

# **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**

### **1. 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 of a person's right to privacy. Violation of this protection will result in your actions being reported 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.

# **NEW YORK STATE LAW**

## **1. New York Constitution, Article 1, Section 2**

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. New York Constitution, Article 1, Section 8**

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 New York Constitution,

### **3. New York Constitution, Article 1, Section 3**

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. New York State Office of the Professions Code 6522: 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. This offense is punishable by up to 12 months in jail.

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

### **5. New York Consolidated Laws PEN 190.26 2: 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 defined as an act to induce another to submit to such pretended official authority and it is a crime in this state under **New York PEN 190.26 2**. This violation is a Class E felony and carries the penalty of up to 4 years in jail. You will be reported to authorities for this violation.

### **6. New York Civil Rights Law Article 4 Section 40: 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.

To file a civil rights complaint visit here <https://dhr.ny.gov/complaint> or call the New York State Division of Human Rights 888-392-3644.

### **7. New York Civil Rights Law Article 4 Section 40-C: 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 violation of this law is guilty of a misdemeanor and it is punishable by up to \$500.

### **8. New York Human Rights Law Article 5 Section 2: 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.

## **9. New York Office of Professions Code 29 b1: 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.

## **10. New York Penal Code 135, 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 being charged with false imprisonment. This violation is a Class E felony and punishable by up to 4 years in jail.

## **11. New York Penal Code 240.20: Disorderly Conduct**

A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof:

1. He engages in fighting or in violent, tumultuous, or threatening behavior; or
2. He makes unreasonable noise; or
3. In a public place, he uses abusive or obscene language, or makes an obscene gesture; or
4. Without lawful authority, he disturbs any lawful assembly or meeting of persons

## **12. New York Penal Code 120.14: Menacing**

If you aggressively seek to harass or intimidate someone with the threat of violence, you could be in violation of NYS Penal Code 120.14. Menacing 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. This crime is a second degree Class A misdemeanor and you could be charged with up to one year in jail and a fine of up to \$1,000 or twice the amount of the individual's gain from the crime.

### **13. New York Penal Code 135.60: Coercion in the third degree**

A person is guilty of coercion in the third degree when he or she compels or induces a person to engage in conduct which the latter has a legal right to abstain from engaging in, or to abstain from engaging in conduct in which he or she has a legal right to engage, or compels or induces a person to join a group, organization or criminal enterprise which such latter person has a right to abstain from joining, by means of instilling in him or her a fear that, if the demand is not complied with, the actor or another will:

1. Cause physical injury to a person; or
2. Cause damage to property; or
3. Engage in other conduct constituting a crime; or
4. Accuse some person of a crime or cause criminal charges to be instituted against him

If you or your business is requiring employees and others in the general public to break the laws listed herein, you are guilty of coercion in the third degree; a Class A misdemeanor and it is punishable by up to one year in jail, a fine of up to \$1,000, or twice the amount of the individual's gain from the crime.

### **14. New York Penal Code 145.15: Criminal tampering in the third degree**

A person is guilty of criminal tampering in the third degree when, having no right to do so nor any reasonable ground to believe that he has such right, he tampers with property of another person with intent to cause substantial inconvenience to such person or to a third person.

Private medical information and my physical body is my property. To require I give up my private information or put on a mask on my own body is tampering with my object of legal rights which is illegal.

Criminal tampering in the third degree is a class B misdemeanor and is punishable by up to three months in jail and a fine up to \$500.

### **15. New York Penal Code 240.35: Loitering**

A person is committing the violation of loitering when he/she, being masked or in any manner disguised by unusual or unnatural attire or facial alteration, loiters, remains or congregates in a public place with other persons so masked or disguised, or knowingly permits or aids persons so masked or disguised to congregate in a public place; except that such conduct is not unlawful when it occurs in connection with a masquerade party or like entertainment if, when such entertainment is held in a city which has promulgated regulations in connection with such affairs, permission is first obtained from the police or other appropriate authorities.

### **16. New York Penal Code 120.20: Reckless endangerment in the second degree**

A person is guilty of reckless endangerment in the second degree when he recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.

Reckless endangerment in the second degree is a class A misdemeanor.

**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.

**THUS: 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 16 New York state laws, including:**

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

US Title 42, US Title 52

New York Constitution Article 1, sections 2, 3, 8

New York State Office of the Professions Code 6522

New York Consolidated Laws PEN 190.26 2

New York Civil Rights Law Article 4 Section 40

New York Civil Rights Law Article 4 Section 40-C

New York Human Rights Law Article 5 Section 2

New York Office of Professions Code 29 b1

New York Penal Code 135

New York Penal Code 240.20

New York Penal Code 120.14

New York Penal Code 135.60

New York Penal Code 145.15

New York Penal Code 240.35

New York Penal Code 120.20

**YOU ARE HEREBY NOTIFIED of a potential CITIZEN'S ARREST for violations of the above laws, under NYS Penal Code 140.30, which authorizes a private person to make a citizen's arrest in New York.**

Under the authority of NYS Penal Code 140.30, a private person may arrest another person for any crime committed in the presence of the private person if the private person has probable cause to believe the arrested person committed the crime. A private person making such an arrest shall, without unnecessary delay, take the arrested person before a magistrate or deliver the arrested person to a peace officer.

THEREFORE, you and your employees have hereby been PUT ON NOTICE of potential civil and criminal violations of unlawfully preventing the lawful entry of any member of the public.

**YOU ARE AT RISK FOR A CITIZEN'S ARREST, AS AUTHORIZED UNDER NYS PENAL CODE 140.30 WITH LAW ENFORCEMENT BEING SUMMONED FOR YOUR VIOLATIONS OF THE ABOVE LAWS. INITIAL\_\_\_\_\_.**

**What is the legal definition of a trespass?**

**New York Penal Code 140.17: Criminal trespass in the first degree**

A person is guilty of criminal trespass in the first degree when he knowingly enters or remains unlawfully in a building, and when, in the course of committing such crime, he:

1. Possesses, or knows that another participant in the crime possesses, an explosive or a deadly weapon; or
2. Possesses a firearm, rifle or shotgun, as those terms are defined in section 265.00 , and also possesses or has readily accessible a quantity of ammunition which is capable of being discharged from such firearm, rifle or shotgun; or
3. Knows that another participant in the crime possesses a firearm, rifle or shotgun under circumstances described in subdivision two.

Criminal trespass in the first degree is a class D felony.

### **New York Penal Code 140.15: Criminal trespass in the second degree**

A person is guilty of criminal trespass in the second degree when:

1. he or she knowingly enters or remains unlawfully in a dwelling; or
2. being a person required to maintain registration under article six-C of the correction law and designated a level two or level three offender pursuant to subdivision six of section one hundred sixty-eight-1 of the correction law , he or she enters or remains in a public or private elementary, parochial, intermediate, junior high, vocational or high school knowing that the victim of the offense for which such registration is required attends or formerly attended such school. It shall not be an offense subject to prosecution under this subdivision if: the person is a lawfully registered student at such school; the person is a lawful student participant in a school sponsored event; the person is a parent or a legal guardian of a lawfully registered student at such school and enters the school for the purpose of attending their child's or dependent's event or activity; such school is the person's designated polling place and he or she enters such school building for the limited purpose of voting; or if the person enters such school building for the limited purposes authorized by the superintendent or chief administrator of such school.

Criminal trespass in the second degree is a class A misdemeanor.

### **New York Penal Code 140.10: Criminal trespass in the third degree**

A person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in a building or upon real property

- (a) which is fenced or otherwise enclosed in a manner designed to exclude intruders; or
- (b) where the building is utilized as an elementary or secondary school or a children's overnight camp as defined in section one thousand three hundred ninety-two of the public health law or a summer day camp as defined in section one thousand three hundred ninety-two of the public health law in violation of conspicuously posted rules or regulations governing entry and use thereof; or
- (c) located within a city with a population in excess of one million and where the building or real property is utilized as an elementary or secondary school in violation of a personally communicated request to leave the premises from a principal, custodian or other person in charge thereof; or
- (d) located outside of a city with a population in excess of one million and where the building or real property is utilized as an elementary or secondary school in violation of a personally communicated request to leave the premises from a principal, custodian, school board member or trustee, or other person in charge thereof; or
- (e) where the building is used as a public housing project in violation of conspicuously posted rules or regulations governing entry and use thereof; or
- (f) where a building is used as a public housing project in violation of a personally communicated request to leave the premises from a housing police officer or other person in charge thereof; or
- (g) where the property consists of a right-of-way or yard of a railroad or rapid transit railroad which has been designated and conspicuously posted as a no-trespass railroad zone.

Criminal trespass in the third degree is a class B misdemeanor.

## HOW TO MAKE A CITIZEN'S ARREST IN NEW YORK

1. First, CALL 911 to report a crime in progress.
2. Inform the perpetrator of the intended arrest, using the following language:
  - a) "You are hereby informed of my attention to place you under citizen's arrest."
  - b) "You have willfully and knowingly violated these laws: (read off the list of violations as applicable)"
  - c) "My authority to arrest you is granted by 2020 New York Revised Statutes 13.3884"
  - d) "I have called law enforcement to the scene"
  - e) "I am requesting your cooperation until law enforcement arrives".
  - f) "If you refuse to cooperate or attempt to flee the scene, I have the right to use reasonable force to detain you."
  - g) "The law allows for you to be kept out of harm's way in a secluded location until law enforcement arrives."

**\*\*\* Any police/peace officer is in violation OFFICIAL MISCONDUCT as defined under NYS penal code 195.00:**

A public servant is guilty of official misconduct when, with intent to obtain a benefit or deprive another person of a benefit:

1. He commits an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act is unauthorized; or
2. He knowingly refrains from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office.

Official misconduct is a class A misdemeanor.

Prepared by [www.THEHEALTHYAMERICAN.ORG](http://www.THEHEALTHYAMERICAN.ORG) in association with [www.privacyfight.com](http://www.privacyfight.com)

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