

Face Covering Policy FAQ

(as of July 27, 2020)

These FAQs provide general guidance on how small businesses in the Los Angeles area can comply with face covering regulations. This document does not constitute legal advice.

In light of the ever-changing state of COVID-19 regulations, business owners are encouraged to monitor the California and Los Angeles County websites for the latest guidance.¹ Each business owner must carefully evaluate the applicable orders to determine the compliance steps required for their individual business:

- **General California Orders on COVID-19:**
<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx>
- **California Department of Public Health Face Covering Guidance (June 18, 2020):**
https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Guidance-for-Face-Coverings_06-18-2020.pdf
- **California Industry Guidance:** <https://covid19.ca.gov/industry-guidance/>
- **California Employer Playbook For a Safe Reopening:**
<https://files.covid19.ca.gov/pdf/employer-playbook-for-safe-reopening--en.pdf>
- **Los Angeles County Face Covering Guidance:**
<http://www.publichealth.lacounty.gov/media/Coronavirus/docs/protection/GuidanceClothFaceCoverings.pdf>

If you are uncertain about a specific issue, you can call the California Statewide COVID-19 Hotline for more information: 1-833-4CA4ALL (1-833-422-4255) | Monday - Friday 8 a.m. to 8 p.m. PDT and Sat/Sun 8 a.m. to 5 p.m. PDT.

1. Can I require my customers to wear a face covering?

Yes. In fact, in California, people *must* wear face coverings when they are inside of any indoor public space.²

On March 4, 2020, Governor Newsom declared a state of emergency in California due to the rapid spread of COVID-19.³ Governor Newsom has broad authority under the California

¹ State laws will generally prevail when state and local laws are in conflict. However, there is no blanket answer as to whether any given state law will actually preempt a local law.

² California Department of Health, *Guidance for the Use of Face Coverings* (June 18, 2020) (revised on June 29, 2020), https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Guidance-for-Face-Coverings_06-18-2020.pdf.

³ Office of Governor Gavin Newsom, Governor Newsom Declares State of Emergency to Help State Prepare for Broader Spread of COVID-19 (Mar. 4, 2020) <https://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-19/>.

Emergency Services Act to make face coverings mandatory in the event of a state of emergency.⁴

2. Can I put up signs that notify customers that they must wear a face covering? What can/can't the sign say?

Yes, you can put up a sign. Currently, there is no legal requirement that “Face Coverings Required” or “Masks Required” signs must contain qualifying language.

3. Who is exempt from wearing a face covering?

According to the California Department of Health, the following individuals are exempt from wearing a face covering:

- Persons younger than two years old.
- Persons with a medical condition, mental health condition, or disability that prevents them from wearing a face covering.
- Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service.
- Persons who are seated at a dining establishment while they are eating or drinking, provided that they are at a distance of six feet away from persons who are not members of the same household.⁵

Exempt individuals are not required to wear a face covering inside of your business. Please check the California Department of Health website (linked above) for the most recent list of exemptions.

4. What can I do if a customer refuses to wear a face covering?

It is your right to refuse service to a customer who refuses to wear a face covering if your business is on private property in the same way that you can refuse service to a customer who is not wearing a shirt or shoes.

⁴ Cal. Gov. Code § 8627.5

⁵ California Department of Health, *Guidance for the Use of Face Coverings* (June 18, 2020) (revised on June 29, 2020), https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Guidance-for-Face-Coverings_06-18-2020.pdf.

5. What if the customer claims that they have a disability or are otherwise exempt from the face covering requirement?

If a customer with a disability cannot wear a face mask, you must provide reasonable modifications to your business's face mask policy so that the customer is able participate in the

goods or services that you provide.⁶ For example, if your business is a grocery store, you can offer curbside pickup for someone who cannot wear a mask. Or, you can allow that customer to wear a loose scarf or face shield instead of a mask.

Under the Americans with Disabilities Act, you may not ask what the disability is.

6. Do I face legal liability if I refuse to serve a customer who is not wearing a face covering?

If the customer does not have a disability, you do not face legal liability for refusing to serve them. Nor do customers have a constitutional right to not wear a face covering.

In addition, your business is not required to serve *any* individual if doing so presents a direct threat to the health or safety of others, based on an individualized, reasonable assessment.⁷ In making that assessment, you must consider whether reasonable modifications to your face covering policy for that particular individual will mitigate the risk.

⁶ ADA Title III Regulation, 28 C.F.R. § 36.302, available at https://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm#a302.

⁷ ADA Title III Regulation, 28 C.F.R. § 36.208, available at https://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.htm#a208.