



MEMORANDUM

Date: April 16, 2021

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator 

Re: **Legal Review of Recent Legislation Prohibiting the County from Requiring a Business to Enforce any Mask Mandate**

Please see the attached memorandum I directed to the County Attorney seeking guidance on a number of questions that have been raised regarding this new legislation. We have asked for legal interpretation regarding enforcement of the mask requirements adopted by Pima County as a public health measure to reduce the spread of COVID-19. We believe the answers to most of the questions will allow Pima County to continue our mask requirement even after the legislation becomes effective. The County should be able to enforce any public health standard the County believes appropriate to minimize the risk and spread of disease whether the COVID-19 or any of its variants in the future.

The County's mask requirements are in full force and effect and the County will enforce those requirements as adopted by the Board of Supervisors, including the imposition of penalties where noncompliance is found. This will occur now and in the future. It should be noted that the legislation signed into law by the Governor is not effective until 90 days after the session ends, which would place the law's effectiveness some time in late Summer.

In addition, we have been asked and continue to clarify that the mask mandate will be lifted when at least two weeks of COVID-19 infections fall below the threshold of 10 per 100,000 population sustained for two weeks. The daily infection rates that have existed over the last week per 100,000 population are shown below:

DATE	CASES/100,000 POPULATION
March 14, 2021	45/100K
March 21, 2021	57/100K
March 28, 2021	59/100K
April 4, 2021	55/100K
April 11, 2021	62/100K
Source: ADHS Schools Dashboard or CDC COVID Data Tracker website	

The Honorable Chair and Members, Pima County Board of Supervisors

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As you can see we remain significantly above the threshold as to when masks may not be required.

CHH/anc

Attachment

c: Jan Leshar, Chief Deputy County Administrator
Carmine DeBonis, Jr., Deputy County Administrator for Public Works
Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer,
Health and Community Services
Terry Cullen, MD, MS, Public Health Director, Pima County Health Department



MEMORANDUM

Date: April 14, 2021

To: The Honorable Laura Conover
Pima County Attorney

From: C.H. Huckelberry
County Administrator 

Re: **House Bill 2770 - Legislation Signed by the Governor Related to Masks**

The Governor recently signed legislation approved by the Legislature regarding face masks. It obviously will not take effect until 90 days after the Session ends. The language of the legislation is inserted below:

Chapter 38
Businesses Exempt from Mask Mandate
Article 1. General Provisions
44-7951. Businesses exempt from mask mandate

Notwithstanding any other law. A business in this state is not required to enforce on its premises a mask mandate that is established by this State, a city, town or county or any other jurisdiction of this State.

However, to understand the ability of the County to continue to enforce public health mandates such as mask wearing, please answer the following questions:

1. Generally, how does this legislation affect our ability to adopt any Countywide mask requirement?
2. Can the County continue to require a face mask for any member of the public who enters County-owned property, including public places such as County parks or any facility operated by a third party, nonprofit?
3. Can the County require a face mask for those businesses regulated by the County Food or Pool Code. In particular, can the county require employees or customers of said businesses to wear face masks?
4. The existing resolution language provides accommodations for those with medical issues. Is it legal to ask such an individual seeking an accommodation to sign an attestation about the existence of such a medical condition without disclosing that does not disclose any medical details?
5. Does the County retain our ability to suspend or revoke the permit or license issued by the County or to issue a citation for violations of a Countywide mask requirement presently and after the legislation becomes effective?

c: Lesley Lukach, Deputy County Attorney, Pima County Attorney's Office
Daniel Jurkowitz, Supervising Attorney, Pima County Attorney's Office