

## CONCURRENCE IN SENATE AMENDMENTS

AB 1326 (Ahrens)

As Amended September 02, 2025

Majority vote

**SUMMARY**

States that an individual has the right to wear a *health mask, as defined*, on their face in a public place for the purpose of protecting their individual health or the public health, with regard to communicable disease, air quality, or other health factors. Provides this right would not be construed as limiting or otherwise modifying the application or implementation of certain requirements for the removal of a mask relating to, among other contexts, security protocols to identify an individual, *essential functions in the workplace*, or emergency health care protocols, as specified.

**Senate Amendments**

- 1) Narrow the definition of "mask" from a filtering facepiece respirator, surgical, cloth, or another mask within the scope of personal protective equipment as defined in existing law to a "health mask" meaning a medical grade mask that is surgical or an N95 or KN95 respirator to prevent the transmission of infections.
- 2) Add "any other location that is open to the general public" to the definition of a public place.
- 3) Require provisions regarding any requirement to temporarily remove a health mask for identification purposes, to be construed, to the extent not in conflict with federal law, in the narrowest and most restrictive manner possible, with the removal of the health mask being limited to a temporary and momentary basis for identification purposes only upon entry and not as a justification for requiring prolonged removal of the health mask within the public place if no longer necessary for identification.
- 4) Regarding the requirements imposed on workers in the workplace to remove a health mask, strike the reference to "bona fide occupational qualification" and instead reference the employee's essential functions, and specify that essential functions has the same meaning in existing law and is applicable whether or not the employee has a disability.
- 5) Specify that any requirement for a worker or employee to remove a health mask in order to perform the employee's essential functions is required to be construed, to the extent not in conflict with federal law, in the narrowest and most restrictive manner possible, with a requirement on removal of a health mask not to be used as a justification for requiring prolonged removal of the health mask in the employment setting or other workplace if the removal is unnecessary to perform the essential functions described in 4) above.
- 6) Add additional settings in which this bill is prohibited from being construed as limiting or otherwise modifying the application or implementation, including:
  - a) The California Occupational Safety and Health Act of 1973 and related regulations; and,
  - b) Any safety or security procedures for Department of Corrections and Rehabilitation facilities.

- 7) Prohibit this bill from being construed as limiting or otherwise modifying the application or implementation of any nondiscrimination protections on the basis of disability or medical condition, including, but not limited to, applicable protections set forth in specified anti-discriminatory federal and state statutes.
- 8) Contain language to avoid chaptering-out conflicts with AB 596 (McKinnor) of the current legislative session.

## COMMENTS

*Use of Face Masks in the Pandemic Mitigation Strategy.* According to an article titled, "*Local, state, and federal mask mandates during the COVID-19 pandemic*," on April 3, 2020, the Centers for Disease Control and Prevention (CDC) released a recommendation that public citizens should wear "nonmedical cloth masks" while in public places to help prevent the spread of SARS-CoV-2, the virus which causes COVID-19. The initial rationale behind this recommendation was for "source control," to limit the emission of virus-containing respiratory droplets from infected people during their contagious period. As the viral transmission dynamics were better understood, another pandemic challenge was realized: up to 40% of infected people are asymptomatic but can shed high levels of SARS-CoV-2 from their respiratory tracts, and they contribute to more than half of viral transmissions. Thus, the universal use of face masks for source control among the general public became a top priority in the pandemic mitigation strategy.

A 2023 rapid systematic review of evidence titled, "*Effectiveness of face masking for reducing transmission of SARS-CoV-2*" found that masks wearing masks reduced the transmission of SARS-CoV-2.

In April 2020, the State Department of Public Health (DPH) recommended wearing face coverings. In June of 2020, DPH issued guidance that required Californians to wear a face-covering in high-risk settings, including but not limited to public spaces, healthcare settings, public workplaces, in retail food settings, driving when passengers are present, and outdoors in public spaces when maintaining a physical distance of six feet from persons who are not members of the same household or residence is not feasible. This guidance included limited exemptions including but not limited to children two and under and people with disabilities which prevent wearing a face covering. Throughout 2020 and into early 2022, the state issued various guidelines and requirements regarding mask usage in public spaces, healthcare settings, and areas where social distancing was not feasible. Cities like Los Angeles and San Francisco enforced stricter rules than state mandates, depending on local COVID-19 infection rates.

In January of 2021, President Joseph R. Biden issued Executive Order 13991 requiring on-duty or on-site Federal employees, on-site Federal contractors, and other individuals in Federal buildings and on Federal lands to wear masks, maintain physical distance, and adhere to other public health measures, as provided in CDC guidelines.

This bill seeks to enshrine the right of wearing a health mask in a public place in state law.

### According to the Author

This bill aims to establish a clear legal right for individuals to wear masks to protect their health and the health of others. The author continues that individuals may face discrimination when making personal health choices without this legal safeguard. The author states that this this issue

relates to bodily autonomy. The author concludes that if statutory protection is not provided, policies or ordinances restricting or banning the use of masks could be implemented.

### **Arguments in Support**

Disability Rights California (DRC) supports this bill and states by codifying the right to wear a mask for health protection, this bill removes ambiguity and helps to destigmatize the use of masks, especially for individuals with chronic health conditions, compromised immune systems, or who are protecting vulnerable family members. DRC continues that people with certain health conditions and disabilities may need to wear P95 masks in public to reduce their risk of infection or exposure to harmful particles, including: individuals with weakened immune systems due to cancer treatments, organ transplants, or HIV/AIDS; those with chronic respiratory diseases such as asthma, chronic obstructive pulmonary disease (COPD), or cystic fibrosis; and people with cardiovascular conditions like heart disease, which can be worsened by air pollution or respiratory infections. DRC continues that individuals with certain disabilities that affect their ability to fight infections or that require close contact with caregivers may also rely on high-filtration masks like P95s for protection. DRC states that California has long led the nation in advancing public health and environmental protections. DRC concludes that this bill continues that leadership by ensuring that health-conscious individuals are not penalized, harassed, or denied services for making responsible choices to protect themselves and others in public spaces.

### **Arguments in Opposition**

None.

## **FISCAL COMMENTS**

None, this bill is keyed non-fiscal.

## **VOTES:**

### **ASM HEALTH: 14-2-0**

**YES:** Bonta, Chen, Addis, Aguiar-Curry, Arambula, Carrillo, Flora, Mark González, Krell, Patel, Celeste Rodriguez, Schiavo, Sharp-Collins, Stefani

**NO:** Patterson, Sanchez

### **ASSEMBLY FLOOR: 58-2-19**

**YES:** Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Bonta, Bryan, Calderon, Caloza, Chen, Connolly, Davies, Dixon, Elhawary, Fong, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie- Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Ward, Wicks, Wilson, Zbur, Rivas

**NO:** DeMaio, Hoover

**ABS, ABST OR NV:** Arambula, Boerner, Carrillo, Castillo, Ellis, Flora, Gabriel, Gallagher, Jeff Gonzalez, Hadwick, Irwin, Lackey, Macedo, Patterson, Celeste Rodriguez, Sanchez, Ta, Tangipa, Wallis

**UPDATED**

VERSION: September 02, 2025

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FN: 0001876