



Written by [Veronika Kyrylenko](#) on February 17, 2022

## Texas Sues Biden Admin Over Transportation Mask Mandate

Ordering Americans to mask up while traveling goes beyond what U.S. health authorities are legally allowed to do. Such a measure is also arguably ineffective at stopping the spread of COVID, a new lawsuit from Texas argues.

Texas State Representative Elizabeth Van Duyne (R), joined by the Texas Public Policy Foundation (TPPF) and the state's Attorney General [Ken Paxton](#), filed the [lawsuit](#) in a federal court on Wednesday.

The defendants in the case are the U.S. government, the Department of Health and Human Services (HHS), the Centers for Disease Control and Prevention (CDC), and their respective heads.

The [travel mask mandate](#) was first issued on January 29, 2021 by Chief of Staff for the CDC Sherri A. Berger, and was repeatedly extended. The mandate requires people traveling by planes, trains, road vehicles, vessels, and other means of transport, including military, into and within the United States to wear masks over the nose and mouth. Travelers must also wear masks at travel hubs.

The stated objective of the mandate is “mitigating the further introduction, transmission, and spread of COVID-19 into the United States and from one state or territory into any other state or territory,” per the CDC.

The agency says that “masks help prevent people who have COVID-19, including those who are pre-symptomatic or asymptomatic, from spreading the virus to others” without providing any evidence to support this claim, argue the plaintiffs.

The mask mandate is extremely restrictive, and applies to all passengers, both potentially infected and uninfected. In addition to that, it has very limited exemptions, such as children under two years of age and people who cannot wear a mask because of a disability. Travelers may only remove their masks when eating, drinking, taking meds, or using oxygen masks when instructed by the flight attendants.

President Joe Biden signed an [executive order](#) “Promoting COVID-19 Safety in Domestic and International Travel” last January mandating that masks be worn on all forms of public transportation and at travel hubs.

[Non-compliance](#) with the mandate may cost one \$500-\$1,000 for the first “offence” and \$1,000-\$3,000 for the second.

The CDC also says that the mandates may be enforced through criminal penalties.

The lawsuit argues that the CDC lacks the proper authority to impose the sweeping mask mandate and that it violated “travelers’ liberty interest.”



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“Article I, Section I of the U.S. Constitution says, ‘All legislative powers herein granted shall be vested in a Congress of the United States.’ In addition to the Mask Mandate exceeding the authority granted to the CDC ... it also constitutes an unconstitutional delegation of legislative power to the CDC,” reads the lawsuit.

The plaintiffs ask the court to hold the mandate unconstitutional and unlawful and block it.

“The CDC is relying on specific and narrowly tailored provisions in the law to exercise enormously broad powers Congress has not granted the agency,” [explained](#) Matt Miller, senior attorney with TPPF, adding, “The CDC has no authority to make rules that limit the freedom of millions of travelers without any evidence in the hopes it may have some preventative effect.”

The organization’s general counsel, Robert Henneke, also blasted the “tyranny” of the Biden administration that was enacted “in the name of Covid-19.”

The CDC has caused America “untold damage” with its “constantly changing science, fluctuating recommendations and oppressive need to control all aspects of society,” [said](#) Representative Van Duyne, adding, “it’s time for all the mandates to be lifted.”

“Biden’s repeated disregard of the individual liberties of Texans is not only disrespectful to the U.S. Constitution, it is also troublesome that any president thinks they can act above the law while hardworking Americans stand by,” said Texas AG Paxton.

### **Lifting Mask Mandates**

The Texas lawsuit comes amid a widespread loosening of mask mandates in Democrat-run states amid full-blown [COVID fatigue](#).

Between February 7 and 10, [11 states](#) announced expiration dates for their universal indoor masking requirements, joining the [39 states](#) that have already lifted COVID-related restrictions on residents.

*The New American* [reported](#) last week that Democrat governors in four deep-blue states of Oregon, New Jersey, Delaware, and Connecticut all announced that they were rolling back their indoor masking requirements, including for schools.

[California](#), [New York](#) and [Illinois](#) are also easing many COVID-related restrictions and lifting indoor mask mandates for fully vaccinated people yet continue with the requirement for K-12 schools. This week, Washington, D.C., [announced](#) masks will no longer be required for most indoor settings beginning March 1. The order does not cover public schools. D.C. is also dropping its indoor vaccine passport requirement.

Naturally, the CDC has been under scrutiny for refusing to change its guidance on mask wearing. Last week, CDC Director Dr. Rochelle Walensky [claimed](#) that “now is not the moment” to drop mask mandates in schools and other public places.

This week, however, Walensky changed her tune and signaled the agency is set to loosen its masking recommendations.

The CDC is now “assessing the most important factors based on where we are in the pandemic” and will put out relevant updated guidance “soon,” Walenski [said](#) Wednesday. She did not specifically mention mask guidelines for the travelers.

White House Chief Medical Advisor Dr. Anthony Fauci [told](#) the Financial Times last week that the



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United States is exiting the “full-blown pandemic phase of COVID-19,” and that restrictions will soon be relaxed.

“There will also be more people making their own decisions on how they want to deal with the virus,” said Fauci. He added that if cases climb again, it will be up to local health authorities to reintroduce restrictions.





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