"Mask-Less Shopping Is Like Drunk Driving. We Should Outlaw It."

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0. Abstract

Over time, more and more states have passed mask mandates, but it has taken them a while to do that. In fact, as I write this, there remain a substantial number of states, including Georgia, that haven't outlawed what I call "mask-less shopping." This is a mistake.

1. Introduction – The mask-less shopper

Imagine that Isaac settles down one evening to eat dinner and watch a baseball game. After his meal, he gets a craving for ice cream, but he's out, so he drives to the store. Before getting out of the car, it occurs to him that he might be infected with Covid-19. He doesn't have any symptoms of the virus, but his job requires him to interact with other people on a regular basis, and Isaac knows that pre-symptomatic people can spread it. Isaac considers wearing his face covering into the store, but he decides against it. It's physically uncomfortable and he thinks that people who wear face coverings are (or look) cowardly. He also thinks it's probably safe for him to shop without it. On his way to the freezer aisle, he passes several other shoppers. He grabs his favorite flavor of ice cream, mint chocolate chip, pays the cashier, and heads back home.

Should Isaac's mask-less shopping be outlawed? (By *mask-less shopping*, I mean something a bit broader, namely, *mask-lessness in indoor, non-residential locations*.)

2. The Standard, Public Health Argument

(P1) Outlawing mask-less shopping (e.g., Isaac's behavior) reduces the Covid-19 infection rate.
(P2) Reducing the Covid-19 infection rate promotes public health.
(P3) State governments should adopt policies that promote public health.
(C)   Therefore, state governments should outlaw mask-less shopping.

Counterexamples to (P3)
1. Dramatically reducing speed limits
2. Outlawing junk food, skiing, and cigarette smoking

3. The Drunk Driving Analogy

(P1) State government should outlaw drunk driving.
(P2) Mask-less shopping (e.g., Isaac's behavior) is morally equivalent to drunk driving.
(C)   Therefore, state governments should outlaw mask-less shopping.

Support for (P1) – The drunk driver

Imagine that Doug settles down one evening to have a few drinks and watch a baseball game. After a few minutes, he gets a craving for pizza. Doug calls his local pizza place and orders a mushroom pizza for pickup. By the time it's ready, Doug has already had several beers. As he gets into his car to drive to the store, he realizes that he might be impaired. He considers having his pizza delivered but decides against it. He wants to save a few dollars and he thinks that people who get their pizzas delivered are lazy. He also thinks it's probably safe for him to drive. He starts his car, drives to his local pizza place, picks up his pizza, and pays the cashier. On his way home, a police officer pulls Doug over because one of his tail-lights is out. The officer smells alcohol on his breath and has him blow into a breathalyzer. Doug's blood-alcohol level is 0.1 percent.

Should Doug be arrested for drunk driving? Of course! All fifty states outlaw his behavior. **Why?** Because *it endangers non-consenting third parties for a trivial benefit*. Note that this is true even if the streets Doug is driving on are relatively empty.

Support for (P2)

Just as drunk driving significantly endangers non-consenting third parties for a trivial benefit, mask-less shopping significantly endangers non-consenting third parties for a trivial benefit. Both Doug and Isaac could kill other people. And for what? Just to avoid feeling/looking lazy or cowardly.

4. Objections to (P2)

4.1   Laws against mask-less shopping are unfair

- Whereas sober driving isn't dangerous for anyone, masked-shopping is dangerous for some people. So, laws requiring masked-shopping would be unfair to those people.
    - o   We can make exceptions for those people.

4.2   Laws against mask-less shopping are overbroad

- Whereas laws against drunk driving target only punish individuals who are endangering others (i.e., with BAC levels ≥ .08), laws against mask-less shopping target would punish some individuals who are not endangering others (because they're not infected with Covid-19). Therefore, laws against mask-less shopping are overbroad.
    - o   Whereas we have cheap, easy ways of identifying which drivers are dangerous, we don't have any cheap, easy ways of identifying which shoppers are dangerous. Accordingly, outlawing only *infected* mask-less shopping wouldn't be effective because it wouldn't deter mask-less shopping.

4.3. Laws against mask-less shopping are too intrusive

- Laws against mask-less shopping aren't like laws against drunk driving, they're like laws requiring every vehicle to be equipped with an ignition interlock device (IID), and that would be too intrusive.
    - o   The reasons we don't require all vehicles to be equipped with IIDs are (i) that it would violate our right to privacy and (ii) that it wouldn't be cost-effective ($19-25 million per life saved). But requiring shoppers to wear masks wouldn't violate our right to privacy, and it would be much more cost-effective ($72,000 per life saved between now* and January 1).

5. Mask-Less Shoppers Are Worse Than Drunk Drivers

5.1. Mask-less shopping is instrumentally rational (unless we outlaw it)

- Whereas drunk driving is more dangerous to the people performing the behavior (viz., drunk driving) than it is to non-consenting third parties, mask-less shopping is more dangerous to non-consenting third parties than it is to the people performing the behavior (viz., mask-less shoppers).

5.2. Mask-less shopping prevents an exponential threat

- Even though drunk drivers can kill a lot of people, they pose a linear threat; mask-less shoppers, however, pose an exponential threat.
- Imagine that drunk drivers who injure people "infect" them (i.e., turn them into drunk drivers), and then those people go on to "infect" the people they injure, etc. This is the type of threat that mask-less shoppers pose. We should outlaw it.