

Texas' Mask Mandate: What Employers Should Know

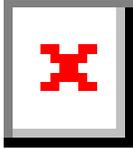
March 15, 2021

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On March 2, 2021, Governor Greg Abbott issued Executive Order GA-34, which lifts Texas' mask mandate and COVID-19 operating limits for certain businesses, effective Wednesday, March 10, 2021. If the hospitalized COVID-19 patients in a Texas county exceeds 15% for seven consecutive days, the county judge may implement COVID-19 mitigation strategies; however, no penalty may be imposed for failing to wear a mask or violating an order issued in response to COVID-19 and no business may be required to operate at less than 50% of total occupancy. Notably, the order does not preclude businesses from requiring employees or customers to follow COVID-19 mitigation measures, including wearing a mask.

Before lifting mask requirements, Texas employers should consider the broader implications of doing so, including potential liability from employees and customers. Specifically, employers should consider the impact of OSHA and CDC guidelines that still recommend masks in public settings as well as other COVID-19 mitigation measures. And, of course, employers need to ensure compliance with OSHA's General Duty Clause which requires employers to provide employees a workplace free from recognized hazards that can cause harm or death. We also anticipate OSHA will issue a new emergency rule related to COVID-19 protections soon given President Biden's January 21 executive order calling for such by March 15, 2021. The Biden Administration's announcement that it will aggressively enforce compliance with OSHA's workplace safety standards, especially related to COVID-19 mitigation, lends further credence to the importance of employers considering and, if appropriate, implementing (or sustaining) OSHA's and the CDC's recommendations. Given all of this, we urge employers to consult with their Human Resources organization or their legal counsel regarding the risks and benefits before changing any policy on masks.

Questions? Please contact:



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