



California Employers Face New Obligations Under New Mandatory Face Covering Law

Insights

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When California declared that face coverings will be now required in public, employers across the state were handed new obligations when it comes to their workers and anyone else entering the workplace. In announcing this new requirement, Governor Gavin Newsom encourages all Californians to do their part to slow the spread of COVID-19 by wearing a mask – and employers have an important role to play in this arena. What do employers need to know in order to ensure compliance?

Face Covering Requirements

It is important to first understand the extent of the new law before discussing employer obligations. Everyone in California must now wear face coverings when they are in a variety of situations deemed by the state to be higher risk, including the following:

- Inside of, or in line to enter, any indoor public space;
- Obtaining services from the healthcare sector in settings including, but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank;
- Waiting for or riding on public transportation or paratransit or while in a taxi, private car service, or ride-sharing vehicle;
- Driving or operating any public transportation or paratransit vehicle, taxi, or private car service or ride-sharing vehicle when passengers are present (when no passengers are present, face coverings are strongly recommended);
- Engaging in work, whether at the workplace or performing work off-site, when:
 - Interacting in-person with any member of the public;
 - Working in any space visited by members of the public, regardless of whether anyone from the public is present at the time;
 - Working in any space where food is prepared or packaged for sale or distribution to others;
 - Working in or walking through common areas, such as hallways, stairways, elevators, and parking facilities;
 - In any room or enclosed area where other people (except for members of the person's own household or residence) are present when unable to physically distance; and

- While outdoors in public spaces when maintaining a physical distance of six feet from persons who are not members of the same household or residence is not feasible.

Exceptions

California expressly exempts certain activities, provided six-foot social distance is maintained. These include eating or drinking while seated at a restaurant or other establishment offering food or beverage services, and engaging in outdoor work or recreation (like swimming, walking, hiking, bicycling, or running) when alone or with household members.

In addition, numerous individuals are also exempted from wearing a face covering in public, including:

- Children up to two years old;
- Individuals with medical, mental health, or developmental disabilities that prevent 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;
- Workers for whom wearing a face covering would create a risk to the person related to their work (as determined by regulations or workplace safety guidelines); and
- Persons who are incarcerated.

Some of these exempted individuals may be, alternatively, required to wear a non-restrictive alternative like a face shield.

What Does This Mean For Employers?

Now more than ever, it is important for California employers to ensure their workforce understands the different types of masks and the right way to wear them. Thankfully, in addition to the [CDC's guidance on cloth face coverings](#), California provides [guidance](#) on these issues as well as which workers are required to wear a mask while on the job in its [industry guidance](#).

You must ensure your workers covered by this requirement are wearing face coverings while at work. Many localities, like [Los Angeles](#), require employers provide cloth face coverings. Where employers may not be required to do so, you may still consider doing so or, at least, providing reimbursement as a reasonable business expense.

You should also take reasonable steps to prohibit any member of the public who is not wearing a face covering from entering. This could include posting a sign to remind customers and the public of the requirement to wear a face covering while waiting inside or waiting in line to enter.

Practically speaking, you may also consider mandating and enforcing a requirement that all individuals wear a face covering whenever they are not alone in a closed room on company property. This could make it easier to spot those who are not complying and need to be addressed or removed.

This could make it easier to spot those who are not complying and need to be addressed or removed. However, you must be mindful of situations requiring accommodations for disabilities, religious reasons, or one of the express exemptions under California's guidance. You must also keep in mind that cloth face coverings do not replace the need for social distancing, handwashing, and compliance with other CDC and local guidance.

Conclusion

As you begin the process of reopening, you should familiarize yourself with our alert: [5 Steps To Reopen Your Workplace, According To CDC's Latest Guidance](#). You should also keep handy our [4-Step Plan For Handling Confirmed COVID-19 Cases When Your Business Reopens](#) in the event you learn of a positive case at your workplace. For a more thorough analysis of the many issues you may encounter from a labor and employment perspective, we recommend you review our [FP BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers](#) and our [FP Resource Center For Employers](#).

Fisher Phillips will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' Alert System](#) to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, any attorney in [our California offices](#), or any member of [our Post-Pandemic Strategy Group Roster](#).

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