

Electronic Alert

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Enforcing OHA's Face Mask Requirements

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As detailed in our [previous E-Alert](#), Oregon's face mask requirements continue to expand in an effort to reduce the spread of COVID-19. Mask, face covering, and face shield guidance now applies to businesses and members of the public visiting indoor spaces statewide, and all Oregonians must also wear a mask, face covering, or face shield in outdoor public spaces where at least six feet of physical distance from others outside of an individual's household cannot be maintained. In addition, beginning July 24, 2020, face coverings are now required when exercising indoors, as well as outdoors when physical distance cannot be maintained, and children age 5 and up are also required to wear a mask, face shield, or face covering.

Oregon OSHA also recently issued [an advisory memo](#) detailing the requirements and best practices for Oregon businesses to enforce Oregon's mask, face covering, and face shield requirements. The Oregon Health Authority similarly has issued [FAQs](#).

Oregon businesses and those responsible for indoor spaces must politely notify customers and visitors about the public health requirement to wear a mask, face shield, or face covering if an employee or other representative of the employer encounters a customer or visitor without a mask, face shield, or face covering.

Other best practices for enforcing the mask, face covering, and face shield requirements include:

- Arranging to greet customers upon entry so the issue can be addressed as they enter the business;
- Keeping a supply of inexpensive disposable face coverings to offer to customers or guests who do not have one;
- Keeping a supply of face shields that can be loaned and sanitized between uses;
- Offering the same options to shop outside the business to individuals who choose not to wear a mask, face shield, or face covering as you would to someone with a disability or medical condition; and
- Making sure employees know that if an individual indicates they have difficulty hearing or understanding them with the mask or face covering, it is appropriate to step farther away, then lift the mask or face covering.

If an individual declines to wear a mask, face shield, or face covering, the employer or representative should politely inquire as to whether the person has a medical condition or disability that prevents them from wearing a mask. If so, the employer may ask if a face shield is a suitable option or offer other reasonable accommodations, such as curbside pickup, delivery, or an appointment by phone or

video. OHA states that a reasonable modification does not include simply allowing a customer inside without a mask, face covering or face shield.

If the customer refuses to answer or states that they do not have a medical condition that prevents them from wearing a mask, face shield, or face covering, and the individual still refuses to wear a mask, face shield, or face covering, Oregon OSHA recommends politely telling the individual that the employer cannot serve them and that they need to leave the premises. Employees should not physically block or physically remove individuals who refuse to comply. Rather, they should follow the company's normal procedures for removing an individual that refuses to leave the establishment when asked to do so under other circumstances.

Oregon requirements and recommendations are generally consistent with the U.S. Centers for Disease Control and Prevention's ("CDC") recommendation that people wear cloth face coverings in public settings and when around people who do not live in the same household, especially when social distancing measures are difficult to maintain, to reduce the spread of COVID-19. However, the CDC does not recommend face shields for normal everyday activities or as a substitute for face coverings since it is not known if face shields provide any benefit as source control to protect others from the spray of respiratory particles.

If you have questions about implementing this new guidance or how this impacts your business, please contact Heather Fossity or Amy Angel at 503-228-0500, or at hfossity@barran.com or aangel@barran.com. For additional information about navigating coronavirus in the workplace, visit Barran Liebman's [COVID-19 resource page](#).