

Some businesses want masks on, even as states drop mandates

April 5 2021, by Joyce M. Rosenberg



A man leaves a convenience store while wearing a required face mask in Houston, in this Thursday, June 25, 2020, file photo. Although nearly a fifth of U.S. states don't require people to wear masks to protect against COVID-19, some businesses are requiring employees and customers to be masked on their premises. (AP Photo/David J. Phillip, File)

Several weeks have passed since Texas ended its COVID-19 mask mandate. But if you want to pick up a snack at Soul Popped Gourmet Popcorn in Austin's Barton Creek Square Mall, you'll still be turned away if you aren't wearing a face covering.

"We cannot afford to take chances with the lives of my staffers. They're young people and their parents have entrusted me with their care," says owner De J. Lozada. She's also concerned about her 85-year-old father, who will soon return to his part-time job in the store.

Eighteen states currently have no mask requirements, including some that have never made face coverings mandatory. Texas Gov. Greg Abbott lifted his state's mask mandate on March 2, and Indiana expects to end its mandate on Tuesday.

But many business owners like Lozada are keeping their own rules in place, requiring staffers and customers alike to wear masks for the sake of protecting everybody, particularly their employees.

And the law is on an owner's side. A company's premises are private property, so owners can insist that customers wear masks, just as restaurants can require that diners wear shoes and shirts in order to be served, says Michael Jones, an attorney with the law firm Eckert Seamans in Philadelphia.

"Storeowners, business owners have the absolute right to require customers, vendors, anyone who comes onto their property to wear a mask," Jones says. It's legal as long as owners don't enforce their requirements in a discriminatory way, he says.

If a customer enters a store without a mask, is asked to leave and doesn't, that could be trespassing under the law. Lozada says she would call 911 if faced with that situation.

Most retail chains require employees and customers to wear masks. One exception, Foot Locker, says each store is following the requirements of the state where it's located.

Employers have an obligation under federal law and some state laws to provide a safe workplace for their employees, and that can include requiring everyone on the premises to wear masks. In the COVID-19 section of its website, the Occupational Safety and Health Administration notes that employers are required to have a workplace "free from recognized hazards that are causing or are likely to cause death or serious physical harm."

When employees at Intoplast Group question why they have to wear masks, managers at the plastic products manufacturer can point to the law, says Brenda Wilson, senior director of human resources and communications of the Livingston, New Jersey-based company that has facilities in 22 states. At this point, masks to protect against COVID-19 are as important as the eye and ear protection that factory workers must wear. But she says Intoplast's customers also need to be protected.



A customer enters a store with a face mask required sign displayed in Dallas, in this Tuesday, March 2, 2021, file photo. Although nearly a fifth of U.S. states don't require people to wear masks to protect against COVID-19, some businesses are requiring employees and customers to be masked on their premises. (AP Photo/LM Otero, File)

"They are depending on us to get the products out. If we have an outbreak and that results in losing manufacturing capacity, then no one's going to win," Wilson says.

Many employees want their bosses to require masks. The 16 massage therapists who work for Amber Briggle cannot maintain the recommended six-foot distance from their clients and still do their work.

She requires masks for everyone at her two Soma Massage locations in Denton, Texas. She told her customers in a blog post, "these same masks have kept all of us healthy since we reopened in May—we haven't had a single COVID case transmitted here despite the thousands of people we've seen."

When some clients objected, saying they wanted to be more comfortable and weren't worried about safety, Briggle has stood firm.

"I've told them, 'you can put your mask on or you can leave.' And they'd leave. We'd offer them a mask, and they'd leave," she says. But requiring masks has brought Briggle new customers, including some who canceled memberships at spas where masks are not required.

Even with masks, Briggle and her staff have had three COVID-19 scares, when clients called after appointments to say they'd tested positive for the virus. The three therapists were taken off the schedule and their clients were notified. Neither the therapists nor their clients tested positive.

But some owners don't want their customers or clients to feel uncomfortable. When clients at Vanessa Perry's Houston-based credit counseling service ask if they can take off their masks, she says OK.

"We are keeping our distance and letting our clients do what makes them comfortable," says Perry, owner of Impeccable Credit Services. Perry and her staffers remain masked.

Perry did research before deciding on her mask-optional policy for clients. The increasing numbers of vaccinated people in Houston, and the fact that the majority of Perry's clients are seen online, have convinced her that the chances of a client spreading the virus are diminishing.

But when a prospective client comes to Justin Hill's San Antonio, Texas, law office without a mask, Hill takes them out on the patio for their conversation. He often finds that when he and a would-be client disagree about masks, it's a sign that they might not work well together on a case.

"Some of them, we've realized might not have been the perfect fit," says Hill, whose practice specializes in personal injury cases.

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