



2021 ASSEMBLY BILL 88

February 18, 2021 - Introduced by Representatives ANDERSON, S. RODRIGUEZ, ANDRACA, BALDEH, BILLINGS, BOWEN, BROSTOFF, CABRERA, CONLEY, CONSIDINE, DOYLE, DRAKE, EMERSON, GOYKE, HAYWOOD, HEBL, HESSELBEIN, HINTZ, HONG, MCGUIRE, B. MEYERS, MILROY, MOORE OMOKUNDE, L. MYERS, NEUBAUER, OHNSTAD, ORTIZ-VELEZ, POPE, RIEMER, SHANKLAND, SHELTON, SINICKI, SNODGRASS, SPREITZER, STUBBS, SUBECK, VINING and VRUWINK, cosponsored by Senators ERPENBACH, SMITH, CARPENTER, AGARD, BEWLEY, JOHNSON, LARSON, PFAFF, RINGHAND, ROYS, L. TAYLOR and WIRCH. Referred to Committee on State Affairs.

1 **AN ACT relating to:** requiring face coverings in certain situations and providing
2 a penalty.

Analysis by the Legislative Reference Bureau

This bill requires individuals to wear face coverings in certain situations from the day this bill is enacted until the conclusion of a national emergency declared by the President of the United States in response to the 2019 novel coronavirus. Under the bill, "face covering" is defined as a piece of cloth or other material that is worn to cover the nose and mouth completely, including a bandana, a cloth face mask, a disposable or paper mask, or a religious face covering. Under the bill, "face covering" does not include face shields, mesh masks, masks with holes or openings, or masks with vents.

During the effective period of the bill, an individual who is at least five years of age must wear a face covering if all of the following apply:

1. The individual is indoors, other than at a private residence, or in an enclosed space, as defined in the bill.

2. Another individual who is not a member of the individual's household or living unit is present in the same room or enclosed space.

The bill includes a number of exceptions. Specifically, an individual who is otherwise required to wear a face covering under the bill may remove the face covering in the following situations:

1. While eating, drinking, or sleeping.

2. When communicating with an individual who is deaf or hard of hearing and communication cannot be achieved through other means.

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3. While obtaining a service that requires the temporary removal of the face covering.

4. While swimming or on duty as a lifeguard.

5. While speaking in a public forum and the individual speaking is at least six feet away from all other persons at all times.

6. When engaging in work where wearing a face covering would create a risk to the individual, as determined by government safety guidelines.

7. When necessary to confirm the individual's identity, including when entering a financial institution.

8. When federal or state law or regulations prohibit wearing a face covering.

9. When the individual cannot wear a face covering due to a medical condition, intellectual or developmental disability, mental health condition, or a sensory sensitivity.

10. When incarcerated.

Additionally, the legislature and the courts are also exempt from the requirements of the bill.

Under the bill, a person who intentionally violates the bill's face covering requirement may be subject to a forfeiture of up to \$200.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1. Nonstatutory provisions.**

2 (1) DEFINITIONS. In this section:

3 (a) "Enclosed space" means a confined space open to the public where
4 individuals congregate, including outdoor bars, outdoor restaurants, taxis, public
5 transit, ride-share vehicles, and outdoor park structures.

6 (b) "Face covering" means a piece of cloth or other material that is worn to cover
7 the nose and mouth completely. "Face covering" includes a bandana, a cloth face
8 mask, a disposable or paper mask, a neck gaiter, or a religious face covering. "Face
9 covering" does not include face shields, mesh masks, masks with holes or openings,
10 or masks with vents.

11 (c) "Physical distancing" means maintaining at least 6 feet of distance from
12 individuals who are not members of an individual's household or living unit.

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1 (2) FACE COVERING REQUIRED. Every individual age 5 and older in this state shall
2 wear a face covering if both of the following apply:

3 (a) The individual is indoors or in an enclosed space, other than at a private
4 residence.

5 (b) Another person or persons who are not members of the individual's
6 household or living unit are present in the same room or enclosed space.

7 (3) EXCEPTIONS.

8 (a) An individual who is otherwise required to wear a face covering may remove
9 the face covering in any of the following situations:

10 1. While eating or drinking.

11 2. When communicating with an individual who is deaf or hard of hearing and
12 communication cannot be achieved through other means.

13 3. While obtaining a service that requires the temporary removal of the face
14 covering, such as dental services.

15 4. While sleeping.

16 5. While swimming or on duty as a lifeguard.

17 6. While a single individual is giving a religious, political, media, educational,
18 artistic, cultural, musical, or theatrical presentation for an audience, the individual
19 may remove the face covering when actively speaking. While the face covering is
20 removed, the individual must remain at least 6 feet away from all other individuals
21 at all times.

22 7. When engaging in work where wearing a face covering would create a risk
23 to the individual, as determined by government safety guidelines.

24 8. When necessary to confirm the individual's identity, including when entering
25 a bank, credit union, or other financial institution.

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1 9. When federal or state law or regulations prohibit wearing a face covering.

2 (b) In accordance with guidelines published by the federal centers for disease
3 control and prevention, all of the following individuals are exempt from the face
4 covering requirement in sub. (2):

5 1. Children under the age of 5. Children between the ages of 2 and 5 are
6 encouraged to wear a mask when physical distancing is not possible. The federal
7 centers for disease control and prevention does not recommend masks for children
8 under the age of 2.

9 2. Individuals who have trouble breathing.

10 3. Individuals who are unconscious, incapacitated, or otherwise unable to
11 remove the face covering without assistance.

12 4. Individuals with medical conditions, intellectual or developmental
13 disabilities, mental health conditions, or other sensory sensitivities that prevent the
14 individual from wearing a face covering.

15 5. Incarcerated individuals. The department of corrections shall continue to
16 comply with COVID-19 protocols to ensure the health and safety of its staff and
17 individuals in its care. Local governments are strongly encouraged to continue or
18 create COVID-19 protocols to ensure the health and safety of their staff and
19 individuals in their care.

20 (4) LEGISLATURE AND JUDICIARY. State facilities or offices under the control of the
21 legislature or the supreme court are exempt from this section.

22 (5) PRESERVATION OF MEDICAL SUPPLIES. To conserve limited supplies of N95
23 masks and other medical-grade supplies, individuals are discouraged from using
24 such supplies as face coverings.

