

IDPH Emergency Rules to Enforce the Use of Face Coverings and Gathering Restrictions

The Illinois Department of Public Health (IDPH) is proposing emergency rules pursuant to the Department of Public Health Act and the Communicable Disease Report Act regarding the use of face coverings and restrictions on gatherings to suppress the spread of COVID-19. The rule sets forth a measured and deliberate process designed to encourage voluntary compliance before a business is ordered to comply or is subject to penalties. The rules provide multiple opportunities for compliance before any penalty is issued and allow for a penalty that is significantly less severe than the penalties (like license revocation or closure) that are currently available. Individuals are not subject to any penalty under the rule.

Requirements and restrictions:

- Any individual over age two and able to medically tolerate a face covering is required to cover their nose and mouth with a face covering when in a public place and unable to maintain at least a six-foot social distance.
- Any business, service, facility, or organization shall take reasonable steps to require employees, customers, and other individuals on the premises to wear a face covering.
- Public and nonpublic schools, ranging from preschools through post-secondary institutions, and day care centers and homes shall require students, employees, and other individuals on the premises to wear a face covering.
- Gatherings of more than 50 people or more than 50% of a building's maximum capacity are prohibited unless exempted by law or Executive Order. Businesses that comply with the guidance issued by the Department of Commerce and Economic Opportunity (DCEO) are complying with the Executive Order and thus are complying with this rule.

Enforcement framework for non-compliance with face covering requirements:

IDPH, all local boards of health, health authorities and officers, police officers, and sheriffs are authorized to enforce the emergency rule as follows:

Enforcement against a business, service, facility, or organization open to the public

- First, the establishment will be given a written notice of non-compliance by an enforcing entity and a reasonable opportunity to come into compliance.
- Second, the establishment may be ordered to have some or all the people on the premises disperse if it does not voluntarily comply in a reasonable time after receiving a verbal or written notice.
- Third, any establishment that refuses to comply with a written order to disperse will be subject to the penalties set forth in Section 8.1 of the Department of Public Health Act, which could include a Class A Misdemeanor. For an establishment, the only possible penalty is a fine of between \$75 and \$2500 for refusal to voluntarily comply after an opportunity to come into compliance.

- Enforcing entities are required to take into consideration reasonable efforts taken by the establishment to ensure patrons and employees wear a face covering while they are at the establishment and unable to maintain a social distance of at least six feet.
- The rule makes clear in numerous places that no individual may be subject to the penalties set forth under Section 8.1 of the Act.

Enforcement against schools and day care establishments

- A school or day care may be given a written notice of non-compliance and a reasonable opportunity come into compliance.
- Schools and day cares are required to notify parents in writing that a notice of non-compliance was issued and disclose their plan to come into compliance.
- The enforcing entity will notify the local health authority, the local school district or parent institution affiliated with the school, the Illinois State Board of Education, the Illinois Board of Higher Education, the Illinois Community College Board, or DCFS, as appropriate, if the school or day care establishment fails to comply after receiving a written notice of non-compliance.
- Local health authorities are authorized to take necessary measures to ensure schools or day care establishments come into compliance.