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Sent: Friday, July 31, 2020 9:37 AM
To: Christina Thrun
Subject: What the Mask Mandate Means for You



What the New Mask Mandate Means for You

What happened?

Governor Evers issued Executive Order #82 declaring a “new” public health emergency to address the new high virus activity levels. Pursuant to this “new” public health emergency order, the Governor issued “Emergency Order #1” requiring face coverings in certain situations. The order goes into effect at 12:01 am on Saturday, August 1, 2020, and expires on September 28, 2020.

Is it legal?

Maybe. There will likely be a court challenge as to whether the Governor’s Executive Order declaring a new public health emergency is valid. A Governor may issue a public health emergency for sixty days. After sixty days the order expires unless it is extended by the legislature. Opponents of this Order will argue that the Governor cannot avoid the need for the legislature to extend the original emergency order by simply declaring a new one. The Governor will argue that this is a new set of facts (i.e., the second wave) that led to this new emergency order.

What does the Face Covering Order Require?

You will need to wear a face covering whenever you are indoors or in an enclosed space and other people are present in the same room. The examples given are when you are shopping or in a taxi. There are many exceptions to the face covering requirement.

You do not have to wear a face covering if you are at a private residence, you are outdoors, or you are indoors and no one else is present. You may remove the face covering when you are eating or drinking, communicating with someone that is deaf or hard of hearing, while sleeping (firefighters at a fire station), swimming, giving a presentation (limited circumstances), when you are working if wearing a face

covering poses a safety risk, as determined by government safety guidelines or regulations, to confirm your identity like at a bank or buying alcohol, and when engaged in federal or state activity that prohibits a face covering.

Do construction workers have to wear a face covering while working outdoors?

No. The Order does not require people to wear a face covering while outdoors. It does require that a person wear a face covering during work within an “enclosed space” and other people are present in the same room unless wearing the covering poses a safety risk, as determined by government safety guidelines or regulations.

What is an enclosed space?

Under the order, an “enclosed space” means a confined space open to the public where individuals congregate, including but not limited to outdoor bars, outdoor restaurants, taxis, public transit, ride-share vehicles, and outdoor park structures. New home construction or remodeling at a private residence is not an “enclosed space” so long as it is not open to the public.

Do you need to wear a face covering while building a house?

It depends. The order requires a face covering be worn when a person is “indoors” or in an “enclosed space” and another person or persons are present that are not part of your household or living unit. As stated above, a private construction site is not an “enclosed space”. So long as construction of the house is outside, the worker does not have to wear a face covering.

At what point is a semi-built house considered “outdoors” or “indoors”?

There is no guidance as to what constitutes “indoor” for purposes of construction when the structure is not completed. This is a case where common sense should be used. If the house is mostly complete, the worker is working on the technical inside of the house, and another worker or workers are present, the worker should use common sense and wear the face covering. If the worker is alone or the house is obviously wide open (for example, only the rough framing is completed), then a face covering does not have to be worn.

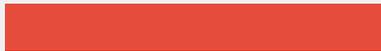
If workers are outdoors but cannot social distance, do they have to wear face coverings?

No – but the Order strongly recommends that face coverings be worn in all settings, including outdoors when it is not possible to maintain physical distancing.

What is the penalty for not wearing a mask?

A forfeiture of up to \$200.00.

Guidance provided by Robert Procter, Axley Attorneys



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