

# **LEGAL NOTICE**

To the Person Currently in Charge of this Establishment

There is no statutory law that requires you, your employees, or your customers to wear a mask, get their temperature taken or stay six feet apart.

There is no law that requires you to serve your customers outside or reduce the number of people in your business establishment.

In fact, if you require your customers to wear a mask or restrict their movement or entry if they are not wearing a mask, **you are at risk for violating several federal and state laws.**

Any violation of the following laws WILL BE REPORTED to the appropriate authorities. As the person responsible for this establishment, **YOU PERSONALLY** will be at risk for fines and imprisonment upon conviction of these crimes:

## **U.S. FEDERAL LAWS**

### **1. U.S. Constitution, 1<sup>st</sup> Amendment, Right to Assemble, Right to Freedom of Speech, Right to Religious Expression**

Requiring someone to wear a mask as a condition to assemble in your place of public accommodation is an infringement of the right protected under the U.S. Constitution, the highest law of the land. No law is valid or lawful that violates the Constitution. No health order, emergency order, state of emergency, municipal ordinance, or store policy may suspend or violate the Constitution, period.

## **2. U.S. Constitution, 4<sup>th</sup> Amendment, Right to Privacy**

Forcing a person to wear a mask without their consent is a violation of the 4<sup>th</sup> Amendment. Further, gathering vital statistics such as taking one's temperature is a violation of a person's right to privacy. Violation of this protection will result in your actions being reported to the U.S. Department of Justice, which is required by law to investigate Civil Rights Violations. No law is valid or lawful that violates the Constitution. No health order, emergency order, state of emergency, municipal ordinance, or store policy may suspend or violate the Constitution, period.

## **3. U.S. Title 52, Civil Rights Act of 1964: Unlawful to Discriminate in place of Public Accommodations**

Your business establishment is legally defined as a place of "public accommodation" and as such you may not prohibit entry by discriminating against someone for their medical condition, disability, or religious views. If someone is unable or unwilling to wear a mask for one of those reasons you may not prohibit their entry, nor may you file a charge of trespassing because of their legally protected status. **Just as you would not be able to deny entry to someone based on their skin color, you may not deny entry to someone based on their bare face.** Having someone else shop for them, or requiring curbside delivery is NOT a reasonable accommodation, as it denies the "full enjoyment and equal access to facilities, services and accommodations," as REQUIRED BY LAW.

## **4. U.S. Title 42, Section 12101: Unlawful to Deny Entry to Persons with Disability or perceived medical condition (ADA)**

Your business establishment is legally defined as a place of "public accommodation" and as such you may not prohibit entry by discriminating against someone for their medical condition or disability. If someone is unable or unwilling to wear a mask for one of those reasons you may not prohibit their entry, nor may you file a charge of trespassing because of their legally protected status. **Just as you would not be able to deny entry to someone in a wheelchair, you may not deny entry to someone not wearing a mask.** Having someone else shop for them, or requiring curbside delivery is NOT a reasonable accommodation, as it denies the "full enjoyment and equal access to facilities, services and accommodations," as REQUIRED BY LAW.

## **5. U.S. Americans with Disabilities Act: Unlawful to Deny Entry to Persons with Disability or perceived medical condition**

Your business establishment is legally defined as a place of “public accommodation” and as such you may not prohibit entry by discriminating against someone for their medical condition or disability. If someone is unable or unwilling to wear a mask for one of those reasons you may not prohibit their entry, nor may you file a charge of trespassing because of their legally protected status. **Just as you would not be able to deny entry to someone in a wheelchair, you may not deny entry to someone not wearing a mask.** Having someone else shop for them, or requiring curbside delivery is NOT a reasonable accommodation, as it denies the “full enjoyment and equal access to facilities, services and accommodations,” as REQUIRED BY LAW.

# **ARIZONA STATE LAWS**

## **1. Arizona Constitution, Article 2, Section 3**

The Constitution of the United States is the supreme law of the land. All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy. Therefore, attempting to deny a customer from acquiring property by shopping at your business or to deny their access to services that they have the right to enjoy is unlawful and a violation of Constitutional liberties.

## **2. Arizona Constitution, Article 2, Section 6**

Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right. Every person may freely speak. A law may not restrain or abridge livery of speech. (Muzzling one’s face with a muzzle does not allow for one to freely speak, and it abridges freedom of speech.) Therefore, denying entry due to a person not wearing a mask is a violation of the Arizona Constitution,

### **3. Arizona Constitution, Article 20, Section 1**

Perfect toleration of religious sentiment shall be secured to every inhabitant of this state, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship, or lack of the same. Free exercise and enjoyment of religious expression without discrimination. If covering one's face intrudes on the religious expression of an individual, that right to religious expression may not be denied.

### **4. Arizona Revised Statutes Title 32-1455 (: Practicing medicine without a license**

Requiring someone to wear a mask is a medical intervention. Unless you are a licensed medical professional, you have no authority to recommend such a practice. Further, a surgical mask is designated by the FDA as a "medical device". You have no legal authority responsibility or liability to require that of either your customers or your employees.

No "emergency order" supersedes established law. Any "health order" related to mask-wearing is unlawful and unenforceable by law.

### **5. Arizona Revised Statutes Title 13-2411 A: Impersonating a peace officer**

A person commits impersonating a peace officer if the person, without lawful authority, pretends to be a peace officer and engages in any conduct with the intent to induce another to submit to the person's pretended authority or to rely on the person's pretended acts. Impersonating a law enforcement officer is a crime in this state under Arizona Revised Statutes Title 13-2411 C that carries the penalty of one year in prison. Impersonating a peace officer during the commission of an assault raises the crime to a class 4 felony and it is punishable by two years and 6 months in prison. You will be reported to authorities for this violation.

### **6. Arizona Revised Statutes Title 41-1442 B: Free and Equal Access to Public Accommodations**

Your business establishment is legally defined as a place of "public accommodation" and as such you may not prohibit entry by discriminating against someone for their medical condition, disability, or religious views. If someone is unable or unwilling to wear a mask for one of those reasons you may not prohibit their entry, nor may you file a charge of trespassing because of

their legally protected status. **Just as you would not be able to deny entry to someone wearing a turban, you may not deny entry to someone not wearing a mask.** Having someone else shop for them, or requiring curbside delivery is NOT a reasonable accommodation, as it denies the “full enjoyment and equal access to facilities, services and accommodations,” as REQUIRED BY LAW.

A claim may be pursued through Department of Fair and Employment and Housing (DFEH) or a private lawsuit. If a business engages in a pattern or practice of discrimination, you can refer the matter to the Attorney General or to your local district or city attorney may bring an action to enjoin any violation of ARS 41-1442.

#### **7. Arizona Revised Statutes Title 41-1492.01: Individuals with disabilities have the same rights as others**

Individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, **including hospitals, clinics, and physicians’ offices**, public facilities, and other public places. **Just as you would not be able to deny entry to someone in a wheelchair, you may not deny entry to someone not wearing a mask.** Having someone else shop for them, or requiring curbside delivery is NOT a reasonable accommodation, as it denies the “full enjoyment and equal access to facilities, services and accommodations,” as REQUIRED BY LAW.

A claim may be pursued through DFEH, or a private lawsuit. To file a complaint with the ADA call (800) 514-0301.

#### **8. Arizona Revised Statutes Title 41-1492.02: Disabled have full and equal access**

**Individuals with disabilities or medical conditions** have the same right as the general public in attaining full and equal access to all public accommodations and their advantages, facilities and privileges to places of public accommodation, amusement or resort; and to other places to which the general public is invited, including public modes of transportation private schools, hotels, **hospitals** and public buildings, such as courthouses, government buildings. Aggrieved persons may recover up to three times the actual damages or a minimum of \$1,000, injunctive relief and reasonable attorney’s fees.

A claim may be pursued through DFEH, or a private lawsuit. The Attorney General, the Department of Rehabilitation, or the district city attorney may bring an action to enjoin any violation of ARS Title 41-1292.02

### **9. Arizona Revised Statutes Title 13-1303: Unlawful Imprisonment**

Attempting to prevent someone's entry to this establishment or to restrict, detain or confine their movement without their consent constitutes UNLAWFUL IMPRISONMENT, which is a class 6 felony, with the penalty of one year in prison. If you deny someone's entry to your place of public accommodation based on their medical condition or religious beliefs, you are at risk of being charged with unlawful imprisonment.

### **10. Arizona Revised Statutes Title 13-2904: Disorderly Conduct**

A. A person commits disorderly conduct if, with intent to disturb the peace or quiet of a neighborhood, family or person, or with knowledge of doing so, such person:

1. Engages in fighting, violent or seriously disruptive behavior; or
2. Makes unreasonable noise; or
3. Uses abusive or offensive language or gestures to any person present in a manner likely to provoke immediate physical retaliation by such person; or
4. Makes any protracted commotion, utterance or display with the intent to prevent the transaction of the business of a lawful meeting, gathering or procession; or
5. Refuses to obey a lawful order to disperse issued to maintain public safety in dangerous proximity to a fire, a hazard, or any other emergency; or
6. Recklessly handles, displays, or discharges a deadly weapon or dangerous instrument.

B. Disorderly conduct under subsection A, paragraph 6 is a class 6 felony. Disorderly conduct under subsection A, paragraph 1, 2, 3, 4 or 5 is a class 1 misdemeanor.

### **11. Arizona Revised Statutes Title 13-1203 2: Assault**

If you intentionally place another person in reasonable apprehension of imminent physical injury; or knowingly touch another person with the intent to injure, insult or provoke such

person, you are in violation of ARS 13-1203, assault. An assault is a class 3 misdemeanor and punishable by a fine of up to 30 days in jail and \$500 fine or both.

## **12. Arizona Revised Statutes Title 13-2921: Assault**

A. A person commits harassment if, with intent to harass or with knowledge that the person is harassing another person, the person:

1. Anonymously or otherwise contacts, communicates or causes a communication with another person by verbal, electronic, mechanical, telegraphic, telephonic or written means in a manner that harasses.
2. Continues to follow another person in or about a public place for no legitimate purpose after being asked to desist.
3. Repeatedly commits an act or acts that harass another person.
4. Surveils or causes another person to surveil a person for no legitimate purpose.
5. On more than one occasion makes a false report to a law enforcement, credit or social service agency.
6. Interferes with the delivery of any public or regulated utility to a person.

Harassment under subsection A is a class 1 misdemeanor and is punishable by up to 6 months in jail, 3 years of probation and a \$2,500 fine.

## **13. Arizona Revised Statutes Title 13-701 26: Unlawful to wear a mask in the commission of a public offense**

It is unlawful to conceal your identity in the commission of any public offense (such as those listed in this document.) and will aggravate your charges.

**NOTE: NO STORE POLICY MAY VIOLATE ESTABLISHED LAW**

Just as your place of business may not institute “Fist-fight Fridays” or encourage customers to engage in pickpocketing or require someone to snort a line of cocaine as a condition of entry, your “store policy” may not violate the established laws set forth in this notice.

No claim of an “emergency” or “executive orders” or “health orders” or “city ordinances” excuses you from violating the laws set forth in this notice.

Further, as a place of public accommodation (even as a private business) you have extended an irrevocable license (privilege) to the public to enter your establishment and you may not deny entry based on race, religion, disability or other protected characteristics.

**THUS: By denying entry to a customer who is not wearing a mask for either medical or religious reasons, YOU ARE IN VIOLATION of at least five federal laws and 13 Arizona state laws, including:**

US Constitution, 1st Amendment, 4<sup>th</sup> Amendment

US Title 42, US Title 52

Arizona Constitution Article 2, sections 2 & 3

Arizona Constitution Article 20, section 1

ARS 32-1455

13-2411 A

41-1442 B

41-1492.01

41-1492.02

Title 13-1303

13-2904

13-1203 2

13-2921

13-701 26

**YOU ARE HEREBY NOTIFIED of a potential CITIZEN'S ARREST for violations of the above laws, under Arizona Revised Statutes 13.3884, which authorizes a private person to make a citizen's arrest in Arizona.**

Under the authority of Arizona Revised Statutes 13.3884, a private person may arrest another person for any crime committed in the presence of the private person if the private person has probable cause to believe the arrested person committed the crime. A private person making such an arrest shall, without unnecessary delay, take the arrested person before a magistrate or deliver the arrested person to a peace officer.

THEREFORE, you and your employees have hereby been PUT ON NOTICE of potential civil and criminal violations of unlawfully preventing the lawful entry of any member of the public.

**YOU ARE AT RISK FOR A CITIZEN'S ARREST, AS AUTHORIZED UNDER ARIZONA REVISED STATUTES 13.3884, WITH LAW ENFORCEMENT BEING SUMMONED FOR YOUR VIOLATIONS OF THE ABOVE LAWS. INITIAL \_\_\_\_\_.**

## HOW TO MAKE A CITIZEN'S ARREST IN ARIZONA:

1. First, CALL 911 to report a crime in progress.
2. Inform the perpetrator of the intended arrest, using the following language:
  - a) "You are hereby informed of my attention to place you under citizen's arrest."
  - b) "You have willfully and knowingly violated these laws: (read off the list of violations as applicable)"
  - c) "My authority to arrest you is granted by 2020 Arizona Revised Statutes 13.3884"
  - d) "I have called law enforcement to the scene"
  - e) "I am requesting your cooperation until law enforcement arrives".
  - f) "If you refuse to cooperate or attempt to flee the scene, I have the right to use reasonable force to detain you."
  - g) "The law allows for you to be kept out of harm's way in a secluded location until law enforcement arrives."

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