

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1338 (Delegate Arikan, *et al.*)
Health and Government Operations

Face Mask Requirements - Prohibition

This bill prohibits a State or local elected official, governmental entity, or any other person from requiring that an individual wear a specified type of face mask, such as an N95, KN95, or KF94 mask, as a condition of (1) entry into a public building, an educational facility, place of worship, place of employment, or commercial or retail establishment or (2) receiving goods, services, or education. For purposes of the bill, the term “face mask” does not include a surgical face mask or other cloth face covering. In addition, the bill’s provisions do not apply to a requirement to wear a face covering (1) intended to protect an individual’s eyes, face, or lungs from occupational safety hazards or (2) used by medical personnel or a first responder while treating patients. A violation of the bill’s prohibition is subject to a civil penalty of up to \$2,500. Each day that a violation occurs or continues to occur is a separate violation.

Fiscal Summary

State Effect: The bill, including its penalty provisions, is not expected to materially affect State finances.

Local Effect: The bill is not expected to materially affect local government finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: For purposes of the bill, “face mask” means a particulate filtering facepiece respirator or face mask that meets U.S. National Institute of Occupational Safety

and Health or equivalent international standards for filtering at least 94% or 95% of airborne particulates, including N95, KN95, and KF94 masks. (Thus, the bill's prohibition applies only to these types of masks.)

Current Law: The COVID-19 public health emergency resulted in various federal, State, and local orders requiring the wearing of face coverings in public spaces in order to control the spread of COVID-19, but generally did not require only the types of face masks defined by the bill.

The statewide mask mandate, issued during the COVID-19 state of emergency and catastrophic health emergency, terminated on July 1, 2021. However, masks continue to be required in some settings. In January 2022, in response to a surge in COVID-19, the Governor announced that face coverings would be required for employees and visitors in State buildings and leased space in all public or shared spaces, effective January 3, 2022; the policy ended on February 22, 2022.

Also in February 2022, the State Board of Education requested that the Joint Committee on Administrative, Executive, and Legislative Review (AELR) rescind emergency regulations adopted on January 5, 2021, mandating the wearing of face coverings in schools under certain circumstances. In response, the AELR Committee held a public hearing on February 25, 2022, and voted to rescind approval of COMAR 13A.01.07. Therefore, the emergency regulations are no longer in effect, effective February 25, 2022.

Under the *Fifth Amended Administrative Order Expanding Statewide Judiciary Operations in Light of the COVID-19 Emergency*, effective March 7, 2022, pending further order of the Chief Judge of the Court of Appeals, the wearing face masks in courthouses and Judiciary facilities is voluntary, unless otherwise ordered by the administrative judges of the circuit court and District Court located in each county or Baltimore City.

Additional Comment: The bill does not specify which entity, either in State or local government, is responsible for assessing or collecting the civil penalties.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Maryland Commission on Civil Rights; Baltimore, Garrett, and Montgomery counties; Maryland Department of Emergency Management; cities of Greenbelt and Laurel; Maryland Municipal League; Governor's Office; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Baltimore City Community College; Morgan State University; Department of Budget and Management; Department of General Services; Maryland Department of Health; Department of Housing and Community Development; Department of Juvenile Services; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Department of Legislative Services

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