

Business travel in the time of COVID

Business travel in the time of COVID-19 is complicated. It's no longer possible to book a last-minute overseas flight for an urgent business meeting. Pandemic restrictions mean every business travel decision has to be carefully planned. Gone are the days when a regional manager could get in the car for a salesperson ride-along. With some states and countries requiring quarantine upon entry, business travel is not simple anymore. Here's how to cope.

National travel recommendations



Travelers can find state-level data on COVID cases on the Centers for Disease Control (CDC) website at https://covid.cdc.gov/covid-data-tracker/#cases_totalcases. State departments of health should have local data for counties, cities, and towns.

States may require a sworn statement the traveler has self-isolated for 14 days prior to travel. Some states, such as New Jersey, Vermont, and California among others require a 14-day quarantine period for travelers from high-risk areas. Choosing to layover in the wrong state could result in an inordinate delay.

States may also require a statement the traveler is COVID symptom-free. Some states have permitted cities and other smaller government units to establish their own protocols.

Many hotels, restaurants, and other public accommodations are collecting contact information for tracing should a positive case be found. Employers and employees who are tempted to "fudge" the isolation and symptom

data could be liable if contact tracing reveals the falsehood. In many cases, the signed statement is an “unsworn statement” to a governmental agency. Prosecutors have been known to charge people with the crime of unsworn falsifications to authorities under state and federal laws.

Some states have passed or proposed legislation to limit COVID-related business liability, including inadvertently spreading COVID infections. Exactly how that will play out is far from certain. Given the patchwork of laws – some covering specific industries and not others – there’s no guaranteed lawsuit protection.

Tips: Before sending employees on a business trip, know the restrictions they will face. Ensure the employee can accomplish the trip’s goal given those restrictions. Determine whether the firm, client, or vendor visited is comfortable accepting a visitor.

International business travel restrictions

Currently, there are very few foreign travel options for Americans. Brazil, China, Iran and most European countries severely restrict American travelers. Currently, American borders with Canada and Mexico are closed for most travel through October 21, 2020. That’s not to say that all trade has stopped. It is theoretically possible to cross borders to conduct essential business. For example, Canada’s restrictions are on avoidable or leisure crossings and allow for some essential purposes. In reality, however, Canada approves very few requests unless the business travel benefits critical infrastructure and Canadian national interest. Employers wishing to send an employee abroad must check all restrictions including quarantine requirements. The amount of time on the road could make foreign travel for all but the most important reasons unfeasible.

Cars, trains, and airplanes

A positive side effect of the pandemic is heightened cleanliness standards for rental cars, trains, and airplanes. Railroads and airlines are requiring passengers to wear masks. Employees will have to abide by those restrictions. These modes of travel may compromise social distancing. Airlines, however, use hospital-grade HEPA air filters and recirculate the air every five minutes. Coupled with the generally drier air, virus transmission on airplanes is relatively rare.

Airports have raised their cleanliness standards as well. Airlines are experimenting with new boarding procedures that include effective social distancing. The Transportation Security Administration (TSA) has adjusted its practices to meet CDC guidelines. TSA tips include:

- Maintain a social distance of six feet wherever possible while at the checkpoint.
- Wear a face mask throughout your travel experience. You may be asked to adjust your mask for ID verification or if it alarms the security screening equipment. If you don’t have a face mask and you require a pat down, a TSA officer will offer one to you.
- Remove belts and all personal items from your pockets such as wallets, keys or phones before you enter the checkpoint queue and place them in your carry-on bag.
- Remove food items from carry-on bags and place in bin for screening.
- Practice good hygiene, such as washing your hands regularly, including directly before and after completing the security screening process. If it is not possible to wash your hands, please use hand sanitizer.
- Arrive at the airport early to allow adequate time for checking bags, completing security screening and getting to the departure gate. COVID-19 has affected staffing and operations across the airport environment, potentially adding time to your pre-flight experience.

Employees with COVID symptoms or who fear they have been exposed to COVID should consult a healthcare provider before travel.

Tools that can help

Given the information needed for travel, the American Automobile Association (AAA) has updated its triptik app to provide COVID travel information. The app, available at triptik.aaa.com, is updated daily with restrictions and advisories within the US. It also provides updates on Canada and Mexico border closures.

For international travel, (covidcontrols.co) allows travelers to input their country of origin and destination to learn what hurdles they will face. Fliers can download an app from airsiders.com that will update them on individual airport protocols. The app also provides each airline's travel requirements.

FLSA considerations

The time employees spend complying with COVID-related requirements is compensable. The Fair Labor Standards Act (FLSA) also requires employers to pay employees for time donning and doffing protective equipment. Employers should factor in the costs of:

- personal protective equipment (PPE);
- change and cancellation fees for flights and rental cars; and
- technology needed for the employee to work during delays.

Travel in the COVID era will cost more generally as airlines and trains operate at lower capacity. Make sure to include all costs when pondering business trips.

ADA, FMLA & OSHA considerations

Even if no governmental restrictions bar a particular trip, employees who are high-risk for COVID infection could opt out. The Americans With Disabilities Act (ADA) requires employers to provide reasonable accommodations to disabled employees. Depending on the circumstance, allowing an employee to stay home from travel may be an appropriate accommodation.

The EEOC has issued [guidance](#) urging employers to accept telework as a reasonable accommodation. Employers should treat a request not to travel due to health fears as a reasonable accommodation request. It is vital to train supervisors to understand how the ADA interacts with COVID.

Some employees could opt to take leave under the Family and Medical Leave Act (FMLA) rather than travel. Employees with a serious health condition that COVID could exacerbate may be eligible for FMLA leave. Similarly, an employee caring for an immediate family member with COVID could qualify as well.

Again, the key to escaping liability is training. Supervisors must recognize requests for leave and refer them to human resources. Supervisors should not dismiss either accommodation or leave requests without having the appropriate parties evaluate them.

Employers have a general duty to provide a safe workplace under the Occupational Safety and Health Act (OSHA). When sending employees on a trip, employers should consider:

- the infection rates at the employee's destination and stopping points;
- mitigation measures at those places; and
- mitigation measures the employee should take for self-protection and to avoid spreading the disease.

As a reminder, any exposure the employee may encounter while traveling could trigger a Workers Compensation claim.

Future travel

Experts expect business travel to return to approximately 80% of 2018 levels by 2022. The climb back to pre-pandemic levels will be an arduous slog. In the meantime, employers should plan for that climb, but be realistic about the risks involved. Telework arrangements and distance communications are the order of the day. They should only be abandoned when it is economically feasible and safe to do so.