

Maryland Mandates Face Coverings at Retail Stores, On Public Transportation under COVID-19 Emergency

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People in Maryland must wear face coverings at retail stores (*i.e.*, grocery stores, pharmacies, liquor stores, and restaurants) and on all forms of public transportation under a new [Executive Order](#) signed by Governor Larry Hogan. The Order also establishes other physical distancing requirements for retail establishments.

The Order went into effect on April 18, 2020, at 7:00 a.m., and will remain in place until after the termination of the state of emergency and proclamation by the Governor that the COVID-19 catastrophic health emergency has been rescinded, superseded, amended, or revised by additional orders.

Face Coverings

The Order defines “face covering” as any covering that fully covers a person’s nose and mouth and includes, for example, scarves and bandanas.

While medical-grade masks (*i.e.*, N95, KN95, and surgical masks) satisfy the face-covering requirement, the Order urges people to reserve medical-grade masks for use by healthcare workers and first responders.

Retails Stores

According to the Order, all customers over the age of nine must wear face coverings when inside “Retail Establishments” and “Food Service Establishments.” Adults must use “reasonable efforts” to cause children between the ages of two and nine also to wear face coverings when inside these types of establishments.

“Retail Establishments” are defined as retail businesses, organizations, establishments, and facilities, including, for example, grocery stores, convenience stores, pharmacies, home supply stores, liquor stores, and laundromats. Employees of Retail Establishments are required to wear face coverings when working in areas open to the general public and in areas in which interactions with other staff are likely.

“Food Service Establishments” are defined as those establishments that sell food on a delivery, carry-out, or drive-through basis including, for example, restaurants. When restaurants are permitted to sell food on a sit-down basis, additional measures likely will be mandated by the Governor. Food Service Establishment employees who interact with customers (including, for example, delivery personnel) must wear face coverings at all times while working.

Public Transportation

Pursuant to the Order, all riders and operators of public transportation must wear face coverings. This applies to all “shared-ride surface transportation,” including buses,

trains, subways, mobility and paratransit services, car services, taxis, and ride-sharing services.

The only exception to this mandate is for transportation operators who sit in a separate compartment that is off-limits to riders.

Physical Distancing Measures for Retail Establishments

The Order mandates certain physical distancing measures for Retail Establishments. To the extent possible, Retail Establishments must:

- Sanitize, or provide customers with a means to sanitize, handles of carts and baskets that are available to customers;
- Provide staff and customers with clean restrooms stocked with soap or sanitizer and allow staff to wash their hands at least once every 30 minutes;
- Post signs at each entrance advising customers about the requirement to wear face coverings; and
- Where any line is expected to form (*i.e.*, checkout lines and queues outside of stores and service counters), designate with signage, tape, or by other means at least six-foot spacing for people in the line.

Enforcement

As with the Governor's previous executive orders, a person who "knowingly" and "willfully" violates the Order is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$5,000, one year in jail, or both.

Additional Requirements for Some Counties

Several localities in Maryland have issued their own executive orders that largely mirror the Governor's Order, with some counties imposing greater measures than Maryland.

Anne Arundel County

Anne Arundel County's [Executive Order](#) (effective on April 15, 2020) places the following additional requirements on retail businesses:

- Limit customer capacity to 50 percent of normal capacity;
- Maintain six feet between customers in checkout lines (suggesting that establishment must take additional steps beyond simply designating six-foot spacing to monitor and enforce spacing in customer lines);
- Make aisles one-way wherever possible;
- Discontinue all self-service food counters; and
- Provide face coverings to employees, if requested.

The installation of a physical barrier or shield between cashiers and customer is "highly encouraged" but not required.

Calvert County

The Calvert County Health Department's [Order](#) (effective on April 16, 2020) requires retail businesses to:

- Limit occupant capacity to no more than five people per 1,000 square feet of

- retail space, including employees; and
- Purchase face coverings for employees.

Frederick County

Frederick County's Executive Order (effective on April 16, 2020) requires retail businesses to:

- Establish capacity limits that promote social distancing by setting limits on: (i) the number of customers in the facility at a given time, and (ii) the number of individuals in any queue outside the establishment; and
- Provide face coverings for employees or to make provisions for employees to obtain them.

The installation of a physical barrier or shield between cashiers and customer is “encouraged” but not required.

Montgomery County

Montgomery County's Executive Order (effective on April 13, 2020) requires retail businesses to:

- Establish capacity limits by setting limits on the number of customers at the facility at a given time and in queues outside the facility; and
- Provide face coverings for employees or make provisions for employees to obtain them.

The installation of a physical barrier or shield between cashiers and customer is “encouraged” but not required.

Jackson Lewis has a dedicated team tracking and responding to the developing issues facing employers in this difficult time. If you need guidance in handling the complicated issues pertaining to COVID-19, please contact a Jackson Lewis attorney to discuss.

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