

FACT SHEET

OSHA REGULATIONS, HEALTH ORDERS AND YOUR BUSINESS

OSHA can only issue a citation for a violation that is "on the books". That means a rule or regulation that has been passed through a lawmaking procedure.

FACT 1: There is no OSHA regulation "on the books" regarding masks, distancing or operating a business outdoors, or suspending the operation of a business. That means you as a business owner, employee or patron do not have to wear a mask or distance. Business owners do not have to abide by guidelines that are not enforceable by law.

FACT 2: Guidelines are not laws. Playbooks are not laws. Blueprints are not laws. The only thing that is a law is a law, that is codified (it has a number associated with it and it is compiled into the state statutes and codes) and that was passed lawfully in a lawmaking procedure.

FACT 3: Emergency health orders are not statutory law. They are intended for emergencies only. There is no emergency by the legal definition of an event that is "imminent" "proximate" "sudden" "unexpected" and has the "potential for great harm." Nothing in the current health situation falls under that definition.

FACT 4: Emergency health orders may only be issued during an emergency. Health orders are very limited in their scope and duration. There is no emergency and therefore these emergency orders are invalid and unlawful and will not stand up in a court of law.

FACT 5: Because there is no OSHA rule or regulation requiring the wearing of masks or practicing physical distancing for your employees, you cannot require your employees to wear masks, nor can you be cited for not doing so.

FACT 6: You cannot be cited by OSHA for not requiring masks or distancing because:

- (a) There are no OSHA regulations you are violating
- (b) You are not a medical doctor and therefore cannot dispense medical advice such as wearing a mask, which is defined as a medical device by the FDA
- (c) You are not law enforcement and have no legal authority to enforce law or guidelines (and guidelines are not enforceable by law).

FACT 7: There is no OSHA rule or regulation requiring you to serve your patrons outside and not inside. Therefore, you are not violating any regulation and you cannot be cited for fined for doing so.

FACT 8: OSHA regulations only apply to your workplace and employees, not your patrons.

FACT 9: If you were to require masks of your employees or patrons at the risk of denying them employment or entry to your business establishment, you would be violating several established laws:

- (a) Local, State and Federal anti-discrimination laws that require “free and equal access” to any business establishment of any kind (including private clubs)
- (b) Impersonating a law enforcement officer
- (c) Practicing medicine without a license
- (d) False imprisonment (by blocking access to a place of public accommodation)
- (e) Irrevocable license to enter your place of business during open hours
- (f) Providing false information or misleading information relating to biological hazards and to conduct hoaxes (Federal Law 18 USC §1038) This law is enforced by the FBI and Department of Homeland Security
- (g) Kidnapping (by moving patrons from one place to another under duress and without their consent) which is a felony and carries a prison sentence

FACT 10: Committing any of the above crimes while wearing a mask, which conceals your identity elevates the severity of the crime and its punishment from misdemeanor to felony and may increase prison time and fines.

FACT 11: MASK-WEARING VIOLATES THE OSHA "GENERAL RULE"

The OSHA General Rule states that an employer must maintain a workplace that is free of known safety hazards.

Mask wearing by employees violates the OSHA General Rule for these reasons:

(A) Wearing a mask reduces the oxygen in the immediate atmosphere (around the nose and mouth of the person wearing the mask) below 19.5%, putting the person at IDLH -- immediate danger to life and health -- with irreversible adverse effects.

(B) Wearing a mask interferes with communication. This is why the CA State Department of Health states that those with hearing loss are exempt from wearing a mask, and those who communicate with the hard of hearing should also remove the mask.

(i) Miscommunication could be deadly between employees. An employee wearing a mask might not be clearly understood by another employee. For example, the mask-wearing employee might be shouting an alert or warning, but the other employee may not hear it because of the muffled voice. If there is a safety hazard and an employee could not be warned, the result could be fatal.

(ii) Miscommunication could be deadly between an employee and a patron. An employee wearing a mask might not be clearly understood by a patron. For example, the mask-wearing employee might be explaining the spices in a certain dish and the patron could be allergic but not hear the ingredients clearly because of the muffled voice. If there is a communication barrier between the masked server and the patron, the result could be fatal.

(C) Wearing a mask presents a safety and fire hazard to the face. An employee working over an open flame or where candles are present or other chemicals that could cause combustion are at an elevated risk for having their face catch on fire.

(D) Wearing a mask prevents a safety hazard to the employee if the mask is caught in machinery or equipment.

(E) Wearing a face shield creates a safety hazard for all of the same reasons listed in point 1-5, plus these additional safety hazards

(i) **Face shields are not in compliance** with OSHA Standard number 1926.102 for Eye and Face Protection.

(ii) **Face shields create glare and blurriness for the wearer.** Glare is one of the leading causes of cataracts, and cataracts are the leading cause of blindness.

(F) **OSHA guidelines state that cloth face coverings are not considered "PPE"** (personal protective equipment) and therefore they do not protect the wearer against any infectious disease, including COVID-19. <https://bit.ly/36duhU1>

(G) OSHA guidelines state: **Face coverings do not protect the wearer and are not personal protective equipment (PPE).**" <https://bit.ly/36duhU1>

(H) OSHA guidelines state: **"Persons for whom wearing a face covering would create a risk to the person related to their work are exempt.**
<https://www.osha.gov/Publications/OSHA3990.pdf>

THUS, requiring a mask of employees or patrons VIOLATES THE OSHA GENERAL RULE.

FACT 12: If you receive a visit from a health inspector or code enforcement officer, you have the right to ask for a warrant for that person to enter your premises.

FACT 13: If you are served with a violation, it is considered an administrative infraction and you have the right to go before an administrative judge or jury to have your case heard.

FACT 14: If you refuse to answer the violation, you may be at risk of having your license revoked – not because of not enforcing masks – but because you did not respond or appear to answer this claim.

FACT 15: Getting an administrative hearing or court date is a GOOD thing because you will be able to go before the officials and have this mask nonsense thrown out once for all – because **there is no lawful law, regulation, order or ordinance you are violating.**

FACT 16: You can protect the lawful integrity of your business AND avoid harassment from OSHA or Environmental health enforcers by preparing your own business notices and POST THESE IN A VISIBLE PLACE:

(A) **NOTICE TO GOVERNMENT AGENTS:** “Be advised that this is a private establishment. You need a warrant to lawfully enter this establishment. Any attempt to violate this will result in law enforcement being summoned.”

(B) **POLICY OF CONSTITUTIONAL COMPLIANCE:** “As a place of public accommodation, this establishment is in compliance with the United States Constitution and the Bill of Rights and therefore upholds the inalienable rights of the people for free and equal access to all facilities, privileges, accommodations and services without discrimination of any kind, whatsoever.”

(C) **NOTICE TO PATRONS:** Any person who harasses, intimidates, threatens or makes false accusations against this business, its owners, managers, employees and patrons, or who files a false claim or unfounded charges with a state or local agency regarding the lawful functioning of this business, as protected by local, state and federal laws, will be deemed a “direct threat” to the health and safety of this business and its owners, managers, employees and patrons, and as such will be banned from doing business with this establishment, and may be subject to a \$1,000,000 charge for violation of our store policies, and will be reported to local law enforcement, the FBI and Homeland Security for investigation, as fully allowed by law.

FACT 17: You can protect your business by preparing a written **ILLNESS AND INJURY PREVENTION PLAN** as required by OSHA (see sample document that you can edit to include your own business name.)

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