

Are private businesses liable for unmasked, unvaccinated customers?



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Private business owners in Arizona have been left to fend for themselves when it comes to masking and proof of vaccine policies. Now, questions have been raised about whether these businesses face increased legal liability for allowing unmasked or unvaccinated customers into their stores where these patrons could contract COVID from unmasked employees or other customers.

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The [current CDC guidance](#) says that if one is fully vaccinated, they do not have to wear a mask in any setting and, even if they are exposed to someone with COVID they do not have to get tested. In Arizona, the Governor issued an Executive Order [saying](#) that state and local governments and businesses that contract with the state to provide services to the public cannot require proof of COVID vaccination. Mask mandates from Arizona municipalities are also in a state of flux.



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What about private businesses requiring proof of vaccine before allowing a customer in without a mask? A private business is within its rights to require a customer to show proof of vaccination before entering its store. But it is not a one-size-fits-all situation and not all private businesses will react the same way to this new CDC guidance.

With just **40% of Maricopa County residents** having received one dose of the COVID vaccine so far, do businesses that are not requiring masks or proof of vaccination to enter without a mask now face liability for allowing anyone in?

Holding a private business responsible if a customer contracts the disease and claims they caught it in the store will be very difficult. The customer would need to prove more likely than not that they caught COVID from an unmasked COVID-infected worker or another customer versus from anywhere and anyone else. The claimant would also need to show that the private business' decision not to require masks or proof of vaccine was negligent. Also working against the customer is the fact that they could choose not to patronize a particular business if they didn't like the business' COVID safety protocols. And if they decide to shop there anyway, it could be argued they assumed the risk of any COVID infection.

Without regulations from Arizona or local governments applicable to the operations of private businesses on the issues of masking and vaccine requirements, these businesses must establish their own policies and enforce them as best they can. What is clear though is that legal liability is unlikely for a business that allows unmasked and/or unvaccinated customers through its doors.

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