

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, 1st 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, 4th Amendment, Right to Privacy

Forcing a person to wear a mask without their consent is a violation of the 4th 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.

TEXAS STATE LAWS

1. Texas Constitution, Article 1, Section 3

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. Texas Constitution, Article 1, Section 8

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 Texas Constitution,

3. Texas Constitution, Article 1, Section 6

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. Texas Occupations Code 165.159: 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.

The crime of practicing medicine without a license in Texas is a third degree felony and punishable by two to 10 years in jail and a \$5,000 fine for each day the crime is committed.

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

5. Texas Penal Code 37.11: Impersonating a public servant

You are not a law enforcement officer and have no authority to enforce any law or order. Impersonating a law enforcement officer is a third degree felony in this state under **Texas Penal Code 37.11**. This violation carries the penalty of two to 10 years in jail and a \$5,000 fine for each day the crime is committed.

6. Texas Human Resources Code 121.003 a: 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.

7. Texas Civil Code 5121.003 c & d: 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 Texas Civil Code section 5121.003

8. Texas Labor Code 21.056: Prohibits business to deny service based on disability or religion

An employer, labor union, or employment agency commits an unlawful employment practice if the employer, labor union, or employment agency aids, abets, incites, or coerces a person to engage in a discriminatory practice.

9. Texas Alcoholic Beverage Code 11.611: Conviction of Offense Relating to Discrimination

The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing that:

1. the permittee has been finally convicted of any offense under state or federal law or a municipal ordinance prohibiting the violation of an individual's civil rights or the discrimination against an individual on the basis of the individual's race, color, creed, or national origin; and
2. the offense was committed on the licensed premises or in connection with the operation of the permittee's business.

10. Texas Penal Code 20.02: Unlawful Restraint

Attempting to prevent someone's entry to this establishment or to restrict, detain or confine their movement without their consent constitutes UNLAWFUL RESTRAINT, which can be a felony, with the penalty of three years in jail. If you deny someone's entry to your place of public accommodation based on their medical condition or religious beliefs, you are at risk for charged with false imprisonment. This Class A misdemeanor carries punishments of a fine up to \$4,000 and/or imprisonment of up to one year in county jail.

11. Texas Penal Code 42.01 a: Disorderly Conduct

Disorderly conduct in Texas is a Class C misdemeanor and punishable by a fine up to \$500.

- (a) A person commits an offense if he intentionally or knowingly:
- (1) uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace;
 - (2) makes an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace;
 - (3) creates, by chemical means, a noxious and unreasonable odor in a public place;
 - (4) abuses or threatens a person in a public place in an obviously offensive manner;

(5) makes unreasonable noise in a public place other than a sport shooting range, as defined by [Section 250.001, Local Government Code](#) , or in or near a private residence that he has no right to occupy;

(6) fights with another in a public place;

12. Texas Penal Code 22.01: Assault

If you aggressively seek to harass or intimidate someone with the threat of violence, you could be in violation of Texas Penal Code 22.01, assault. An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another, even if no one is physically hurt by your behavior.

13. Texas Penal Code 42.07 a: Harassment

(a) A person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, the person:

(1) initiates communication and in the course of the communication makes a comment, request, suggestion, or proposal that is obscene;

(2) threatens, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property;

(3) conveys, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury;

Harassment is a Class B misdemeanor and carries a punishment of up to 180 days in county jail.

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 Texas state laws, including:

US Constitution, 1st Amendment, 4th Amendment

US Title 42, US Title 52

Texas Constitution Article 1, sections 3,6,8

Texas Occupations Code 165.159

Texas Penal Code 37.11

Texas Human Resources Code 121.003 a

Texas Civil Code 5121.003 c & d

Texas Labor Code 21.056

Texas Alcoholic Beverage Code 11.611

Texas Penal Code 20.02

Texas Penal Code 42.01 a

Texas Penal Code 22.01

Texas Penal Code 42.07 a

YOU ARE HEREBY NOTIFIED of a potential CITIZEN'S ARREST for violations of the above laws, under Texas Code of Criminal Procedure Article 14.01, which authorizes a private person to make a citizen's arrest in Texas.

Under the authority of Texas Code of Criminal Procedure Article 14.01, 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 TX PENAL CODE 14.01, WITH LAW ENFORCEMENT BEING SUMMONED FOR YOUR VIOLATIONS OF THE ABOVE LAWS. INITIAL _____.

HOW TO MAKE A CITIZEN'S ARREST IN TEXAS:

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 TX Penal Code 14.01"
 - 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."

Prepared by www.THEHEALTHYAMERICAN.ORG in association with
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