

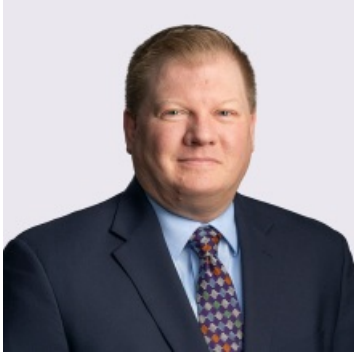
Legal Update Article

Face Masks in the Construction Industry

By M. Christopher Moon &

June 23, 2020

Meet the Authors



M. Christopher Moon

Of Counsel

385-419-3531

Christopher.Moon@jacksonlewis.com

Related Services

Construction

COVID-19

Disability, Leave and Health
Management

Workplace Safety and Health

The use of cloth face coverings (masks) in the construction workplace is one of the preventive measure in the Occupational Safety and Health Administration's (OSHA) [guidance specific to the construction industry](#) on how to prevent the spread of COVID-19. In addition to OSHA guidance, employers in the industry must consult Centers for Disease Control and Prevention (CDC) information and local governments requirements.

CDC Recommends Wearing Cloth Face Coverings

The CDC has explained that COVID-19 spreads mainly by transmission of respiratory droplets from person to person. The CDC recommends that all individuals over the age of two wear cloth face masks in public settings where social distancing measures are difficult to maintain. Given the possibility of asymptomatic virus carriers, cloth face masks have come to be widely accepted as vital for preventing the spread of COVID-19.

OSHA Recommendations

In line with the CDC's guidance, OSHA recognizes that cloth face masks can be an important protective measure. OSHA also provides some caveats for construction industry employers to consider.

First, cloth face masks are not personal protective equipment (PPE). They do not substitute for other types of required face coverings. Many construction sites have respiratory hazards (such as particulate or vapor hazards) that normally require the use of a hazard-specific respirator. When that is the case, the respirators should still be used, and cloth masks should not be worn with or instead of them.

Second, OSHA also points out that it may not be practical for a construction employee to wear a single cloth face mask all day. White collar workers whose employers ask them to wear face masks typically will have no reason to change masks during the day. On the other hand, a construction worker's mask may become wet, soiled, or otherwise visibly contaminated during the workday. Thus, OSHA recommends that construction employers should have available replacement masks for use.

Local Requirements

OSHA's latest guidance creates no new legal obligations. Even so, some construction employers may need to mandate the use of face masks. During the COVID-19 pandemic, several states (including Michigan, New Jersey, and Washington) have issued face mask requirements for the construction industry. Other states have issued orders that require face masks in all workplaces. Government officials are regularly updating state and local orders with more or less stringent requirements. Therefore, construction employers should check often for updated requirements in their localities.

Jackson Lewis attorneys are closely monitoring updates and changes to legal requirements and guidance and are available to help employers weed through the complexities involved with [state-specific or multistate-compliant plans](#).

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work, or any member of our [COVID-19 team](#).

©2020 Jackson Lewis P.C. This material is provided for informational purposes only. It is not intended to constitute legal advice nor does it create a client-lawyer relationship between Jackson Lewis and any recipient. Recipients should consult with counsel before taking any actions based on the information contained within this material. This material may be considered attorney advertising in some jurisdictions. Prior results do not guarantee a similar outcome.

Focused on labor and employment law since 1958, Jackson Lewis P.C.'s 1000+ attorneys located in major cities nationwide consistently identify and respond to new ways workplace law intersects business. We help employers develop proactive strategies, strong policies and business-oriented solutions to cultivate high-functioning workforces that are engaged, stable and diverse, and share our clients' goals to emphasize inclusivity and respect for the contribution of every employee. For more information, visit <https://www.jacksonlewis.com>.