

Going Somewhere? Make Sure to Take Your Mask on Public Transportation

Amundsen Davis Transportation Alert
February 8, 2021

A change in presidential administration has resulted in an immediate change in mask requirements that affect the commercial transportation industry. On January 21, 2021, President Biden signed an Executive Order on Promoting COVID-19 Safety in Domestic and International Travel, "to save lives and allow all Americans, including the millions of people employed in the transportation industry, to travel and work safely." The Executive Order requires mask-wearing when engaged in public transportation.

As directed by the Executive Order, the U.S. Centers for Disease Control and Prevention (CDC) issued an Order that went into effect on **Tuesday, February 2, 2021**, that **requires mask-wearing for all modes of public transportation to help stop the spread of COVID-19.**

This order applies to all forms of public transportation: airplanes, ships, subways, taxis, ride-shares, trains, buses, vans, and motor coaches. It applies not only when an individual is actively engaging in transportation, but also when an individual is at an airport, bus terminal, ferry terminal, subway station, and seaport. This order also applies to those traveling within the United States, as well as those traveling into or out of the United States. **Essentially, all travel aside from the use of a personal vehicle, or a commercial motor vehicle operator with a sole occupant, now requires wearing a mask.**

The Transportation Security Administration (TSA) issued its own security directives regarding mask-wearing in consultation with the Department of Transportation (DOT), Federal Railroad Administration (FAA), Federal Transit Administration, and the Federal Motor Carrier Safety Administration. SD 1582/84-21-01 applies to owners and operators of ground transportation. This security directive, which also went into effect on February 2, 2021, extends the mask-wearing mandate to airports, bus terminals, marinas, seaports, subway stations, terminals, trains stations, ports, and any other location that provides transportation. **This directive requires that owners and operators must notify passengers with prominent and adequate notice of the mask requirements to facilitate awareness and compliance.** At a minimum, passengers need to be informed when buying tickets and/or booking transportation and at the time of transportation. Owners and operators must

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enforce mask-wearing, and notify passengers of the following:

- Federal law requires wearing a mask while on the conveyance and failure to comply may result in denial of boarding or removal.
- Refusing to wear a mask is a violation of federal law; passengers may be subject to penalties under federal law.

At this time, it is unclear what the penalties would be to owners and operators for failure to enforce this mandate as none are included in the directive.

Further, owners and operators must ensure that employees and contractors wear masks when engaged in transportation or in a transportation facility. There are a few exceptions, such as eating and drinking; removing a mask for identification purposes; communicating with someone who is deaf or hard of hearing; or if unconscious. The mask requirement does not apply to children under the age of 2, people with disabilities who cannot safely wear a mask, and people for whom wearing a mask would create a workplace safety issue.

If you work in the transportation industry or are using public transportation to travel anywhere, you need to ensure that you bring a mask with you as you may be unable to travel to your destination.

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