Texas Governor Orders Statewide Face Coverings, Limits Most Outdoor Gatherings

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Categories:

Coronavirus Response Team

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Two days before the Fourth of July holiday, Texas Governor Greg Abbott ordered new statewide restrictions to fight the rising spread of COVID-19 cases in Texas. These restrictions, effective at 12:01 p.m. on July 3, are contained in (1) a proclamation amending his prior Executive Order GA-28 related to mass gatherings, and (2) Executive Order GA-29 related to the use of face coverings..

First, the proclamation states that most outdoor gatherings of more than 10 people are "prohibited" unless the local mayor or county judge "approves of the gathering." The mayor or judge may also impose additional "conditions or restrictions" on such gatherings "not inconsistent with this order."

Previously, the threshold for local governments to impose these additional restrictions had been gatherings of 100 or more people (down from an earlier threshold of 500 or more people). The exceptions to this limitation are contained in Executive Order GA-28, which was discussed in Frost Brown Todd's previous article, "Texas Governor Imposes New Restrictions and Pauses State Reopening."

Second, Executive Order GA-29 imposes a statewide face covering requirement. Under the order, every person in Texas must wear a face covering over the nose and mouth when inside a commercial establishment or other building or public space, or when in an outdoor public space, wherever it is not feasible to maintain six feet of social distancing from another person not in the same household. This requirement does not apply to the following:

- Children younger than 10 years old;
- Any person with a medical condition or disability that prevents wearing a face covering;
- Any person who is eating, drinking, or sitting at a restaurant to eat or drink;

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- Any person who is (a) exercising outdoors or engaging in physical activity outdoors, and (b) maintaining a safe distance from other people not in the same household;
- Any person who is driving alone or with passengers who are part of the same household as the driver;
- Any person obtaining a service that requires temporary removal of the face covering for security surveillance, screening, or a need for specific access to the face, but only to the extent necessary for the temporary removal;
- Any person who is in a swimming pool, lake, or similar body of water;
- Any person who is voting, assisting a voter, serving as a poll watcher, or actively administering an election, but wearing a face covering is strongly encouraged;
- Any person who is actively providing or obtaining access to religious worship, but wearing a face covering is strongly encouraged;
- Any person who is giving a speech for broadcast or to an audience;
- Any person in a county that has met the criteria promulgated by the Texas Division of Emergency Management (TDEM) regarding minimal cases of COVID-19 (i.e., 20 or fewer active cases in the county). To obtain this exemption, the county judge must affirmatively opt-out of this face-covering requirement by filing with the TDEM the required face-covering attestation form. Even for persons in such counties, the Governor's order still strongly encourages wearing face coverings.

Persons attending a protest or demonstration involving more than 10 people and who are not practicing social distancing of six feet from other people not in the same household are not excepted from the face-covering requirement.

First-time violators of the face-covering requirement will receive a verbal or written warning; a second violation, and each subsequent violation, is punishable by a fine not to exceed $250. "But no law enforcement or other official may detain, arrest, or confine in jail any

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person" for violating the order, and the order "prohibits confinement in jail as a penalty for the violation of any face-covering order by any jurisdiction."

Executive Order GA-29 does not supersede Executive Orders GA-10, GA-13, GA-17, GA-19, GA-24, GA-25, GA-27, or GA-28 as amended, each of which has been discussed in previous Frost Brown Todd articles.

For more information, please contact Thomas Allen, Mark Platt, Fred Gaona, or any attorney in the Government Services practice group.

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