

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Epidemiology
(Emergency Amended at ARRS Committee)

902 KAR 2:212E. Covering the face in response to declared national or state public health emergency.

RELATES TO: KRS 211.180(1), 214.010, 214.645, 333.130

STATUTORY AUTHORITY: KRS 12.270(2), 39A.180, 194A.010, 194A.025, 194A.050(1), 211.025, 211.180(1), 214.020

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

Section 1. Definition. "Face covering" means a material that covers the nose and mouth and that:

- (1)
 - (a) Is secured to the head with ties, straps, or loops over the ears; or
 - (b) Is wrapped around the lower face;
- (2) May be made of a variety of materials, including cotton, silk, or linen;
- (3) Shall have two (2) or more layers; and
- (4) Shall be factory-made, homemade, or improvised from household items such as a scarf, bandana, or t-shirt.

Section 2. Scope of Covering the Face in Response to Declared National or State Public Health Emergency.

- (1) The provisions of this administrative regulation shall apply to members of the public in Kentucky.
- (2) Each person in Kentucky shall cover their nose and mouth with a face covering if the person is:
 - (a) Riding on public transportation or paratransit, including planes, buses, and trains, traveling into, within, or out of the United States and in U.S. transportation hubs, including airports and stations;
 - (b) In a healthcare setting; or
 - (c) In a long-term care setting.

Section 3. Effective Date.

- (1) In accordance with KRS 13A.190, this administrative regulation shall remain in effect until:
 - (a) Expiration of the time period established by KRS 13A.190; or
 - (b) Withdrawn in accordance with KRS 13A.190(12).
- (2) The Cabinet for Health and Family Services shall regularly consult with the Governor's Office, the Centers for Disease Control and Prevention, and other public health authorities to determine if this administrative regulation shall be withdrawn prior to its expiration under KRS 13A.190.

Section 4. Reference. 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>.

Section 5. This administrative regulation was found deficient by the Administrative Regulation Review Subcommittee on July 8, 2021.

DR. STEVEN J. STACK, MD, MBA, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: June 14, 2021

FILED WITH LRC: June 16, 2021 at 3:21 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on August 23, 2021, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by August 16, 2021, 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 virtually 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 August 31, 2021. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.