



## Whitmer Enacts Mandatory Mask Executive Order

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*Foster Swift Legal Update E-blast*

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On July 10th, 2020 Governor Whitmer enacted Executive Order ("EO") 2020-147, which requires individuals to wear face coverings over their nose and mouth (1) in any indoor public space, (2) in outdoor spaces where the individual cannot maintain a distance of at least six feet from non-family members, and (3) when waiting for or using public transportation such as taxis, ridesharing services, and private car services. A willful violation of the EO is a misdemeanor, subject to a fine of up to \$500.

EO 2020-147 becomes effective immediately as to the individual-level requirements described above, and on Monday, July 13th as to the business-level obligations discussed in the next section, below.

### **Business Obligations**

The EO requires that any business open to the public refuse entry and service to any customer who is not wearing a face covering as required by the EO. Additionally, any business open to the public must post signs at entrances instructing customers of their obligation to wear a face covering while inside. The Michigan Department of Labor and Economic Opportunity may develop and make available this signage.

Businesses and other organizations that fail to comply with these requirements could receive a temporary suspension of any license issued by a Michigan agency or department.

### **Exceptions**

The EO includes several exceptions to the requirement that individuals wear face coverings, including for any individual who:

- Is younger than five years old (though the EO encourages children aged 2 and older to wear face coverings pursuant to current CDC guidance);
- Cannot medically tolerate a face covering;
- Is eating or drinking while seated for food service;

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- Is exercising when a face covering would interfere with the activity;
- Is receiving a service that requires the individual to temporarily remove the face covering;
- Is asked to temporarily remove their face covering for identity purposes when entering a business or receiving a service;
- Is communicating with someone who is hearing impaired or disabled such that the ability to see the mouth is essential for communication;
- Is acting in a public safety role, such as a law enforcement, firefighter, or emergency medical personnel;
- Is officiating a religious service; or
- Is giving a speech for broadcast or an audience.

The EO further clarifies that child care centers, and certain camps defined in the Michigan Administrative Code are not considered public spaces.

### **Bottom Line**

Businesses and other organizations should quickly develop and implement a compliance plan for EO 2020-147 to avoid risking their ability to operate. Organizations should confirm that customers are notified of their obligation to wear masks, and that those who refuse cannot enter. However, these screening procedures must account for the possibility that an exception applies.

For assistance with your compliance plan or any questions related to EO 2020-147, please contact:

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For questions or assistance related to COVID-19, you may contact your Foster Swift attorney or a member of Foster Swift's Coronavirus Task Force:

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