

It is the policy of the State of _____ to safeguard public health and liberty in a reasonable and balanced manner. It is the policy of the State of _____ to infringe personal liberty only to the extent necessary to protect the public health and only where a direct threat can be shown to justify liberty infringement. Any infringement of liberty to further public health must be medically necessary and furthered by the least intrusive means possible. This section is intended to further these policies.

The State of _____ finds that face coverings and masks create health risks by limiting the ability to breathe naturally and fully and also have other harmful effects, including antisocial effects [and that children are particularly prone to such harmful effects]. The State of _____ and all of its government entities and business affiliations are prohibited from requiring any [person OR child under the age of 18] to wear a face covering or mask for the purpose of preventing the spread of COVID-19 absent clear and convincing evidence of a direct threat. The persons and entities subject to this section are prohibited from discriminating against any [person OR child] based on failure or refusal to wear a face covering or mask.

1. Definitions.

(a) "Governmental entity" means any unit of state or local government including, but not limited to, the governor, state agencies, counties, cities, towns, political subdivisions, boards, departments, commissions, and special districts and includes all agents, contractors, and employees of any government entity.

(b) "Business affiliation" means any company contracting with or doing business with the State of _____ or a government entity or receiving public funds through any means including contracts, grants, loans, or other disbursements of taxpayer money from the State of _____ or a government entity and includes all agents, contractors, and employees of any company.

(c) "Company" means any corporation, limited liability corporation, nonprofit corporation, partnership, limited partnership, limited liability partnership, business trust, joint venture, domestic or foreign sole proprietorship, other domestic or foreign entity or business association, or any other business organization and includes any subsidiary or parent company of any business organization.

(d) "Discrimination" means a government entity or business affiliation subjecting any [person to refusal to hire, failure to promote, reassignment with significantly different responsibilities, reduction in pay, significant change in benefits, or employment termination OR child to refusal to admit into school, childcare facility, sport activity, or any other extracurricular activity] and also means refusal to allow any [person OR child] to enter or patronize a government establishment or an establishment of a business affiliation on the basis of such [person's OR child's] failure or refusal to wear a face covering or mask for purposes of preventing the spread of COVID-19.

(e) "Direct threat" means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that an individual poses a direct threat shall be based on an individualized assessment of the individual's present ability to safely perform the essential functions of the job. This assessment shall be based on a reasonable medical

judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include: (1) The duration of the risk; (2) The nature and severity of the potential harm; (3) The likelihood that the potential harm will occur; and (4) The imminence of the potential harm.

(f) “Face covering or mask” means a natural or synthetic fabric that covers the nose and mouth and is secured to the head with ties, straps, or loops over the ears to affix the face covering or mask to the face.

2. Applicability.

(a) The State of _____ and all of its government entities and business affiliations may not require any [person OR child] to wear a face covering or mask to prevent the spread of COVID-19 absent clear and convincing evidence that the [person OR child] poses a direct threat to the public health that will be substantially prevented by wearing a face covering or mask to a reasonable medical certainty.

(b) The State of _____ and all of its government entities may not enter into a contract or give a loan, grant, or any other disbursement of taxpayer money to a business affiliation that requires a [person OR child] to wear a face covering or mask to prevent the spread of COVID-19.

(c) A business affiliation that violates this section materially breaches its contract with the State of _____ or government entity, rendering the contract voidable by the State of _____ or government entity.

3. Exemption. Professional healthcare facilities treating COVID-19 patients may be exempt from this section where a direct threat exists that cannot be eliminated or reduced by reasonable accommodation.

4. Construction and severability. The provisions of this section shall be construed liberally to accomplish the policies expressed herein. The provisions of this section are severable. If any provision of this section or the application thereof is held invalid, the invalidity does not affect other provisions or applications of the section, which remain enforceable.