

Legal Alert Covid-19: Obligation to wear masks and their infringement as a source of the crime of harming public health



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On April 17, 2020, Resolution No. 282 of the Ministry of Health was published in the Official Gazette. By means of this resolution, the authority established the mandatory use of masks in different places and under different circumstances:

1. To all people using public or private transportation subject to payment. The same obligation applies to those who use lifts or funiculars, regardless of their public or private nature and the number of people using them. Finally, the same measure applies to all operators of the various means of transport covered by this Resolution, as well as to those people working in them.

2. To all people in the places indicated below, when 10 or more occupy the same space:

- a) Closed spaces in schools and higher education
- b) Closed spaces in airports and seaports
- c) Closed spaces in theatres, cinemas, discotheques, casinos and similar venues
- d) Closed spaces in supermarkets, shopping centres, hotels, pharmacies and other similar establishments open to the public.
- e) Closed spaces in public and private health establishments.
- f) Closed spaces in places where products, medicines or food are manufactured, processed, deposited or handled.
- g) Closed spaces in workplaces.
- h) Galleries, grandstands and other rooms for the public in sports halls, gyms or stadiums. This is not applicable to sportsmen and women during the practice of sport.
- i) Pubs, restaurants, coffee shops and similar places, in their public or closed spaces, for those attending or working in them.
- j) Residences for the elderly.

These measures began to apply at 5:00 a.m. of April 17, 2020 and will remain in effect indefinitely, until the epidemiological conditions allow for their suspension.

Finally, it is important to bear in mind that the violation of the measures described above will be punished according to the provisions of Book X of the Health Code, and, when applicable, according with the Criminal Code as an attack on public health.

The crime in question punishes anyone who endangers public health by violating the rules of hygiene or health, duly published by the authority, in times of disaster, epidemic or contagion, with imprisonment or a fine from six to twenty monthly tax units (unidades tributarias mensuales).

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