



Ohio Issues Revised Orders To Combat COVID-19

Insights

11.12.20

[Ed. Note: This Alert was substantially updated on November 16 as a result of new orders being issued.]

In an ongoing effort to control the spread of COVID-19, the Ohio Department of Health issued a Revised Facial Covering Order and Revised Mass Gathering Prohibition, creating new (and clarifying previously issued) obligations for employers throughout the state. Noting that new COVID-19 cases are increasing exponentially and that hospitals will soon be strained, Governor Mike DeWine has emphasized there is much to do before a vaccine becomes available. What do Ohio employers – especially retail establishments – need to know about these new requirements?

New Facial Covering Order, Summarized

On November 13, the Ohio Department of Health reissued the state's Facial Covering Order. As the spread of COVID-19 accelerates in Ohio, the Order states that a stronger response is needed not only to protect frontline workers and customers, but also to minimize the risk of major shutdowns and limitations such as those being imposed in several cities and states in the United States.

The reissued Facial Covering Order applies to stores, retail businesses and other Ohio enterprises providing goods in-person to the public. The order does not apply to certain service providers such as restaurants, bars, salons, spas, gyms, and dance studios, which are subject to different orders. If you are a business providing services in-person to the public and not expressly covered by one of the enumerated exceptions, you should still comply with the reissued Order even though you are not "providing goods." As Lieutenant Governor Husted said during a November 12 press conference, this Order is about workplace safety and protecting employees who are serving the public.

Ohio's stores and other retail businesses should take note of the following provisions added to the reissued Order:

- Each store will be required to post a sign outlining face covering requirements at all public entrances to the store;
- Each store will be responsible for ensuring that customers and employees are wearing masks;
- Each store must designate an on-site compliance officer for each business location and each shift during business hours to enforce compliance with state requirements; and,

- A new Retail Compliance Unit, comprised of agents led by the Ohio Bureau of Workers' Compensation, will inspect to ensure compliance. A first violation will result in a written warning and a second violation will result in closure of the store for up to 24 hours.

As with previous orders, this Order provides exceptions for individuals who are medically and developmentally unable to wear a face covering. Retailers should provide reasonable accommodations to individuals who are unable to wear a face covering by either (1) offering online or telephone ordering and delivery or curbside pickup; or, (2) allowing the individual to wear a full face shield that covers the chin. Retailers are expected to post a notice regarding such accommodations at their entrance and on their website, if applicable.

This Order, which is effective as of 12:01 AM on Monday, November 16, can be found [here](#). To assist Ohioans in complying with the updated order, the Ohio Department of Health released new Posters and Signs to communicate protocols and guidelines, [which are available here](#).

What Should Businesses Do About Anti-Mask Guests?

With this updated Facial Covering Order in place – combined with the Retail Compliance Unit which will ensure business compliance – you should be prepared to address customers and guests who do not wish to wear masks. [Fisher Phillips has developed a five-point plan for dealing with such issues](#), which includes:

1. Understand That You Are Permitted To Require Employees And Visitors To Wear Cloth Face Coverings Or Masks;
2. Be Proactive With Your Mask Policy;
3. Train Your Staff;
4. Reasonably Accommodate Visitors If They Have A Medical Condition; and
5. Delicately Deal With Visitors Who Refuse To Comply.

You can find a [detailed summary of these recommendations here](#), and retail establishments can find further guidance in our recent newsletter article "[Handling The Retail Strain: Training Is Critical](#)."

New Mass Gathering Ban, Summarized

In addition to the Revised Facial Covering Order, the Ohio Department of Health reissued the state's Mass Gathering Prohibition. Specifically, the Order prohibits informal social gatherings of more than 10 people occurring in a single residence. Regarding wedding receptions, funerals, and other events at banquet facilities, the following restrictions are applicable:

- Socializing (and dancing) in open congregate areas are prohibited;
- Guests must be seated at all times, except during traditional wedding reception events such as first dance, toasts, and cutting the wedding cake;
- Self-serving buffets and self-serving bars are prohibited:

Self-covering panels and self-covering care are prohibited,

- Masks must be worn at all times, except when consuming food or beverages; and
- There may be no more than 10 people seated at a table, and those individuals must be from the same household.

This Order, which is effective as of 12:01 AM on Tuesday, November 17, can be found [here](#). These orders will remain in effect until the governor's State of Emergency expires, or the Ohio Department of Health rescind or modify the orders.

Conclusion

Earlier facial covering orders in Ohio caused confusion, [as noted in our earlier alert](#) on the subject. This latest step by the governor aims to provide a consistent message and provide clear guidance to 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 or any attorney in our [Cleveland](#) or [Columbus](#) offices.

This Legal Alert provides an overview of a specific state law. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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