



# SENATE BILL 173: Free the Smiles Act.

2021-2022 General Assembly

<b>Committee:</b>	Senate Rules and Operations of the Senate	<b>Date:</b>	June 28, 2021
<b>Introduced by:</b>	Sens. Krawiec, Burgin, Perry	<b>Prepared by:</b>	Kara McCraw Staff Attorney
<b>Analysis of:</b>	Third Edition		

**OVERVIEW:** *The 3rd Edition of SB 173 would establish the following for the 2021-2022 school year:*

- *Governing boards of K-12 schools would have authority to determine the use of face coverings in schools.*
- *The Governor would have authority to require the use of face coverings in individual schools during a state of emergency to reduce the transmission of an airborne communicable disease.*

**CURRENT LAW:** Section 2 of Executive Order No. 220 (Extension of COVID-19 Measures to Reflect Public Health Recommendations) requires that face coverings be worn in both public and nonpublic schools to the extent required by the StrongSchoolsNC Public Health Toolkit (K-12) (Toolkit). The Order also delegates authority to the Secretary of the Department of Health and Human Services to issue and amend face coverings requirements in both public and nonpublic K-12 schools through the Toolkit.

The Toolkit, last updated on June 11, 2021, requires face coverings be worn indoors at all times in public and nonpublic schools providing in-person instruction by all workers, teachers, guests, other adults and children five years or older, unless an exception applies. Exceptions to the face covering requirement include those who should not wear face coverings due to medical or behavioral conditions or disabilities, when a person is actively eating or drinking, when communicating with a hearing-impaired individual in a way that requires the mouth to be visible, when giving a speech for broadcast or to an audience, or for children whose parent, guardian, or responsible person has been unable to safely place the face covering on the child.

**BILL ANALYSIS:** The 3rd Edition of SB 173 would provide the governing board of any public school unit or any nonpublic school the exclusive authority to determine the use of face coverings, and appropriate exceptions to those requirements, during the instructional day on the campus of the school for the 2021-2022 school year, subject to the following requirements:

- Mandatory face covering policies applying in the first instructional month of the school year must be voted on no later than August 1, 2021.
- If a mandatory face covering policy is adopted at any time in the 2021-2022 school year, the local board must vote on whether to repeal or modify the policy monthly while it remains in effect.

SB 173 would also authorize the Governor by executive order to require the use of face covering in an individual public or nonpublic school to reduce the transmission of an airborne communicable disease during a state of emergency. The Governor would be required to state reasons in the executive order specific to the school for requiring the use of face coverings, and would not be authorized to require a statewide face covering requirement for public or nonpublic schools in a single executive order.

**EFFECTIVE DATE:** SB 173 would become effective when it becomes law.

Jeffrey Hudson  
Director



Legislative Analysis  
Division  
919-733-2578