

# Dealer Advisory

October 28, 2020



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## DHHS Sets \$1,000 Fine For Violation of Face Mask and Gathering Orders

There continue to be new announcements, information and orders related to the COVID-19 pandemic, on federal, state and local levels. On the state level, there are a number of issues being discussed in the Legislature that may bring additional changes in the near future. DADA and MADA are following these issues and hope to report new information soon, especially on the possible extension of driver's license and registration expiration dates.

One of the big topics that went into effect last week was the MDHHS announcement of a potential \$1,000 fine for failure to wear a mask or abide by gathering restrictions.

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### DHHS Sets \$1,000 Fine For Mask, Gathering Violations

Michigan Department of Health and Human Services (MDHHS) Director Robert Gordon issued an [emergency order](#), filed with the Department of State on October 20, 2020, that creates a schedule of fines for violation of face mask and gathering orders. The order is currently in effect, and remains in effect for six months.

A violation of the MDHHS [Gathering Prohibition and Face Covering Order](#), or any amendment to the order, is **subject to a penalty of up to \$1,000 for each violation or day that a violation continues**. (Places of worship are exempt from these rules.)

Typical procedure for creating a schedule of civil monetary penalties would follow a standard rulemaking process, including notice and participation. In this situation, the director states, "if the standard rulemaking process were followed, monetary civil penalties would not go into effect until well after they could provide useful deterrent measures. The resulting delay would result in less compliance with the Emergency Order, contribute to the spread of COVID-19, and exacerbate the harm to the public health. I therefore find that preservation of the public health, safety, and welfare requires promulgation of emergency rules..."

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### MIOSHA: COVID-19 Workplace Safety Frequently Asked Questions

The Michigan Department of Labor and Economic Opportunity recently posted FAQs to its website to further explain employee expectations related to daily screenings, shared space and other requirements. See this [MIOSHA FAQ page](#) for answers to the following questions.

- Executive Rule 11(1) requires employers to maintain a **record of the daily screening**.
  - What daily screening records must the employer maintain?
  - What is an acceptable "record"?
- Executive Rule 5(8) says: The employer shall create a **policy prohibiting in-person work** for employees to the extent that their work activities can feasibly be completed remotely. What type of policy is required?
- Executive Rule 7(6) requires face coverings in **shared spaces**, including during in-person meetings and in restrooms and hallways.
  - When is a space considered a "shared space"?

- Is an office area containing employees in cubicle-styled configurations a "shared space"? Are employees required to wear face coverings while inside their cubicle?
- Who has to wear the **non-medical grade face covering** required by the Executive Rules and who has to provide them?

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## Bills Protect Businesses That Comply With COVID-19 Laws

Last week, Governor Whitmer signed two House Bills to protect Michigan businesses that comply with relevant COVID-19-related laws, including epidemic orders and rules. HB 6030 makes clear that when a business complies with all relevant COVID-19 related statutes, orders, and rules issued by federal, state, and local authorities, they cannot be held liable for a person becoming sick at the business. HB 6031 makes clear that when an employer complies with all relevant COVID-19 related statutes, orders, and rules issued by federal, state, and local authorities, they cannot be held liable under the Michigan Occupational Health and Safety Act for a worker becoming sick at work.

In a legal alert this week, Fisher Phillips provides additional insight on this new law.

### Oct. 26 -- New Michigan COVID-19 Laws Should Prod Employers To Follow Workplace Safety Rules

Michigan just passed four new COVID-19 bills touching on workplace safety, employee protections, and legal immunity for businesses – and employers will need to be sure to stay on top of state rules if they want to avoid liability or safety concerns. The bills, passed on October 21, were the result of a compromise between Governor Whitmer and the Republican-held state legislature. In general, the bills incentivize Michigan employers to maintain similar workplace protections as laid out in Governor Whitmer's now-invalid executive orders and MIOSHA's recently enacted emergency rules. This article addresses what Michigan employers should do in light of each of the new laws. [Keep reading here.](#)

## New CDC Definition of Close Contact

The CDC recently redefined "close contact" as someone within 6 feet of an infected person for a cumulative total of 15 minutes or more over a 24-hour period, starting from 2 days before illness onset (or, for asymptomatic patients, 2 days prior to test specimen collection) until the time the patient is isolated.

This could be individual exposures added together over a 24-hour period (e.g., three 5-minute exposures for a total of 15 minutes). [Read more from the CDC.](#)

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Fisher Phillips reviewed this new information and its impact on your workplace practices.

### Oct. 22 -- CDC's Latest COVID-19 Guidance Complicates 6-15-48 Contact Tracing Procedures For Employers



New COVID-19 contact tracing procedures released by the federal government have expanded the category of individuals who are deemed to be in close contact with each other – and will complicate the already difficult task faced by employers when trying to maintain a safe workplace environment. The [updated guidance](#) now indicates that workers should be considered to be at risk of contracting the novel coronavirus if they were within six feet of an infected individual for a total of 15 minutes or more **over a 24-hour period during the 48 hours before the infected individual exhibited symptoms or, if asymptomatic, 48 hours before the COVID-19 test was administered**, even if the interactions that lead to a cumulative total of 15 minutes were brief and spread out over that time. What do employers need to know about this new standard, and more importantly what do you need to change about your workplace practices? [Keep reading here.](#)

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Please feel free to contact DADA at (248) 643-0250 or MADA at (800) 292-1923 if you have any questions.

*This advisory has been prepared in conjunction with  
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