



CEASE AND DESIST ORDER

BUSINESS NOT ELIGIBLE TO BE OPEN UNDER MASSACHUSETTS COVID-19 ORDERS EFFECTIVE IMMEDIATELY

DATE: October 2, 2020

DLS CASE # 21C-9229

NAME OF BUSINESS: The Freeze Pops

ADDRESS OF BUSINESS: Berkley, MA

The Massachusetts Department of Labor Standards (DLS), working under the authority of the Governor's emergency orders, including COVID-19 Order Nos. 33,37, 43, 46, 51 M.G.L. c. 149, §§ 6, 6-1/2, and M.G.L. c. 111, § 30, hereby issues a **Cease and Desist Order** to the Respondent identified above, for reasons stated herein.

DESCRIPTION OF VIOLATION

The Respondent is a business, organization, or enterprise that is not an industry permitted to be open under Phase I, Phase II, or Phase III Step 1 of the Massachusetts COVID phased reopening and has not closed their physical workplaces and facilities ("brick-and-mortar premises") to workers, customers, and the public pursuant to Massachusetts COVID-19 Order Nos. 33, 37, 43, 46 and 51.

<https://www.mass.gov/doc/phase-3-order-july-2-2020/download>

<https://www.mass.gov/doc/governors-covid-19-order-51/download>

DLS was made aware of a private wedding that was held indoors, where the Respondent performed live music with singing. This wedding occurred on 8/29/2020 in Fairhaven, MA. At the time of the wedding, indoor performances were not allowed. As of the most current standards, indoor singing is not allowed.

Activities Not Permitted in Phase III, Step 1 and Phase III, Step 2.

Singing is not allowed for any indoor performances: <https://www.mass.gov/doc/sector-specific-workplace-safety-standards-phase-iii-step-1-for-theaters-and-performance-venues/download>

Activities Permitted in Phase III Step 1 and Phase III Step 2

Outdoor performances are allowed in Phase III Step 1 and Phase III Step 2, when following all COVID safety standards for Theaters and Performance Venues. These requirements include: Singers must be positioned at least 25 feet of distance from the audience. Microphones must be disinfected after each person. A spit barrier should be placed over the microphone. Disinfection is still mandatory when a spit barrier is used. Group singing activities are highly discouraged due to the high risk of COVID transmission. <https://www.mass.gov/doc/sector-specific-workplace-safety-standards-phase-iii-step-1-for-theaters-and-performance-venues/download>

Indoor performances are allowed in Phase III Step 2, when following all COVID safety standards for Theaters and Performance Venues. This phase starts October 5, 2020 and is only allowed in “Low Risk” communities. Singing is not allowed at any indoor performances, even when indoor music is permitted. <https://www.mass.gov/doc/sector-specific-workplace-safety-standards-phase-iii-step-2-for-theaters-and-performance-venues/download>

<https://www.mass.gov/doc/phase-3-order-july-2-2020/download>

PENALTY

Operation of Non Phase I, II or III Step 1 Enterprise: Violation of terms of COVID-19 Order Nos. 33, 37, 43, and 46 may result in a civil fine up to \$300 per violation, in the manner provided for in M.G.L. c. 277, § 70C.

ENFORCEMENT

The Department of Labor Standards may be assisted by the local Board of Health, local Police, and State Police to enforce this **Cease and Desist Order**.

ABATEMENT

Submit proof of compliance with this Cease and Desist Order within one business day of receipt of this order to the Department of Labor Standards at email safepublicworkplacemailbox@mass.gov, or call 508-616-0461, ext. 9488. Failure to provide proof of compliance may result in penalty.

OMBUDSMAN PROCEDURE

An informal review of this **Cease and Desist Order** may be initiated by requesting an Ombudsman review within three (3) business days of receipt, counting the day this Order was received. The Respondent must either send an email to safepublicworkplacemailbox@mass.gov with the email's Subject line including the request and the case number, for example, "Ombudsman Review Request, Case No. 21C-9229," or call 508-616-0461, ext. 9488 and make the same request on voicemail.

THIS NOTICE SHALL REMAIN IN EFFECT UNTIL:

- 1) THE CEASE WORK ORDER IS RESCINDED BY THE DIRECTOR OF THE DEPARTMENT OF LABOR STANDARDS; OR**
- 2) GOVERNOR'S EXECUTIVE ORDER IS RESCINDED.**

Department of Labor Standards

COVID-19 Response Team

safepublicworkplacemailbox@mass.gov

508-616-0461, Ext. 9488