



May 6, 2020

The Honorable Andy Beshear  
Kentucky State Capitol  
700 Capitol Avenue, Suite 100  
Frankfort, Kentucky 40601

**RE: Healthy at Work Requirements for Manufacturers, Supply Chains, and Logistics**

Governor Beshear,

The Kentucky Association of Manufacturers (KAM), including its Auto and Aerospace members and its Kentucky Chemical Industry Council (CIC), appreciate Governor Beshear's plan to reopen Kentucky's economy in a timely fashion with Healthy at Work guidelines.

Since the release of the guidelines, KAM has received feedback from manufacturers of all sizes and various industry sectors across Kentucky. Manufacturers and their supply partners have worked diligently to protect their biggest asset - their employees. From the feedback we received to this point, it appears that many companies already had requirements similar to the Healthy at Work guidelines in place; however, those activities were carefully tailored to the specific circumstances of the manufacturer.

Concerns have arisen with the apparent lack of flexibility and the "one size fits all" policy of the Healthy at Work manufacturing requirements. While masking and social distancing procedures have already been implemented at many facilities, because of the nature of the supply line, the compounding of these two requirements could make it impossible for some to continue creating their products. Similarly, HIPAA laws and regulations cause concern regarding contact tracing, testing, and temperature requirements in the manufacturing requirements as currently worded. These requirements are especially concerning for some of our smaller and local companies that are unable to financially support these changes in operations. Please note that KAM and its affiliate organizations do appreciate the provisions of the guidelines allowing employees to conduct temperature checks at home before coming to work.

The specific concerns from manufacturers regarding the Healthy at Work requirements are outlined below:

- **Use of the word "must:"** The word "must" does not allow manufacturers to meet the end goal of safety with a more tailored method specific to their industry or product. Manufacturers are excellent at engineering solutions—we need to allow them to do so by removing this barrier.
- **Use of PPE**
  - Type of Mask: Employers should be able to protect their employees to the level needed, including being allowed to use N-95 masks if the manufacturer deems that is the equipment needed for a particular task or to ensure the employee's health and safety. Additionally, workers such as welders cannot wear traditional masks without endangering themselves due to flammability. KAM suggests that the policy be modified to impose mask requirements "where appropriate to protect the employee" and "to the greatest extent practicable."



**KENTUCKY ASSOCIATION  
OF MANUFACTURERS**

- Discretion for PPE v. Distancing: Manufacturers should be able, based upon individual circumstances, to require their employees to wear masks when proper social distancing (six feet) cannot be achieved, regardless of the type of space (enclosed or non-enclosed).
- Communication: Universal and constant use of masks that are not clear can inhibit communication, especially in environments where hearing levels are already low.
- Gloves: Gloves can encourage a false sense of safety and create a bigger risk with improper use. KAM does not believe gloves assure a safe manufacturing working environment and instead recommend additional focus on personal hygiene (handwashing & hand sanitizer use) as replacement for gloves.
- **Cleaning and sanitization**: KAM requests that the requirements for disinfection of high-touch area be modified to reflect discretion to use a time-based requirement or a use-based requirement, particularly for single operators. If a single operator is using the same equipment for eight hours, the requirement should allow for cleaning between shifts instead of pausing operations to clean every two hours. Manufacturers would like the discretion to decide between time-based and use-based cleaning, as outlined by CDC guidelines.
- **24-hour shutdown of contaminated areas**: If the area can be thoroughly cleaned and disinfected, manufacturers need the discretion to open the area in a quicker fashion.
- **Temperature checks**: Clarification is needed on what documents manufacturers need to create and provide to the state to show temperature checks occurred, whether self-reported by the employee or taken on-site.
- **Contact tracing**: Manufacturers have concerns with the liability associated with ethical and legal implication of contact tracing and HIPAA laws. Clarification is needed to ensure that employers are legally protected if attempting to pursue contact tracing.
- **Common use/public space areas**: There are federal requirements for employees to have time to break and rest and they must be permitted to do so, along with providing access to their valuables in lockers or other storage areas. Manufacturers seek the discretion to meet the general guidance by providing distancing and cleaning measures without fully closing off these necessary spaces.

We appreciate your office hearing these manufacturers' concerns and questions. We would appreciate the opportunity to create an open line of communication between the Governor's office, KAM, CIC and the leaders of Kentucky manufacturing facilities. Manufacturing is the largest component of Kentucky's GDP, and the men and women who lead these companies want to be on the front lines of getting our Commonwealth back on its feet in a healthy, yet financially viable, fashion.

KAM would like to offer our help as a liaison to Kentucky's key industry during this unprecedented era, and we hope the administration will be willing to take us up on that offer as we have manufacturers ready to assist with creating further guidance. We are grateful for Governor Beshear's leadership and look forward to creating a mutually beneficial partnership for Kentucky for the years to come.

Respectfully,

A handwritten signature in black ink, appearing to read "Lee Lingo". The signature is fluid and cursive, written over a white background.

Lee Lingo  
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Kentucky Association of Manufacturers

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