

## California Code, Civil Code - CIV § 43

Besides the personal rights mentioned or recognized in the Government Code, every person has, subject to the qualifications and restrictions provided by law, the **right of protection from bodily restraint or harm, from personal insult, from defamation**, and from injury to his personal relations.

## California Code, Civil Code - CIV § 46

**Slander is a false and unprivileged publication, orally uttered, and also communications by radio or any mechanical or other means which:**

1. Charges any person with crime, or with having been indicted, convicted, or punished for crime;
2. **Imputes in him the present existence of an infectious, contagious, or loathsome disease;**
3. Tends directly to injure him in respect to his office, profession, trade or business, either by imputing to him general disqualification in those respects which the office or other occupation peculiarly requires, or by imputing something with reference to his office, profession, trade, or business that has a natural tendency to lessen its profits;
4. Imputes to him impotence or a want of chastity; or
5. Which, by natural consequence, causes actual damage.

## California Code, Civil Code - CIV § 51

(a) This section shall be known, and may be cited, as the **Unruh Civil Rights Act**.

(b) **All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.**

(c) This section shall not be construed to confer any right or privilege on a person that is conditioned or limited by law or that is applicable alike to persons of every sex, color, race, religion, ancestry, national origin, disability, medical condition, marital

status, sexual orientation, citizenship, primary language, or immigration status, or to persons regardless of their genetic information.

(e) For purposes of this section: (4) “Religion” includes all aspects of religious belief, observance, and practice.

## California Code, Civil Code - CIV § 52

### 52.1.

(a) This section shall be known, and may be cited, as the Tom Bane Civil Rights Act.

(b) If a person or persons, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured. An action brought by the Attorney General, any district attorney, or any city attorney may also seek a civil penalty of twenty-five thousand dollars (\$25,000). If this civil penalty is requested, it shall be assessed individually against each person who is determined to have violated this section and the penalty shall be awarded to each individual whose rights under this section are determined to have been violated.

(c) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (a).

(d) An action brought pursuant to subdivision (a) or (b) may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which a person whose conduct complained of resides or has his or her place of business. An action brought by the Attorney General pursuant to subdivision (a) also may be filed in the superior court for any county wherein the Attorney General has an office, and in that case, the jurisdiction of the court shall extend throughout the state.

## CA Penal Code Section 632

(c) For the purposes of this section, “confidential communication” means any communication carried on in circumstances as may reasonably indicate that any party to the communication desires it to be confined to the parties thereto, but excludes a communication made in a public gathering or in any legislative, judicial, executive, or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded.

## CA Penal Code Section 236 PC

### **False Imprisonment**

(3) “Deprivation or violation of the personal liberty of another” includes substantial and sustained restriction of another’s liberty accomplished through force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.

# LEGAL NOTICE

To the Person Currently in Charge of this Establishment

There is no statutory law that requires you, your employees or your customers to wear a mask, get their temperature taken or stay six feet apart.

There is no law that requires you to serve your customers outside or reduce the number of people in your business establishment.

In fact, if you require your customers to wear a mask or restrict their movement or entry if they are not wearing a mask, you are at risk for violating several federal and state laws.

Any violation of the following laws WILL BE REPORTED to the appropriate authorities. As the person responsible for this establishment, YOU PERSONALLY will be at risk for fines and imprisonment upon conviction of these crimes:

## U.S. FEDERAL LAWS

### I. U.S. Constitution, 1<sup>st</sup> Amendment, Right to Assemble, Right to Freedom of Speech, Right to Religious Expression

Requiring someone to wear a mask as a condition to assemble in your place of public accommodation is an infringement of the right protected under the U.S. Constitution, the highest law of the land. No law is valid or lawful that violates the Constitution. No health order, emergency order, state of emergency, municipal ordinance, or store policy may suspend or violate the Constitution, period.

## 2. U.S. Constitution, 4<sup>th</sup> Amendment, Right to Privacy

Forcing a person to wear a mask without their consent is a violation of the 4<sup>th</sup> Amendment. Further, gathering vital statistics such as taking one's temperature is a violation person's right to privacy. Violation of this protection will result in your actions being report to the U.S. Department of Justice, which is required by law to investigate Civil Rights Violations. No law is valid or lawful that violates the Constitution. No health order, emergency order, state of emergency, municipal ordinance, or store policy may suspend or violate the Constitution, period.

## 3. U.S. Title 52, Civil Rights Act of 1964: Unlawful to Discriminate in place of Public Accommodations

Your business establishment is legally defined as a place of "public accommodation" and as such you may not prohibit entry by discriminating against someone for their medical condition, disability or religious views. If someone is unable or unwilling to wear a mask for one of those reasons you may not prohibit their entry, nor may you file a charge of trespassing because of their legally protected status. **Just as you would not be able to deny entry to someone based on their skin color, you may not deny entry to someone based on their bare face.** Having someone else shop for them, or requiring curbside delivery is NOT a reasonable accommodation, as it denies the "full enjoyment and equal access to facilities, services and accommodations," as REQUIRED BY LAW.

## 4. U.S. Title 42, Section 12101: Unlawful to Deny Entry to Persons with Disability or perceived medical condition (ADA)

Your business establishment is legally defined as a place of "public accommodation" and as such you may not prohibit entry by discriminating against someone for their medical condition or disability. If someone is unable or unwilling to wear a mask for one of those reasons you may not prohibit their entry, nor may you file a charge of trespassing because of their legally protected status. **Just as you would not be able to deny entry to someone in a wheelchair, you may not deny entry to someone not wearing a mask.** Having someone else shop for them, or requiring curbside delivery is NOT a reasonable accommodation, as it denies the "full enjoyment and equal access to facilities, services and accommodations," as REQUIRED BY LAW.

## 5. U.S. Americans with Disabilities Act: Unlawful to Deny Entry to Persons with Disability or perceived medical condition

Your business establishment is legally defined as a place of “public accommodation” and as such you may not prohibit entry by discriminating against someone for their medical condition or disability. If someone is unable or unwilling to wear a mask for one of those reasons you may not prohibit their entry, nor may you file a charge of trespassing because of their legally protected status. **Just as you would not be able to deny entry to someone in a wheelchair, you may not deny entry to someone not wearing a mask.** Having someone else shop for them, or requiring curbside delivery is NOT a reasonable accommodation, as it denies the “full enjoyment and equal access to facilities, services and accommodations,” as REQUIRED BY LAW.

# CALIFORNIA STATE LAWS

## 1. California Constitution, Article 1, Section 1

All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety, happiness and privacy. Therefore, attempting to deny a customer from acquiring property by shopping at your business or to deny their access to services that they have the right to enjoy is unlawful and a violation of Constitutional liberties.

## 2. California Constitution, Article 1, Section 2

Every person may freely speak. A law may not restrain or abridge livery of speech. (Muzzling one's face with a muzzle does not allow for one to freely speak, and it abridges freedom of speech.) Therefore, denying entry due to a person not wearing a mask is a violation of the California Constitution,

## 3. California Constitution, Article 1, Section 4

Free exercise and enjoyment of religious expression without discrimination. If covering one's face intrudes on the religious expression of an individual, that right to religious expression may not be denied.

#### 4. California Business and Professions Code 2052: Practicing medicine without a license

Requiring someone to wear a mask is a medical intervention. Unless you are a licensed medical professional, you have no authority to recommend such a practice. Further, a surgical mask is designated by the FDA as a “medical device”. You have no legal authority responsibility or liability to require that of either your customers or your employees.

No “emergency order” supersedes established law. Any “health order” related to mask-wearing is unlawful and unenforceable by law.

#### 5. California Penal Code 538(d) PC: Impersonating a peace officer

You are not a law enforcement officer and have no authority to enforce any law or order. Impersonating a law enforcement officer is a crime in this state under **California Penal Code 538(d) PC**. This violation carries the penalty of one year in jail and a \$2,000 fine. You will be reported to authorities for this violation.

#### 6. California Civil Code 51: Free and Equal Access to Public Accommodations

Your business establishment is legally defined as a place of “public accommodation” and as such you may not prohibit entry by discriminating against someone for their medical condition, disability or religious views. If someone is unable or unwilling to wear a mask for one of those reasons you may not prohibit their entry, nor may you file a charge of trespassing because of their legally protected status. **Just as you would not be able to deny entry to someone wearing a turban, you may not deny entry to someone not wearing a mask.** Having someone else shop for them, or requiring curbside delivery is NOT a reasonable accommodation, as it denies the “full enjoyment and equal access to facilities, services and accommodations,” as **REQUIRED BY LAW**.

A claim may be pursued through Department of Fair and Employment and Housing (DFEH) or a private lawsuit. If a business engages in a pattern or practice of discrimination, you can refer the matter to the Attorney General or to your local district or city attorney may bring an action to enjoin any violation of Civil Code section 54.1

#### 7. California Civil Code 52.1: Tom Bane Act protects personal rights and carries \$25,000 fine for each violation

If any person interferes with threat, intimidation or coercion with the exercise of enjoyment of an individual’s rights secured by the Constitution of the United States or the Constitution of California, the Attorney General or any district attorney or city attorney may bring a civil action or injunction in order to protect the peaceable exercise or enjoyment of the rights secured. A civil

penalty of \$25,000 may be assessed against EACH PERSON VIOLATING THESE RIGHTS. Further, an individual may also institute and prosecute a civil case for damages.

#### 8. California Civil Code 54: Individuals with disabilities have the same rights as others

Individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, including hospitals, clinics, and physicians' offices, public facilities, and other public places. Just as you would not be able to deny entry to someone in a wheelchair, you may not deny entry to someone not wearing a mask. Having someone else shop for them, or requiring curbside delivery is NOT a reasonable accommodation, as it denies the "full enjoyment and equal access to facilities, services and accommodations," as REQUIRED BY LAW.

A claim may be pursued through DFEH, or a private lawsuit. The ADA also handles these complaints, and info may be gotten by calling (800) 514-0301.

#### 9. California Civil Code 54.1: Disabled have full and equal access

Individuals with disabilities or medical conditions have the same right as the general public in attaining full and equal access to all public accommodations and their advantages, facilities and privileges to places of public accommodation, amusement or resort; and to other places to which the general public is invited, including public modes of transportation private schools, hotels, hospitals and public buildings, such as courthouses, government buildings. Aggrieved persons may recover up to three times the actual damages or a minimum of \$1,000, injunctive relief and reasonable attorney's fees

A claim may be pursued through DFEH, or a private lawsuit. The Attorney General, the Department of Rehabilitation, or the district city attorney may bring an action to enjoin any violation of Civil Code section 54.1

#### 10. California Business and Professions Code 125.6: Prohibits a licensed business to deny service based on disability or religion

Any person who holds a license pursuant to the business and professions code is subject to disciplinary action if that person discriminates in, restricts the performance of, or refuses to perform the licensed activity because of a consumer's race, color, sex, religion, ancestry, disability, marital status or national origin.



## **11. California Business and Professions Code 23438: Prohibits discrimination by a private clubs and organizations**

Private clubs and organizations holding liquor license may not discriminate against protected classes.

A claim may be filed with the California Department of Consumer Affairs, 401 R Street, Sacramento, CA 96814. (800) 952-5210. [www.dca.ca.gov](http://www.dca.ca.gov)

## **12. California Penal Code 236 PC: False Imprisonment**

Attempting to prevent someone's entry to this establishment or to restrict, detain or confine their movement without their consent constitutes FALSE IMPRISONMENT, which can be a felony, with the penalty of three years in jail. If you deny someone's entry to your place of public accommodation based on their medical condition or religious beliefs, you are at risk for charged with false imprisonment.

False imprisonment is the unlawful violation of the personal liberty of another.

(Enacted 1872.)

**236.1. (a)** A person who deprives or violates the personal liberty of another with the intent to obtain forced labor or services, is guilty of human trafficking and shall be punished by imprisonment in the state prison for 5, 8, or 12 years and a fine of not more than five hundred thousand dollars (\$500,000).

**(b)** A person who deprives or violates the personal liberty of another with the intent to effect or maintain a violation of Section 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518 is guilty of human trafficking and shall be punished by imprisonment in the state prison for 8, 14, or 20 years and a fine of not more than five hundred thousand dollars (\$500,000).

## **13. Penal Code 415 PC: Disturbing the Peace**

Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars (\$400), or both such imprisonment and fine:

(1) Any person who unlawfully fights in a public place or challenges another person in a public place to fight.

(2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.

(3) Any person who uses offensive words in a public place which are inherently likely to provoke an immediate violent reaction.

#### **14. California Penal Code 240 PC: Assault**

If you aggressively seek to harass or intimidate someone with the threat of violence, you could be in violation of CA PC 240, assault. An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another, even if no one is physically hurt by your behavior.

#### **15. California Penal Code 185 PC: Unlawful to wear a mask in the commission of a public offense**

It is unlawful to conceal your identity in the commission of any public offense (such as those listed in this document.)

#### **16. California Penal Code 422.6: Rights secured by the Constitution**

(a) No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in subdivision (a) of Section 422.55.

(b) No person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in subdivision (a) of Section 422.55.

#### **17. California Penal Code 422.75: Hate crime elevates punishment**

(a) Except in the case of a person punished under Section 422.7, a person who commits a felony that is a hate crime or attempts to commit a felony that is a hate crime, shall receive an additional term of one, two, or three years in the state prison, at the court's discretion.

(b) Except in the case of a person punished under Section 422.7 or subdivision (a) of this section, any person who commits a felony that is a hate crime, or attempts to commit a felony that is a hate crime, and who voluntarily acted in concert with another person, either personally or by aiding and abetting another person, shall receive an additional two, three, or four years in the state prison, at the court's discretion.

(c) For the purpose of imposing an additional term under subdivision (a) or (b), it shall be a factor in aggravation that the defendant personally used a firearm in the commission of the offense. Nothing in this subdivision shall preclude a court from also imposing a sentence enhancement pursuant to Section 12022.5, 12022.53, or 12022.55, or any other law.

## **18. California Penal Code 518: Extortion**

(a) Extortion is the obtaining of property or other consideration from another, with his or her consent, or the obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right.

(b) For purposes of this chapter, "consideration" means anything of value, including sexual conduct as defined in subdivision (b) of Section 311.3, or an image of an intimate body part as defined in subparagraph (C) of paragraph (4) of subdivision (j) of Section 647.

(c) Notwithstanding subdivision (a), this section does not apply to a person under 18 years of age who has obtained consideration consisting of sexual conduct or an image of an intimate body part.

## **19. California Penal Code 182: Conspiracy**

(a) If two or more persons conspire:

(1) To commit any crime.

(2) Falsely and maliciously to indict another for any crime, or to procure another to be charged or arrested for any crime.

(3) Falsely to move or maintain any suit, action, or proceeding.

(4) To cheat and defraud any person of any property, by any means which are in themselves criminal, or to obtain money or property by false pretenses or by false promises with fraudulent intent not to perform those promises.

(5) To commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws.

(6) To commit any crime against the person of the President or Vice President of the United States, the Governor of any state or territory, any United States justice or judge, or the secretary of any of the executive departments of the United States.

## **20. California Penal Code 646.9: Stalking**

(a) Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of stalking, punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

(b) Any person who violates subdivision (a) when there is a temporary restraining order, injunction, or any other court order in effect prohibiting the behavior described in subdivision (a) against the same party, shall be punished by imprisonment in the state prison for two, three, or four years.

## **21. California Penal Code 148.5: False reports of crime**

Every person who reports to any peace officer listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, the Attorney General, or a deputy attorney general, or a district attorney, or a deputy district attorney that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor.

(b) Every person who reports to any other peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor if (1) the false information is given while the peace officer is engaged in the performance of his or her duties as a peace officer and (2) the person providing the false information knows or should have known that the person receiving the information is a peace officer.

## **OFFENSES INVOLVING PUBLIC SERVANT**

### **22. California Penal Code 142: Official misconduct**

Any peace officer who has the authority to receive or arrest a person charged with a criminal offense and willfully refuses to receive or arrest that person shall be punished by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in a county jail not exceeding one year, or pursuant to subdivision (h) of Section 1170, or by both that fine and imprisonment.

### **23. California Penal Code 146: Unlawful arrest by public servant**

Every public officer, or person pretending to be a public officer, who, under the pretense or color of any process or other legal authority, does any of the following, without a regular process or other lawful authority, is guilty of a misdemeanor:

- (a) Arrests any person or detains that person against his or her will.
- (b) Seizes or levies upon any property.
- (c) Dispossesses any one of any lands or tenements.

### **24. California Penal Code 147: Inhumane treatment of person in custody**

Every officer who is guilty of willful inhumanity or oppression toward any prisoner under his care or in his custody, is punishable by fine not exceeding four thousand dollars (\$4,000), and by removal from office.

### **25. California Penal Code 149: Assault and battery by public servant**

Every public officer who, under color of authority, without lawful necessity, assaults or beats any person, is punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in a county jail not exceeding one year, or pursuant to subdivision (h) of Section 1170, or by both that fine and imprisonment.

## LEGAL DEFINITION OF TRESSPASS – California Penal Code 602.1

602.1. (a) Any person who intentionally interferes with any lawful business or occupation carried on by the owner or agent of a business establishment open to the public, by obstructing or intimidating those attempting to carry on business, or their customers, and who refuses to leave the premises of the business establishment after being requested to leave by the owner or the owner's agent, or by a peace officer acting at the request of the owner or owner's agent, is guilty of a misdemeanor, punishable by imprisonment in a county jail for up to 90 days, or by a fine of up to four hundred dollars (\$400), or by both that imprisonment and fine.

(b) Any person who intentionally interferes with any lawful business carried on by the employees of a public agency open to the public, by obstructing or intimidating those attempting to carry on business, or those persons there to transact business with the public agency, and who refuses to leave the premises of the public agency after being requested to leave by the office manager or a supervisor of the public agency, or by a peace officer acting at the request of the office manager or a supervisor of the public agency, is guilty of a misdemeanor, punishable by imprisonment in a county jail for up to 90 days, or by a fine of up to four hundred dollars (\$400), or by both that imprisonment and fine.

(c) Any person who intentionally interferes with any lawful business carried on by the employees of a public agency open to the public, by knowingly making a material misrepresentation of the law to those persons there to transact business with the public agency, and who refuses to leave the premises of the public agency after being requested to leave by the office manager or a supervisor of the public agency, or by a peace officer acting at the request of the office manager or a supervisor of the public agency, is guilty of an infraction, punishable by a fine of up to four hundred dollars (\$400).

(d) This section shall not apply to any of the following persons:

(1) Any person engaged in lawful labor union activities that are permitted to be carried out on the property by state or federal law.

(2) Any person on the premises who is engaging in activities protected by the California Constitution or the United States Constitution.

## LEGAL DEFENSE FOR TRESSPASS ACCUSATION

You had the right to be on the property;

You had consent to be on the property;

You didn't "occupy" the property (for certain kinds of trespass) . . . or you didn't actually obstruct or interfere with activity on the property (for other kinds); and

The property was not fenced or signed (for trespass as an infraction).

## **NOTE: NO STORE POLICY MAY VIOLATE ESTABLISHED LAW**

Just as your place of business may not institute “Fist-fight Fridays” or encourage customers to engage in pickpocketing or require someone to snort a line of cocaine as a condition of entry, your “store policy” may not violate the established laws set forth in this notice.

No claim of an “emergency” or “executive orders” or “health orders” or “city ordinances” excuses you from violating the laws set forth in this notice.

Further, as a place of public accommodation (even as a private business) you have extended an irrevocable license (privilege) to the public to enter your establishment and you may not deny entry based on race, religion, disability or other protected characteristics.

Read the entire trespass law by looking up CA Penal Code 602.

By denying entry to a customer who is not wearing a mask for either medical or religious reasons, YOU ARE IN VIOLATION of at least five federal laws and 21 California state laws, including:

US Constitution, 1st Amendment, 4<sup>th</sup> Amendment

US Title 42, US Title 52

California Constitution Article 1, sections 1, 2, 4

California Business and Professions Code 2052: Practicing medicine without a license

California Penal Code 538(d) PC: Impersonating a peace officer

California Civil Code 51: Free and Equal Access to Public Accommodations

California Civil Code 52.1: Tom Bane Act

California Civil Code 54: Individuals with disabilities have the same rights as others

California Civil Code 54.1: Disabled have full and equal access

California Business and Professions Code 125.6: Prohibits a licensed business to deny service based on disability or religion

California Business and Professions Code 23438: Prohibits discrimination by a private clubs and organizations

California Penal Code 236 PC: False Imprisonment

Penal Code 415 PC: Disturbing the Peace

## COVID-19 and the Use of Cloth Face Masks

### Summary of Findings

#### Issues:

Should cloth masks be worn during this COVID-19 pandemic in either the community setting or in places of business where food is sold?

#### Conclusions:

1. There is no incontrovertible, compelling or even a preponderance of evidence to support an Order to wear a cloth mask in the community setting at this time.
2. I am supportive of cashiers and customers wearing cloth masks inside a grocery store or any essential business where social distancing is difficult to maintain. Supporting evidence is not strong enough to issue an Order to mandate the use of cloth masks at this time; consumer preference is already accomplishing this in most parts of the County.

### Introduction

A number of counties in California have adopted recommendations regarding the use of cloth masks in the community setting. The evidence is not conclusive regarding whether this practice is helpful or harmful in reducing the spread of COVID-19. There are convincing arguments both for and against the use of cloth masks in public places (see table: The Pros and Cons of Wearing a Cloth Mask). In creating a guideline for Ventura County, we have considered the prevalence of COVID-19 in our community as well as our success in flattening the curve by implementing known infection control strategies such as strict social distancing.

Note that local, state, and national guidelines, when they support the use of masks, uniformly support the use of cloth masks only and recommend **against** the use of medical masks (whether called surgical or procedure masks or N95 respirators). There is a global shortage of personal protective equipment (PPE) for healthcare workers and without adequate supplies of masks, gloves and gowns, our medical professionals are not only putting themselves at risk, they are putting their patients at risk.

A study of 600 patrons at 6 retailers in Ventura County (see table: Grocery Store Masks Polling Data) demonstrates that over 50% of people choosing to wear face masks in public are wearing medical-grade masks. We urge those of you who have a supply of unused medical-grade masks to donate these for use by our local health care providers by going to [vcemergency.com](http://vcemergency.com) and using the “donate” tab.



### The Pros and Cons of Wearing a Cloth Mask

The following is information about the effectiveness of cloth masks and medical (surgical, procedure) masks in preventing infection that may prove useful in deciding whether to wear a cloth mask in the community setting. **The public should not use medical masks due to a shortage for health care professionals.** Medical masks are discussed below because cloth and medical masks are often compared in medical studies and also to show that they are by no means a perfect option for use in the community setting.

Arguments in Favor of Wearing a Mask	Arguments Against Wearing a Mask
<p>There is a “very slight protective advantage” to wearing a medical mask as opposed to wearing nothing at all in a community setting. The risk of acquiring a viral infection is reduced by 6%. When both ill and well wear a medical mask in a household, the risk is reduced by 19%. There is more “evidence to support the use of medical masks for short periods of time by particularly vulnerable individuals when in transient high-risk situations.”</p> <p><a href="https://www.medrxiv.org/content/10.1101/2020.04.01.20049528v1">https://www.medrxiv.org/content/10.1101/2020.04.01.20049528v1</a></p>	<p>With near universal use of cloth and medical masks worn in public in Wuhan, China during the 2019-2020 flu season leading up to the COVID-19 outbreak, the outbreak spread virtually unchecked.</p>
<p>CDC recommends wearing cloth masks in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies) due to the possible asymptomatic spread of COVID 19 from individuals who are not aware they have the virus.</p> <p><a href="https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html">https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html</a></p>	<p>With no masking order in place, Ventura County residents have successfully “flattened the curve” by using social distancing.</p>
<p>Cloth masks should be considered the last resort to prevent droplet transmission from infected individuals but would be better than no protection at all when in close proximity to others. Both cloth and medical masks significantly reduced the number of microorganisms expelled but medical masks were 3 times more effective. The testing was</p>	<p>In a study involving 1607 health care workers across 14 hospitals, the rate of infection outcomes were 13 times higher in the cloth mask group compared with the medical mask group. Penetration of cloth masks by particles was almost 97% and medical masks 44%.</p>

Arguments in Favor of Wearing a Mask	Arguments Against Wearing a Mask
<p>performed immediately after putting on the mask.</p> <p>“Any mask (cloth or medical), no matter how efficient at filtration or how good the seal, will have minimal effect if is not used in conjunction with other preventative measures such as... good respiratory etiquette and regular hand hygiene.”</p> <p><a href="https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7108646/pdf/S1935789313000438a.pdf">https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7108646/pdf/S1935789313000438a.pdf</a></p>	<p>The conclusions of this study “caution against the use of cloth masks”.</p> <p><a href="https://bmjopen.bmj.com/content/5/4/e006577">https://bmjopen.bmj.com/content/5/4/e006577</a></p>
<p>The California Department of Public Health recommends people wear cloth masks if they feel comfortable doing so however it should not be a replacement for other evidence-based practices such as physical distancing, frequent hand washing, and remaining at home.</p> <p>“There may be a benefit to reducing asymptomatic transmission and reinforcing physical distancing from the use of (cloth) face coverings.”</p> <p><a href="https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Face-Coverings-Guidance.aspx">https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Face-Coverings-Guidance.aspx</a></p>	<p>“Available evidence shows that (cloth masks)... may even increase the risk of infection due to moisture, liquid diffusion and retention of the virus. Penetration of particles through cloth is reported to be high.” “Altogether, common fabric cloth masks are not considered protective against respiratory viruses and their use should not be encouraged.”</p> <p><a href="https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/face-masks.html">https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/face-masks.html</a></p>
<p>CDC recommends wearing cloth masks in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies) especially in areas of significant community-based transmission.</p> <p><a href="https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html">https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html</a></p>	<p>“Moisture retention, reuse of cloth masks and poor filtration may result in increased risk of infection.”</p> <p>The virus may survive on the surface of the facemasks.”</p> <p>“Self-contamination through repeated use and improper doffing is possible.”</p> <p><a href="https://bmjopen.bmj.com/content/5/4/e006577">https://bmjopen.bmj.com/content/5/4/e006577</a></p>
<p>In close proximity (approximately 3 ft.), medical masks can block up to 90% of large droplets (not viral aerosols) expelled directly onto the front surface of the mask. In this study, only 7% of the droplets penetrated the mask.</p>	<p>Textile materials (that can be used for cloth masks) can contain harmful chemicals and dyes (i.e. formaldehyde). There is no research available regarding the safety of breathing through such materials but formaldehyde is a gas that can irritate a person’s eyes, nose, throat and lungs, or trigger an asthma attack,</p>

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<a href="https://www.ncbi.nlm.nih.gov/pubmed/21197329">https://www.ncbi.nlm.nih.gov/pubmed/21197329</a>	<p>even at low concentrations. Prolonged exposure to formaldehyde can cause cancer.</p> <p><a href="https://ww2.arb.ca.gov/resources/fact-sheets/formaldehyde">https://ww2.arb.ca.gov/resources/fact-sheets/formaldehyde</a></p> <p><a href="https://www.gao.gov/new.items/d10875.pdf">https://www.gao.gov/new.items/d10875.pdf</a></p>
<p>Medical masks can reduce but not eliminate the emission of viral particles into the environment in respiratory droplets (not viral aerosols) emitted by someone who is wearing the mask. Studied in individuals with a fresh mask for the first 30 minutes of use.</p> <p><a href="https://www.nature.com/articles/s41591-020-0843-2">https://www.nature.com/articles/s41591-020-0843-2</a></p>	<p>According to the World Health Organization, the use of a medical mask by healthy people to protect themselves from COVID-19 in community settings is not supported by current evidence.</p> <p>The following potential risks should be carefully taken into account in deciding to wear a medical mask in the community setting:</p> <ul style="list-style-type: none"> <li>• self-contamination that can occur by touching and reusing a contaminated mask</li> <li>• depending on type of mask used, potential breathing difficulties</li> <li>• diversion of mask supplies and consequent shortage of masks for health care workers</li> <li>• diversion of resources from effective public health measures, such as hand hygiene</li> </ul> <p><a href="https://www.who.int/publications-detail/advice-on-the-use-of-masks-in-the-community-during-home-care-and-in-healthcare-settings-in-the-context-of-the-novel-coronavirus-(2019-ncov)-outbreak">https://www.who.int/publications-detail/advice-on-the-use-of-masks-in-the-community-during-home-care-and-in-healthcare-settings-in-the-context-of-the-novel-coronavirus-(2019-ncov)-outbreak</a></p>
<p>“Of the nine trials of facemasks identified in community settings, in all but one, facemasks were used for respiratory protection of well people. They found that facemasks and facemasks plus hand hygiene may prevent infection in community settings, subject to early use and compliance.”</p> <p><a href="https://www.bmj.com/content/350/bmj.h694.full">https://www.bmj.com/content/350/bmj.h694.full</a></p>	<p>Wearing cloth masks in public can create a false sense of security and complacency in which people may neglect other hygiene practices.</p> <p><a href="https://www.who.int/publications-detail/advice-on-the-use-of-masks-in-the-community-during-home-care-and-in-healthcare-settings-in-the-context-of-the-novel-coronavirus-(2019-ncov)-outbreak">https://www.who.int/publications-detail/advice-on-the-use-of-masks-in-the-community-during-home-care-and-in-healthcare-settings-in-the-context-of-the-novel-coronavirus-(2019-ncov)-outbreak</a></p>

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<p>There is limited (some) evidence that wearing a medical mask by healthy individuals in the households or among contacts of a sick patient, or among attendees of mass gatherings may be beneficial as a preventive measure.</p> <p><a href="https://www.who.int/publications-detail/advice-on-the-use-of-masks-in-the-community-during-home-care-and-in-healthcare-settings-in-the-context-of-the-novel-coronavirus-(2019-ncov)-outbreak">https://www.who.int/publications-detail/advice-on-the-use-of-masks-in-the-community-during-home-care-and-in-healthcare-settings-in-the-context-of-the-novel-coronavirus-(2019-ncov)-outbreak</a></p>	<p>Frequent washing and drying of a cloth mask can decrease the filtration capacity of the mask.</p> <p><a href="https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6599448/">https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6599448/</a></p>
	<p>Failing to wash a cloth mask daily increases the risk of self-contamination for the person wearing the mask due to contaminants found on the outer surface of the mask after use. The risk increases with longer duration of use.</p> <p><a href="https://bmcinfectdis.biomedcentral.com/track/pdf/10.1186/s12879-019-4109-x">https://bmcinfectdis.biomedcentral.com/track/pdf/10.1186/s12879-019-4109-x</a></p>
	<p>Buying pre-manufactured masks such as N95 and medical masks can create shortages of PPE for health care providers.</p> <p><a href="https://www.who.int/news-room/detail/03-03-2020-shortage-of-personal-protective-equipment-endangering-health-workers-worldwide">https://www.who.int/news-room/detail/03-03-2020-shortage-of-personal-protective-equipment-endangering-health-workers-worldwide</a></p>
	<p>Virus-contaminated aerosols can pass through cloth and medical masks with coughing and sneezing.</p> <p><a href="https://annals.org/aim/fullarticle/2764367">https://annals.org/aim/fullarticle/2764367</a></p>
	<p>“The evidence is not sufficiently strong to support widespread use of facemasks as a protective measure against COVID-19.”</p> <p><a href="https://www.medrxiv.org/content/10.1101/2020.04.01.20049528v1">https://www.medrxiv.org/content/10.1101/2020.04.01.20049528v1</a></p>

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	<p>“Neither surgical nor cotton masks effectively filtered SARS–CoV-2 during coughs by infected patients... the size and concentrations of SARS–CoV-2 in aerosols generated during coughing are unknown. Oberg and Brousseau demonstrated that surgical masks did not exhibit adequate filter performance against aerosols measuring 0.9, 2.0, and 3.1 <math>\mu\text{m}</math> in diameter. Lee and colleagues showed that particles 0.04 to 0.2 <math>\mu\text{m}</math> can penetrate surgical masks. The size of the SARS–CoV particle from the 2002–2004 outbreak was estimated as 0.08 to 0.14 <math>\mu\text{m}</math>; assuming that SARS–CoV-2 has a similar size, surgical masks are unlikely to effectively filter this virus.”</p> <p><a href="https://annals.org/aim/fullarticle/2764367">https://annals.org/aim/fullarticle/2764367</a></p>
	<p>“The CDC does not <i>mandate</i> that face coverings be worn statewide.”</p> <p><a href="https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Face-Coverings-Guidance.aspx">https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Face-Coverings-Guidance.aspx</a></p>
	<p>There is no evidence that cloth masks or medical masks worn in public plus practicing social distancing is any better than social distancing alone.</p>
	<p>The outer surface of a mask in a patient with COVID-19 is almost always positive for virus, even more often than the inside surface. Coughing and speaking have been documented to disperse the virus out into the air.</p> <p><a href="https://annals.org/aim/fullarticle/2764367">https://annals.org/aim/fullarticle/2764367</a></p>

With these published and observed findings in mind, Public Health will not mandate that cloth face masks be worn in all public places in Ventura County at this time. Were the prevalence in our community to increase or with the advent of more convincing evidence in favor of this strategy, this guidance may change.