



July 28, 2020

Important Updates for Employers to the Statewide Mask Order

Earlier this month, citing "alarming trends" and the need to as quickly as possible slow the spread of the virus, Governor Polis signed [Executive Order D 2020 138](#), a mandatory statewide mask order that goes that went into effect at midnight on July 16, 2020, and will be in effect for 30 days - it may be extended.

Today, the Governor's office issued several clarifications on the statewide mandatory mask order, including several that impact employers. In addition, last week the Governor sent a [letter](#) to the business community encouraging employers to "prioritize work from home."

According to the new [FAQ's](#):

- All employees must wear masks at all times, including when sitting in a "shared, indoor space that accommodates people outside their household. This includes spaces divided by physically distanced cubicles."
- If an employee is the only one in a room with the door closed, they may remove their mask; however, they must put it back on if someone enters the rooms or when the leave the room and enter commons space.
- All employees must wear masks in all common areas like hallways, elevators, or breakrooms If a common space is used for consuming meals (i.e., break rooms), follow [restaurant guidance](#) for that setting.

The executive order requires people in Colorado who are 11 years and older to wear a covering over their noses and mouths:

- When entering or moving within any public indoor space.
- While using or waiting to use public (buses, light-rail) or non-personal (taxis, car services, ride-shares) transportation services.

People who do not have to wear a mask include:

- People who are 10 years old and younger.
- People who cannot medically tolerate a face covering.
- Children ages 2 and under should NOT wear masks or cloth face coverings.

The executive order states indoor businesses must refuse service to people who are not wearing masks. Licensed businesses are at risk of losing their license if they do not enforce this mandate. **Businesses must post signs at entrances that instruct customers they must wear a mask when entering or moving around inside the business.**

Below are links to signs created by the State regarding the statewide mask mandate:

[State of Colorado - Blue](#)

[State of Colorado - Red](#)

[Colorado Tourism Office English/Spanish](#)

Denver Businesses are REQUIRED to post [this sign](#)

Last Call for Alcohol at 10:00 pm!

Last week, the Governor announced that, **for the next 30 days, the State is suspending all alcohol sales after 10:00 p.m. each day. This will apply to all entities that are licensed to sell liquor.** “All licensees contained in Articles 3, 4, and 5 of Title 44 of the Colorado Revised Statutes must cease alcohol beverage sales to end consumers at 10:00 P.M. each day,” the Executive Order reads. **The Order went into effect at 9:00 a.m. on July 23, 2020.**

The Liquor Enforcement Division released guidance on this order that reads: First, it

is important to note that liquor licensees **do not** need to close to the public at 10:00 p.m., and food service after 10:00 may continue as usual. For example, a licensed gaming establishment, that usually operates 24 hours a day, may continue to operate and provide food service uninterrupted; however, they may not sell alcohol beverages between the hours of 10:00 p.m., and 7:00 a.m.. The prohibition is on alcohol sales, not operations more generally. What follows are a few examples regarding how a business may demonstrate that alcohol sales have ceased by 10:00 p.m., if it chooses to remain open to the public past that time.

Point-of-Sale (POS) system time stamps

Many POS systems allow for a time-stamp of line item orders, which could demonstrate, on any particular tab, that *no alcohol orders were placed* past the “last call” deadline. For example, if a table of four were seated at 9:30 p.m. and ordered food and alcohol at 9:50 p.m., they would be allowed to stay on the premises, eat their meal, drink their alcohol beverages, and even order dessert at 10:30 p.m., provided that the tab produced at the end of the night can clearly show that no alcohol beverages were added to the tab past 10:00 p.m. It is sufficient if the POS system has the capability of showing the time-stamp on the line item orders, and that information could be shown to LED investigators, even if the customer and merchant copy of the receipt does not bear the time stamp, as printed.

Compliance if POS system does not have time-stamp capabilities

For licensees whose POS system does not have the aforementioned capabilities, it may be necessary to close out any tab containing alcohol orders prior to the 10:00 p.m. last call deadline, at which point, ordering and service of food items may continue on a new tab. The separate tabs do **not** need to be paid for simultaneously; it is enough to demonstrate that the tab was “closed” before the cut off time. For example, if there is an open bar at a wedding reception, the alcohol service provider should close the tab at 9:59 p.m. and disallow any further orders of alcohol beverages, but may present the closed tab for payment to the parties at a later time, so as to not interrupt the reception.

Tipping and Service Past the Last Call Deadline

As long as any alcohol beverage order was placed prior to being delivered to the place where the alcohol is to be consumed by 9:59 p.m., and such time of order is clearly demonstrable by either of the methods detailed above, or clearly demonstrable in any other manner, the alcohol beverage may be served and paid for past 10:00 p.m. For example, if a hotel guest places an order for room service that includes an alcohol beverage, the alcohol may be delivered to the customer’s room, and the customer may tip the guest services staff for that service after 10:00 p.m.

[Executive Order 2020-142](#)

[Liquor Enforcement Division Guidance on Executive Order 2020-142](#)