



# **NEWS RELEASE**

## **STATE EMERGENCY OPERATIONS CENTER**

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## **Department of Civil Rights Cautions Businesses to Comply with Federal and State Disability Laws When Enforcing Face Covering Requirement**

**LANSING, MICH.** The Michigan Department of Civil Rights today cautioned Michigan businesses and other public accommodations to make sure they follow state and federal law when enforcing rules on wearing a mask or face covering in their facilities.

“It is important to remember that along with Executive Orders and specific store policies, businesses and other public spaces must continue to follow the federal Americans with Disabilities Act (ADA) and Michigan’s Persons with Disabilities Civil Rights Act (PWDCRA) during the COVID-19 pandemic,” said Mary Engelman, Interim Director of the Michigan Department of Civil Rights. “We must ensure that people with disabilities are able to access the same goods and services that we all enjoy.”

Executive Order No. 2020-153 mandates businesses:

- Post notice of the requirement to wear a face covering where all can see;
- Enforce this face covering requirement; and
- Provide for exceptions, including the exception for those who cannot medically tolerate wearing one.
- May not assume that an unmasked customer cannot medically tolerate a face covering, though they may accept a customer’s verbal representation to that effect.

With or without a mandate, a business must make choices about how to implement its ‘no mask, no service’ policy. It must enforce the policy for everyone, while also remaining in compliance with the ADA and PWDCRA. It can do so by doing one of three things:

1. Provide anyone who does not wear a face covering, for whatever reason, an alternative to entering without a face covering (examples might include having staff shop for them, providing carryout service, etc.);
2. Engage in a dialogue with each individual who is not wearing a face covering to determine if, due to a disability, the business can provide a reasonable accommodation/modification of the policy for this individual (this might include allowing a face shield, or any of the examples above); or

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3. Allow entry to anyone who indicates they cannot medically tolerate a face covering, while excluding others whose reasons for not wearing one are not covered in the EO or are not covered under the ADA or PWDCRA.

It is important to remember that under the ADA, if a reasonable accommodation for a person with a disability is available, the business must provide one. If a business or public space offers a reasonable accommodation and the individual rejects it, or if an accommodation is not possible, the business may deny entry to that individual.

“Michigan businesses are facing unprecedented challenges in providing essential goods and services while protecting the health and well-being of both their employees and their customers,” said Engelman. “This guidance is designed to give business owners a simple decision matrix to help them remain in compliance with the Executive Order and all applicable civil rights laws.”

The Michigan Civil Rights Commission was created by the Michigan Constitution to safeguard constitutional and legal guarantees against discrimination. The Commission is charged with investigating alleged discrimination against any person because of religion, race, color or national origin, genetic information, sex, age, marital status, height, weight, arrest record, and physical and mental disability. The Michigan Department of Civil Rights serves as the operational arm of the Commission.

Information around this outbreak is changing rapidly. The latest information is available at [Michigan.gov/Coronavirus](https://www.michigan.gov/Coronavirus) and [CDC.gov/Coronavirus](https://www.cdc.gov/Coronavirus).

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