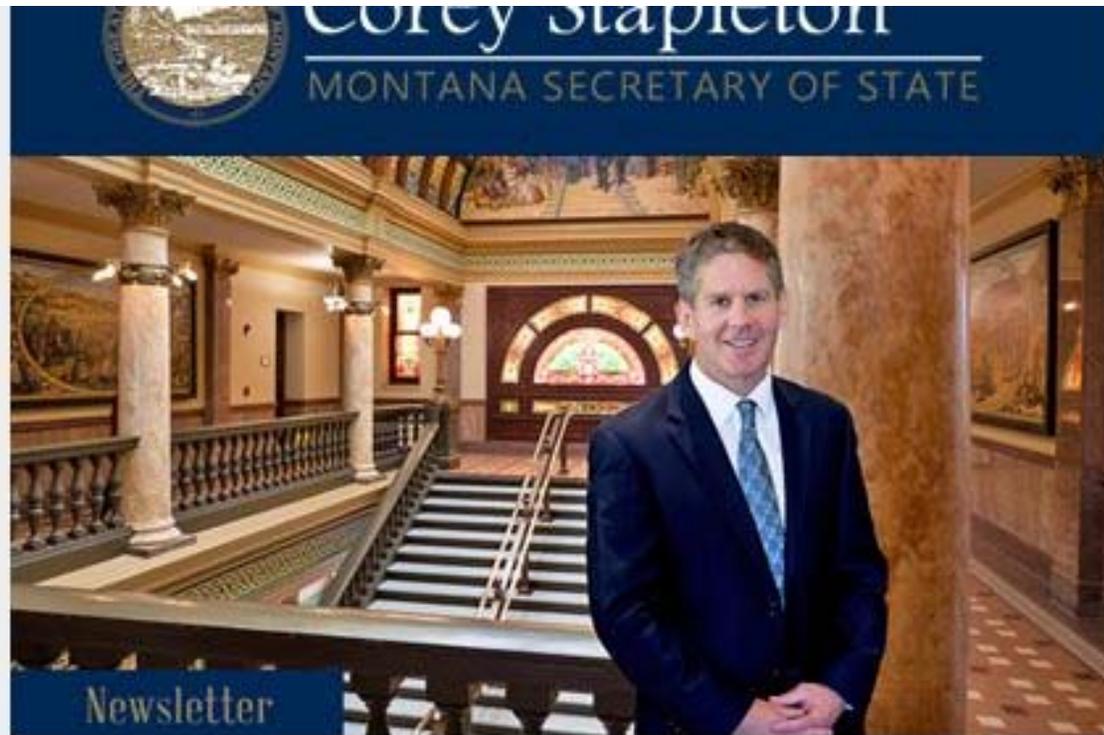
Waffle House in Savannah, GA during the first phase of the state's reopening.



May 10, 2020

Bulletin from  
Montana  
Secretary of  
State Corey  
Stapleton

<https://content.govdelivery.com/accounts/MTSOS/bulletins/28ac49f>



**Montana Business Forecast**

By Corey Stapleton

I was more sad than disappointed, when April 15<sup>th</sup> came and went and our Business Services division reported 11,000 fewer businesses had renewed their registrations in Montana compared to last year.

The economic, social, and health-related disruptions from the coronavirus are historic. And Montana business owners, like everyone else, have to make difficult choices. Still, it hurts to watch.

United States unemployment is now 14.7 percent. The job losses from last

# General Business Reopening Guidelines



## PHASE ONE: ALL SETTINGS

- Health assessments must be conducted for all employees at the beginning of each shift.
- In establishments where customers wait in a line, non-household customers should remain physically distanced.
- Waiting areas where adequate physical distancing cannot be maintained must be closed.
  - Customers should be encouraged to call for a reservation or an appointment, or establishments should use an online wait listing application.
- Physical distancing of 6 feet must be maintained between non-congregate customers, this may require:
  - A reduction in capacity;
  - A reduction of seating in service and waiting areas;
  - Management of waiting areas and waiting lines; or
  - Systems that reduce the amount of contact time between customers and staff.

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## Restaurant / Bar / Brewery / Distillery / Casino Guidelines Continued



### PHASE ONE: RESTAURANTS

- Capacity must be limited to 50% of normal operating capacity to allow for adequate group spacing.
- Tables must be limited to six people per table.
- Establishments must provide for 6 feet of physical distancing between groups and/or tables by:
  - Increasing table spacing, removing tables, or marking tables as closed;
  - Providing for a physical barrier between tables; or
  - Back-to-back booth seating provides adequate separation.
- In-house dining for quick service restaurants should remain closed, if all guidelines can't be met, including the cleaning of every table between customers.
- Sitting or standing at bars or counters is not allowed.
- In bars, drinks and food must be served to customers at a table.

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## Restaurant / Bar / Brewery / Distillery / Casino Guidelines Continued



### PHASE ONE: RESTAURANTS CONTINUED

- Self-service buffets must be closed.
- Drive-thrus are not allowed.
- Self-service cups, straws and lids should be behind a counter and handed to customers.
- Self-service condiments should be eliminated.
- Gaming machines that are operational must be separated by 7-foot center to center. Machines must be placed out of service if adequate spacing cannot be assured.

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## Outdoor Recreation Guidelines



### PHASE ONE AND TWO: RECREATION GUIDELINES

- Public lands, fishing access sites, and parks are encouraged to continue to provide outdoor recreation opportunities for local and regional users provided that users can adhere to strict social distancing guidelines and facilities follow frequent sanitizing protocols. Areas that cannot practically implement social distancing requirements or sanitation needs will remain closed. Limited campground offerings, group-use facilities and playgrounds, may be opened at the discretion of local and state managers. Local, state and federal officials are strongly encouraged to coordinate on all reopening decisions. Guides and outfitters may offer services consistent with any ongoing quarantine travel restrictions provided they adhere to social distancing guidelines and sanitation protocols. Visitors should check the status of any closures and restrictions before traveling.

### PHASE THREE: RECREATION GUIDELINES

- Campground, group-use facilities, playgrounds and visitor centers are fully open.

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## Personal Care / Services Guidelines



### PHASE ONE: PERSONAL CARE (SALONS, MASSAGE, BODY ART, ETC.)

- Operations that require close personal contact for an extended period result in exposing staff and customers to greater levels of risk. These situations require additional safety and health precautions.
- Screen customers prior to appointment for symptoms of fever, shortness of breath or a cough. Customers that have any of these symptoms must be rescheduled.
- Utilize a face mask for staff and for customers when practical.
- Stylist / artist / service provider and customer would be a "station" that would be 6 feet away from other "stations".
- Provide for 6 feet of physical distancing between stations, this may require:
  - A reduction in capacity;
  - Increasing spacing, removing stations, or marking stations as closed;
  - Providing for a physical barrier between stations;
  - A reduction of seating in service and waiting areas; or
  - Systems that reduce the amount of contact time between customers and staff.

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<https://covid19.mt.gov/>

# Mitigating the risk

## Read and review Governor Bullock's Orders

- Does your business require PPE (Personal Protection Equipment)?
- Enact sanitations procedures
- Enact social distancing policies, including any signage
- Close communal areas, like breakrooms and smaller conference rooms
- Educate your staff
- Check back in regularly for updates

# Mitigating the risk...continued

## Contact your county and city departments

- Some guidance has been deferred to counties and local municipalities.
- Local law enforcement will be charged with enforcement, which might not be uniform around the State of Montana.
- Some websites are easier to navigate than others, but do not hesitate to reach out to your local authority.
- Each county will supplement directives for adhering to the reopening guidelines or defer to federal authorities (such as the CDC for cleaning and disinfection).

# Your employees and customers

- PPE?
- Social distancing
  - Signage, markings or physical barriers?
- Employee symptom screening
- Customer travel or symptom screening
- Sanitation and disinfection policies



BEWARE: Discrimination and retaliation laws survives all things COVID.

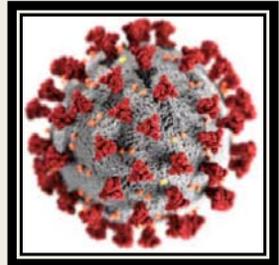
Economic Policy

# White House and Congress clash over liability protections for businesses as firms cautiously weigh virus reopening plans

McConnell says liability protections for businesses are a requirement; Pelosi and Democrats say no. And there's no sign of compromise.

By [Erica Werner](#) and [Tom Hamburger](#)

May 3, 2020 at 7:04 a.m. MDT



## Walmart hit with wrongful death lawsuit after employee dies of COVID-19 complications

*Wando Evans was 51 when he died of COVID-19 complications on March 25.*

By [James Hill](#) and [Catherine Thorbecke](#)

April 8, 2020, 1:26 PM • 6 min read



## Bullock adds gyms, movie theaters, museums to Montana's phased reopening plans

Tribune Staff Published 2:43 p.m. MT May 7, 2020 | Updated 4:53 p.m. MT May 7, 2020

## 5 common arguments for reopening the economy -- and why experts say they are flawed



By [Holly Yan](#), CNN

Updated 5:46 PM ET, Mon May 11, 2020



# Guidance regarding your business

## Contact your professionals

- Attorneys
- Business Advisor or Financial Advisor
- Accountant
- Insurance Agent
- Front Line Professionals
- Local authorities



# Cybersecurity: Remote access for work, encryption software and safety measures.



Figure 1. Screenshot of the malicious website "Corona-Virus-Map[dot]com" pretending to be a legitimate COVID-19 tracker.

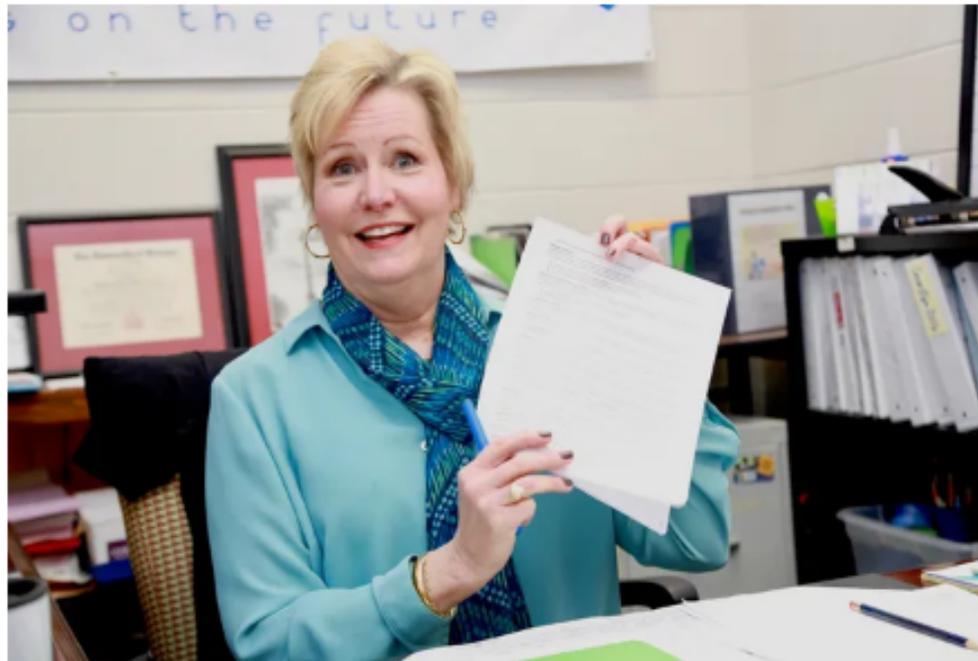


# Insurance Agents

## Woman wins \$10,000 for reading fine print on her insurance policy

[Josh Hafner](#) USA TODAY

Published 1:31 p.m. ET Mar. 7, 2019 | Updated 8:39 p.m. ET Mar. 7, 2019



Donelan Andrews reads every word of every contract, every time. [Squaremouth](#)

# Business Advisors or Financial Advisors



**MONTANAWORKS** 🔍 Login Register ☰

**Workers & Businesses Affected by COVID-19** [View the latest information here.](#)

Self-Employed, Independent Contractors and Others can now apply for Pandemic Unemployment Assistance.

# Attorneys



- Contracts
- Landlord/Tenant issues
- Unemployment Insurance
- Estate Planning
- Business or Farm Succession Plans
- Discrimination/Retaliation
- Bankruptcy
- Corporate Litigation
- Personal Injury

# Ultimately, the choice is yours...

## Costs for Compliance

- Masks and PPE
  - Sanitation supplies and wipes
  - Hand sanitizer
  - Thermometer
  - Your time and energy
- 
- **YOUR TIME and POTENTIAL WAIT FOR DELIVERY OF SUPPLIES**



# Ultimately, the choice is yours...



## Costs of Noncompliance

- Costs of litigation
- Attorneys' fees
- Expert witness testimony
- Mediation or arbitration
- Your time and energy (+)
- **SETTLEMENTS or JUDGMENTS**

# MANAGING CORONA VIRUS (COVID-19) ANXIETY



## For You

- Avoid excessive exposure to media coverage
- Connect through calls/text/internet
- Add extra time for daily stress relief
- Practice self-care
- Focus on your mental health

Blessing Manifesting

## For Kids!!!

- Reassure them that they're safe
- Let them talk about their worries
- Share your own coping skills
- Limit their news exposure
- Create a routine & structure

## For Quarantine/Isolation

- Keep in contact with your loved ones via social media, texts, and phone calls
- Create a daily self-care routine
- Keep yourself busy: games, books, movies
- Focus on new relaxation techniques

# RESOURCES

## Federal

- <https://www.cdc.gov/coronavirus/2019-ncov/index.html>
- <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program>
- <https://covid19relief.sba.gov/#/>

## State

- <https://covid19.mt.gov/>
- <https://content.govdelivery.com/accounts/MTSOS/bulletins/28ac49f>
- <https://dphhs.mt.gov/publichealth/cdepi/diseases/coronavirusmt>
- <http://msucommunitydevelopment.org/smallbusiness.html>
- [http://dli.mt.gov/employer-covid-19-faq?pk\\_vid=7195f385b2a838c21589401980b917e8](http://dli.mt.gov/employer-covid-19-faq?pk_vid=7195f385b2a838c21589401980b917e8)
- <https://covid19.mt.gov/LinkClick.aspx?fileticket=gKJsxo0CNWc%3d&portalid=223>

## Local

- <http://www.cchdmt.org/covid19/>
- <https://growgreatfallsmontana.org/>

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