

RESCINDED
Effective 4/14/2022

ANDY BESHEAR
GOVERNOR



GERINA D. WHETHERS
SECRETARY

501 HIGH STREET, 3RD FLOOR
FRANKFORT, KENTUCKY 40601
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[HTTPS://PERSONNEL.KY.GOV](https://personnel.ky.gov)

MEMORANDUM

PERSONNEL MEMORANDUM 20-12

TO: Cabinet Secretaries
Constitutional Officers
Agency Heads
HR Administrators

FROM: Gerina D. Whethers, Secretary

A handwritten signature in blue ink, appearing to read "GDW".

DATE: July 11, 2020

RE: UPDATED - COVID-19 Face Covering Policy, Effective July 13, 2020

On March 6, 2020, the Governor issued Executive Order 2020-215 declaring a state of emergency regarding COVID-19, a respiratory disease that can result in serious illness or death. As part of the "Healthy at Work" initiative, the Commonwealth of Kentucky remains committed to limiting the spread of COVID-19 and ensuring the health and safety of our state employees. The Centers for Disease Control (CDC), whose guidance the Commonwealth has continually followed, recommends all persons wear cloth face coverings in public settings where social distancing is difficult to maintain. Wearing a face covering greatly decreases the likelihood that an individual would transmit this virus to other people, if he/she has become infected with the coronavirus and is not yet symptomatic, as there could still be a threat to the workforce. Accordingly, employees are required to wear a face covering when present in Executive Branch buildings/offices and in state vehicles, where another employee is present. On July 9, 2020, in response to the sharp increase in COVID-19 infections across the nation and in Kentucky, the Governor issued Executive Order (EO) 2020-586 requiring people in Kentucky to wear face coverings in public, subject to certain exceptions. In furtherance of the directives contained in EO 2020-586, on July 10, 2020, the Cabinet for Health and Family Services filed an emergency regulation (902 KAR 2:190E) to incorporate the requirements provided by EO 2020-586. Please find copies of the EO and emergency regulation attached to this memorandum for your review. In light of this new EO and emergency regulation, please be advised of the following updated policy concerning face coverings:

Purpose:

This policy will serve to protect employees and visitors from any individual who have become infected with coronavirus but do not yet demonstrate symptoms of the illness.

To be successful, this new approach will require support from all of us across the enterprise and require the following:

- Strict adherence to long-term use/reuse of face coverings
- Adherence to hand hygiene
- Proper face covering use and hygiene including wearing the face covering as directed to cover the mouth and nose

Agencies:

Agencies will be required to provide two (2) cloth face coverings to employees and contractors. However, employees are permitted to wear their own cloth face coverings, provided they cover their mouths and noses.

The Kentucky Division of Emergency Management will be responsible for providing face coverings to agencies. Face coverings can be ordered at <https://tinyurl.com/kygovtpperequest>.

Employees:

- This policy applies to employees categorized as “low exposure risk” employees by the Occupational Safety and Health Administration (OSHA). Low exposure risk employees are defined by OSHA as employees whose jobs do not require contact with people known to be, or suspected of being, infected with the virus that causes COVID-19 nor require frequent close contact with (i.e., within six feet of) the general public. To the extent that agencies have medium, high, or very high exposure risk jobs at issue and do not already have OSHA compliant face covering policies in place, please consult with your agency legal staff to determine the applicability of any additional policy provisions.
- Employees must continue to practice social distancing. Employees will also continue to be required to self-monitor for symptoms concerning COVID-19 infection at the beginning of every shift. If an employee feels as though he or she is displaying symptoms related to the virus, the employee must immediately notify his or her supervisor.
- Employees working in settings *where social distancing measures are difficult to maintain*, must wear either a personal or employer-provided cloth face covering while in an Executive Branch office or state vehicle with other passengers.
- All personnel must wear a face covering when walking through common areas such as hallways.
- Employees who can safely practice social distancing in their office or work location may remove their face coverings.
- Face-to-face meetings should be avoided or limited. In the event that face-to-face interaction occurs, individuals are required to wear a face covering.
- Entities must, to the greatest extent practicable, restrict common areas such as lobbies, waiting rooms, break rooms, lunch rooms, and concession areas to maximize social distancing and reduce congregating.
- Face coverings will be required to be worn during an employee’s scheduled work hours while

performing job duties on or off the work premises. In the event that the face covering becomes visibly soiled, saturated, or damaged while working, a new face covering must be obtained.

- Ideally, personal and employer-provided cloth face coverings should be washed each day after use. It is important that a fabric face covering is completely dry before wearing it, as its ability to capture particles is diminished when wet.
- Employees may submit accommodation requests to the agency Human Resources (HR) office for consideration if the employee is unable to wear a face covering because of an underlying medical condition.

Visitors: All visitors will be required to wear a face covering while present in Executive Branch buildings/offices. If a visitor chooses not to wear a face covering, they will not be permitted to enter the building/office. If a visitor does not have a face covering upon arrival, an agency may provide a face covering to the individual. Visitors will be required to comply with the requirements of EO 2020-586, 902 KAR 2010E, and the universal face covering requirements located at HealthyAtWork.ky.gov. Please note, pursuant to EO 2020-586, the following individuals are exempt from wearing a face covering:

- a. Children who are age 5 or younger;
- b. Any person with a disability, or a physical or mental impairment, that prevents them from safely wearing a face covering;
- c. Any person who is hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential to communication;
- d. Any person engaged in work that a state or federal regulator has concluded would make wearing a face covering a risk to their health or safety;
- e. Any person who is seated and actively consuming food or beverage at a restaurant, bar, or other establishment that offers food or beverage service;
- f. Any person who is obtaining a service that requires temporary removal of the face covering in order to perform the service;
- g. Any person who is required to temporarily remove their face covering to confirm their identity or for security or screening purposes;
- h. Any person who is giving a speech or broadcast to an audience and is able to maintain a safe distance of six feet from all individuals who are not members of the person's household;
- i. Any person who is in a swimming pool, lake, or other body of water;
- j. Any person who is actively engaged in exercise in a gym or indoor facility so long as six or more feet of separation between individuals exists, and where the gym or indoor facility engages in required cleaning;
- k. Any person who is actively participating in athletic practice, scrimmage, or competition that is permitted under separate Healthy at Work requirements or guidance available online at: <https://healthyatwork.ky.gov>; or
- l. Any person who is engaged in a lawful activity where federal or state law prohibits wearing a face covering.

Conservation of Face coverings:

Conservation of face coverings is essential. We have no way to predict how long this pandemic will affect us. In an effort to ensure face coverings continue to be available to employees and visitors, we

must make all efforts to conserve our supply.

Employees and visitors who do not comply with this policy may be removed from Executive Branch buildings/offices. Employees may also be subject to corrective or disciplinary action.

Employee correspondence, to include training on the appropriate handling and use of the face coverings, was provided to employees on May 8, 2020.

This policy is subject to review and will be revised, if necessary, every thirty (30) days. Any questions related to this policy should be directed to Mary Elizabeth Bailey, Commissioner, Personnel Cabinet, Department of Human Resources Administration at MaryE.Bailey@ky.gov.

Attachments:

Executive Order 2020-586

902 KAR 2:190E



ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2020-586
July 9, 2020

STATE OF EMERGENCY

WHEREAS, the novel coronavirus (COVID-19) is a respiratory disease causing mild to very severe illness, including death, and many cases of COVID-19 have been confirmed in the Commonwealth; and

WHEREAS, dozens of states across the nation have begun to experience sharp increases in COVID-19 infection, and Kentucky has begun to report its highest numbers of new cases since the beginning of the pandemic; and

WHEREAS, Kentuckians have begun increasing their number of contacts as well as traveling outside the state to areas with higher infection rates and then returning to Kentucky; and

WHEREAS, the United States and Kentucky are experiencing an increase in COVID-19 infection rates among younger people, including children; and

Cases In Kentucky Are On The Rise

WHEREAS, Kentucky has 17,919 reported cases of COVID-19 and 608 Kentuckians have died from COVID-19, including 402 new cases and six deaths on July 8, 2020; and

WHEREAS, Kentucky reported its highest weekly total of COVID-19 cases for the week of June 29 through July 5, 2020, with 1,675 new cases; and

WHEREAS, COVID-19 is impacting Kentuckians of all ages, including younger Kentuckians. 510 Kentuckians ages 0-9, and 1,013 Kentuckians ages 10-19 have tested positive for COVID-19; and



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GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2020-586
July 9, 2020

Cases In the United States Are On The Rise

WHEREAS, on July 8, 2020, America had more than 3,000,000 cases of COVID-19, and a one-day record 60,021 new cases were reported on July 7, 2020. More than 132,000 Americans have died from COVID-19; and

WHEREAS, hospitals in other states are experiencing increases in COVID-19 patients and hospital intensive care units are reaching capacity. In Arizona, more than ninety percent (90%) of its ICU beds were filled as reported on July 8, and Florida has at least 56 hospital intensive care units at capacity. In California, hospitalizations have increased fifty percent (50%) from two weeks ago. The Georgia Emergency Management and Homeland Security reported that only eighteen percent (18%) of critical care hospital beds remain available and only seventeen percent (17%) of inpatient beds are available, and in Savannah, Georgia, hospitalizations have nearly quadrupled. On July 8, 2020, Louisiana reported that ninety-five percent (95%) of its 1,891 new cases were from community spread; and

WHEREAS, in the State of Texas, 1,335 people have tested positive for COVID-19 from childcare facilities, consisting of 441 children and 894 staff members. In North Carolina, earlier this week nine children and two staff members at a Charlotte child care facility tested positive for COVID-19, according to the state's dashboard tracking COVID-19 "clusters"; and

Face Coverings Are Effective In Slowing The Spread Of COVID-19

WHEREAS, numerous recent medical studies have shown that the use of face coverings can decrease the spread of respiratory droplets from people; and



ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2020-586
July 9, 2020

WHEREAS, based on these studies, the wearing of face coverings has been found by both the Centers for Disease Control and Prevention and the Kentucky Department for Public Health to help prevent the further spread of COVID-19; and

WHEREAS, numerous federal leaders of both parties, including Vice President Mike Pence, Senator Mitch McConnell, and Surgeon General Jerome Adams, have also urged the American public to wear face coverings; and

Face Coverings Are Effective In Protecting The Economy

WHEREAS, an economic analysis by Goldman Sachs indicates that the national economy could experience an additional 5% drop in gross domestic product if face coverings are not mandated, which would amount to an economic loss for Kentucky of about \$10 billion; and

WHEREAS, the Retail Industry Leaders Association, which represents 9 of the top 10 retailers in the nation, comprising more than 100,000 stores and millions of jobs, recently urged the governors of all states to mandate the wearing of face coverings when in public settings; and

WHEREAS, at the time of this Order, at least 22 states have followed the recommendations discussed above and required members of the general public to wear face coverings in various public settings, including the neighboring states of Illinois, Ohio, and West Virginia; and

WHEREAS, the Kentucky Constitution and Kentucky Revised Statutes, including, but not limited to, KRS Chapter 39A, empower me to exercise all powers necessary to promote and secure the safety and protection of the civilian population; and



ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2020-586
July 9, 2020

WHEREAS, under those powers, I declared by Executive Order 2020-215 on March 6, 2020, that a State of Emergency exists in the Commonwealth. The State of Emergency continues:

NOW, THEREFORE, I, Andy Beshear, Governor of the Commonwealth of Kentucky, by virtue of authority vested in me pursuant to the Constitution of Kentucky and KRS Chapter 39A, do hereby Order and Direct the following:

1. For the purposes of this order, a “face covering” is a material that covers the nose and mouth and is secured to the head with ties, straps, or loops over the ears, or is wrapped around the lower face. It can be made of a variety of materials, including cotton, silk, or linen, and ideally has two or more layers. Face coverings may be factory-made, homemade, or improvised from household items such as scarfs, bandanas, and t-shirts. Guidance on how to make a face covering at home is available at: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-face-covering.html>.
2. The provisions of this Order shall apply to members of the public in Kentucky. Existing sector specific requirements mandating face coverings for employees of entities in the Commonwealth remain in effect and are available online at: <https://healthyatwork.ky.gov>.
3. People in Kentucky must cover their nose and mouth with a face covering when they are in the following situations that represent a high risk of COVID-19 transmission:
 - a. While inside, or waiting in line to enter, any: retail establishment; grocery store; pharmacy; hair salon/barbershop; nail salon/spa; tattoo parlor; child care facility; restaurant or bar (when not seated and consuming food or beverage); health care setting, or; any other indoor public space in which it is difficult to maintain a physical distance of at least six feet from all individuals who are not members of that person’s household;
 - b. While waiting for or riding on public transportation or paratransit, or while riding in a taxi, private car service, or ride-sharing vehicle,



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or driving any of the above while customers are present; or

- c. While in outdoor public spaces in which the person cannot maintain a physical distance of six feet from all individuals who are not members of the person's household and is not otherwise covered by previously issued guidance.

4. The following are exempt from wearing face coverings:

- a. Children who are age 5 or younger;
- b. Any person with disability, or a physical or mental impairment, that prevents them from safely wearing a face covering;
- c. Any person who is hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential to communication;
- d. Any person engaged in work that a state or federal regulator has concluded would make wearing a face covering a risk to their health or safety;
- e. Any person who is seated and actively consuming food or beverage at a restaurant, bar, or other establishment that offers food or beverage service;
- f. Any person who is obtaining a service that requires temporary removal of the face covering in order to perform the service;
- g. Any person who is required to temporarily remove their face covering to confirm their identity or for security or screening purposes;
- h. Any person who is giving a speech or broadcast to an audience and is able to maintain a safe distance of six feet from all individuals who are not members of the person's household;



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EXECUTIVE ORDER

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Frankfort
Kentucky

2020-586
July 9, 2020

- i. Any person who is in a swimming pool, lake, or other body of water;
 - j. Any person who is actively engaged in exercise in a gym or indoor facility so long as six or more feet of separation between individuals exists, and where the gym or indoor facility engages in required cleaning;
 - k. Any person who is actively participating in athletic practice, scrimmage, or competition that is permitted under separate Healthy at Work requirements or guidance available online at: <https://healthyatwork.ky.gov>; or
 - l. Any person who is engaged in a lawful activity where federal or state law prohibits wearing a face covering.
5. Failure to follow the requirements provided in this Order and any other Executive Order and any Cabinet Order, including but not limited to the Orders of the Cabinet for Health and Family Services, is a violation of the Orders issued under KRS Chapter 39A and must result in a loss of access to a business's services.
 6. The Secretary of the Cabinet for Health and Family Services, pursuant to KRS 194A.010, KRS 194A.025, KRS 211.025, KRS 214.020, KRS 39A.180, KRS 12.270(2), KRS 13A.190, and other applicable law, shall promulgate an emergency administrative regulation consistent with this Order.
 7. All local, county, and city government offices and agencies are encouraged to adopt or incorporate the requirements provided in this Order.
 8. Nothing in this Order should be interpreted to interfere with or infringe on the powers of the legislative and judicial branches, or other constitutional officers to perform their constitutional duties or exercise their authority. However, the legislative and judicial branches, and other constitutional officers, are encouraged to adopt or incorporate the requirements provided in this Order.
 9. Failure to follow the requirements provided in this Order and any other Executive Order and any Cabinet Order is a violation of the Orders issued under KRS Chapter 39A and could subject a person or entity violating the Orders to penalties as authorized by law.



ANDY BESHEAR
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2020-586
July 9, 2020

10. This Order is effective at 5 p.m. on July 10, 2020, for a period of 30 days, and is subject to renewal.



ANDY BESHEAR, Governor
Commonwealth of Kentucky

MICHAEL G. ADAMS
Secretary of State

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LEGISLATIVE RESEARCH COMMISSION

State Capitol 700 Capital Avenue Frankfort KY 40601

502-564-8100

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Minority Caucus Chair
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Angie Hatton
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MEMORANDUM

To: Donna Little, Deputy Executive Director, Office of Legislative and Regulatory Affairs,
CHFS

FROM: Emily Caudill, Regulations Compiler

RE: Acknowledgement of Emergency Regulation – 902 KAR 002:190E

DATE: July 10, 2020

A copy of the above listed emergency administrative regulation is enclosed for your files. This emergency administrative regulation became effective on **July 10, 2020** and will expire in 270 days on **April 6, 2021** or when replaced by an ordinary administrative regulation, whichever occurs first.

The emergency administrative regulation is scheduled to be reviewed by the Administrative Regulation Review Subcommittee at its **October 2020**, meeting.

Pursuant to KRS 13A.280, **if** a public hearing is held or you receive written comments on the emergency administrative regulation, the Statement of Consideration for this ordinary administrative regulations is due by noon on **October 15, 2020**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to public hearings and the Statement of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosure

FILED WITH LRC
TIME: 11am
JUL 10 2020
Emily B. Caudill
REGULATIONS COMPILER

STATEMENT OF EMERGENCY
902 KAR 2:190E

This emergency administrative regulation is being promulgated to establish actions that the Department for Public Health may take in response to a declared national or state emergency. These actions include enhancing prevention of the spread of the infectious disease COVID-19 by wearing a face covering in public, subject to certain exceptions. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)1. and 4. to meet an imminent threat to public health, safety and welfare, and to protect human health. This emergency administrative regulation will not be replaced by an ordinary administrative regulation as these measures are in direct response to the declared state public health emergency.



Andy Beshear, Governor



Eric C. Friedlander, Secretary
Cabinet for Health and Family Services

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Public Health

3 Division of Epidemiology

4 (New Emergency Administrative Regulation)

5 902 KAR 2:190E. Covering the Face in Response to Declared National or State
6 Public Health Emergency.

7 RELATES TO: KRS 39A.180, 211.180(1), 214.010, 214.645, 333.130

8 STATUTORY AUTHORITY: KRS 194A.010, KRS 194A.025, KRS 194A.050(1), KRS
9 211.025, KRS 211,180(1), KRS 214.020, KRS 39A.180, KRS 12.270(2)

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 214.020 requires the Cabinet
11 For Health and Family Services to take action, promulgate, adopt, and enforce rules
12 and regulations, it deems efficient in preventing the introduction or spread of infectious
13 or contagious disease within this state. KRS 211.025 requires the cabinet to perform
14 actions reasonable necessary to protect and improve the health of the people. KRS
15 211.180(1) requires the cabinet to enforce administrative regulations to control
16 communicable diseases. This administrative regulation establishes requirements for
17 face covering in response to a declared national or state public health emergency.

18 Section 1. Definition. (1) "Face covering" means a material that covers the nose and
19 mouth and is secured to the head with ties, straps, or loops over the ears, or is wrapped
20 around the lower face. It can be made of a variety of materials, including cotton, silk, or
21 linen, and ideally has two or more layers. Face coverings may be factory-made,
22 homemade, or improvised from household items such as scarfs, bandanas, and t-shirts.

23 Section 2. Scope of Covering the Face in Response to Declared National or State

1 Public Health Emergency. (1) The provisions of this Order shall apply to members of the
2 public in Kentucky. Existing sector-specific requirements mandating face coverings for
3 employees of entities in the Commonwealth remain in effect and are available online at:
4 <https://healthyatwork.ky.gov>.

5 (2) Except as provided by subsection (3) of this section, each person in Kentucky
6 must cover their nose and mouth with a face covering when they are in the following
7 situations:

8 (a) While inside, or waiting in line to enter, any: retail establishment; grocery store;
9 pharmacy; hair salon/barbershop; nail salon/spa; tattoo parlor; child care facility;
10 restaurant or bar (when not seated and consuming food or beverage); health care
11 setting, or; any other indoor public space in which it is difficult to maintain a physical
12 distance of at least six feet from all individuals who are not members of that person's
13 household;

14 (b) While waiting for or riding on public transportation or paratransit, or while riding
15 in a taxi, private car service, or ride-sharing vehicle, or driving any of the above while
16 customers are present, or;

17 (c) While in outdoor public spaces in which the person cannot maintain a physical
18 distance of six feet from all individuals who are not members of the person's household
19 and is not otherwise covered by previously issued guidance.

20 (4) The following are exempt from wearing face coverings:

21 (a) Children who are age 5 or younger;

22 (b) Any person with disability, or a physical or mental impairment, that prevents
23 them from safely wearing a face covering;

1 (c) Any person who is hearing impaired, or communicating with a person who is
2 hearing impaired, where the ability to see the mouth is essential to communication;

3 (d) Any person engaged in work that a state or federal regulator has concluded
4 would make wearing a face covering a risk to their health or safety;

5 (e) Any person who is seated and actively consuming food or drink at a restaurant,
6 bar, or other establishment that offers food or beverage service;

7 (f) Any person who is obtaining a service that requires temporary removal of the
8 face covering in order to perform the service;

9 (g) Any person who is required to temporarily remove their face covering to
10 confirm their identity or for security or screening purposes;

11 (h) Any person who is giving a speech or broadcast to an audience and is able to
12 maintain a safe distance of six feet from all individuals who are not members of the
13 person's household;

14 (i) Any person who is in a swimming pool, lake, or other body of water;

15 (j) Any person who is actively engaged in exercise in a gym or indoor facility so
16 long as six or more feet of separation between individuals exists, and where the gym or
17 indoor facility engages in required cleaning;

18 (k) Any person who is actively participating in athletic practice, scrimmage, or
19 competition that is permitted under separate Healthy at Work requirements or guidance
20 available online at: <https://healthyatwork.ky.gov>, or;

21 (l) Any person engaged in a lawful activity where federal or state law prohibits
22 wearing of a face covering.

23 Section 3. Non-Compliance. (1)(a) The requirements of this administrative

1 regulation that pertain to a business or other public-facing entity shall be enforced by
2 the Labor Cabinet, the Department for Public Health, another state regulatory agency,
3 and each local health department. As it pertains to individuals, this regulation will be
4 enforced by state and local law enforcement authorities, as required by KRS 39A.180.

5 (2) Any person who violates this Regulation by failing to wear a face covering while
6 in a location listed in Section 2 and not subject to any of the listed exemptions shall
7 receive a warning for the first offense, a fine of fifty dollars (\$50) for the second offense,
8 seventy-five dollars (\$75) for the third offense, and one hundred dollars (\$100) for each
9 subsequent offense. Additionally, if the person is violating this Regulation by attempting
10 to enter a public-facing entity or mode of transportation listed in Section 2 while failing to
11 wear a face covering and not subject to any of the exemptions listed, they shall be
12 denied access to that public-facing entity or mode of transportation. If a person is
13 already on the premises and violates this Regulation by removing a face covering, they
14 shall be denied services and asked to leave the premises, and may be subject to other
15 applicable civil and criminal penalties.

16 (3) Any owner, operator or employer of a business or other public-facing entity
17 who violates this Regulation by permitting individuals on the premises who are not
18 wearing a face covering and are not subject to any exemption shall be fined at the rates
19 listed in section 3(2). The business may also be subject to an order requiring immediate
20 closure.

21 Section 4. Effective Date. This regulation is effective at 5 p.m. on July 10, 2020, for a
22 period of 30 days, and is subject to renewal.

23 Section 5. Reference. Guidance on how to make a face covering at home is available

- 1 at: [https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-face-covering.html)
- 2 [face-covering.html](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-face-covering.html).

902 KAR 2:190E

REVIEWED:



Dr. Steven J. Stack, MD, MBA
Commissioner, Department for Public Health

7-10-20

Date

APPROVED:



Eric C. Friedlander
Secretary, Cabinet for Health and Family Services

7-10-20

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall, if requested, be held on September 28, 2020, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621. Individuals interested in attending this hearing shall notify this agency in writing by September 21, 2020, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until September 30, 2020. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Donna Little, Deputy Executive Director, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-6746; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 902 KAR 2:190E

Agency Contact: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov or Donna Little, (502) 564-6746, CHFSregs@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires the wearing of face coverings at specific events and locations in the Commonwealth of Kentucky to prevent the spread of COVID – 19 during the declared national or state public health emergency.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure the health and safety of the citizens of the Commonwealth during the current national or state public health emergency.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050, 194A.010, KRS 194A.025, KRS 211.025 and KRS 214.020 authorize the Cabinet for Health and Family Services to take action to protect the health and welfare of the citizens of the Commonwealth and to adopt regulations and to take other action to prevent the spread of disease in the Commonwealth.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will prevent the spread of COVID-19 in the Commonwealth and will protect the health and welfare of the citizens of the Commonwealth during the declared national and state public health emergency.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This is a statewide administrative regulation that could potentially affect the entire population of the Commonwealth. This administrative regulation also impacts all Kentucky businesses, organizations and governments.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment: Citizens of the Commonwealth will be required to wear face coverings in certain places and venues to prevent the spread of COVID-19. A business or other public-facing entity shall not permit an individual on the premises who is not wearing a face covering and who is not subject to any exemption.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): The costs of this regulation is unknown at this time.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance with this administrative regulation, the health and welfare of the citizens of the Commonwealth will be protected during the current declared national and state public health emergency. Compliance with this regulation will prevent the spread of COVID-19.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no costs to implement this administrative regulation initially.

(b) On a continuing basis: There will be no ongoing costs for implementation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding will be necessary.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: An increase in fees or funding is not needed to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. This administrative regulation does not establish fees.

(9) TIERING: Is tiering applied? (Explain why or why not.) Tiering is applied in this administrative regulation as Section 3 of this administrative regulation establishes a number of exemptions to the general requirements in Section 2 of this administrative regulation regarding mandatory face coverings.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation: 902 KAR 2:190E

Agency Contact: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov or Donna Little, (502) 564-6746, CHFSregs@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Cabinet for Health and Family Services, and all state or local governments that are public-facing or that regulate businesses or public-facing entities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.010, 194A.025, 211.025, 214.020, 39A.180, 12.270(2) and 13A.190.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation does not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation does not generate revenue.

(c) How much will it cost to administer this program for the first year? This administrative regulation will have no impact on costs.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will have no impact on costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: