



# SENATE BILL 232: Students, Parents, Community Rights Act.

2021-2022 General Assembly

<b>Committee:</b>	Senate Rules and Operations of the Senate	<b>Date:</b>	March 18, 2021
<b>Introduced by:</b>	Sens. Hise, Daniel, Ballard	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	Second Edition		Staff Attorney

**OVERVIEW:** *Senate Bill 232 is a local bill that would permit increased access to outdoor sporting facilities in public and nonpublic high schools in the following counties: Alleghany, Ashe, Avery, Burke, Caldwell, Madison, McDowell, Mitchell, Polk, Rutherford, Watauga, Wilkes, and Yancey.*

**CURRENT LAW:** Sec. 3.2.d. of Executive Order 195, issued by Gov. Cooper on February 24, 2021, limits guests in spectator stands and viewing areas at an outdoor sporting facility, stadium, or sporting complex to 30% of the facility's stated outdoor occupancy. For spaces without a stated outdoor occupancy, no more than seven guests are permitted for every 1,000 square feet of the outdoor area's square footage. Sec. 5.2.a of Executive Order 195 applies these restrictions to educational institutions.

**BILL ANALYSIS:** Senate Bill 232 would require, for the remainder of the 2020-2021 school year, public and nonpublic high schools to set capacity limits for spectators at outdoor sporting events to no more than 50% of the facility's approved occupancy capacity under the State Building Code. For facilities without occupancy capacities under the State Building Code, no more than seven persons for every 1,000 square feet would be allowed.

If an outdoor sporting facility allows spectators to bring their own seats, individuals who sit in their own seats would not count toward the limit on the number of spectators if they maintain at least six feet of distance between themselves and anyone outside of their family unit.

For the purposes of Senate Bill 232, "spectators" would not include athletes, employees of a public or nonpublic high school, entertainers, or staff providing support for the sporting event.

Individual schools, at the discretion of their governing bodies, could choose to implement more strict access to outdoor sporting events.

Schools would still be required to comply with nonconflicting portions of the North Carolina Department of Health and Human Services' (NCDHHS) StrongSchoolsNC Public Health Toolkit (K-12) as of February 2, 2021, and Interim Guidance for Administrators and Participants of Youth and Amateur Sports Programs as of January 28, 2021.

**EFFECTIVE DATE:** The bill would be effective when it becomes law, and would apply at any time when the occupancy capacity of outdoor sporting events is limited to less than 50% by an executive order, secretarial order, or directive authorized pursuant to Article 1A of Chapter 166A of the General Statutes.

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**BACKGROUND:** DHHS's [StrongSchoolsNC Public Health Toolkit \(K-12\)](#) provides guidance for families, students, and local education leaders for health practices that must be met as students return to school. DHHS's [Interim Guidance for Administrators and Participants of Youth and Amateur Sports Programs](#) provides recommendations for conducting sports activities.

Senate Bill 232 may give rise to Constitutional considerations:

- Article II, Section 24(1)(a) of the North Carolina Constitution prohibits local acts relating to health, sanitation, and the abatement of nuisances and provides that such local acts are void. In March of 2020, the Governor began issuing Executive Orders to address the COVID-19 health pandemic. If Senate Bill 232 was determined to be within one of these categories, then it could be subject to a constitutional challenge.
- Article I, Section 6 of the North Carolina Constitution provides that the three branches of government's powers "shall be forever separate and distinct from each other." Whether or not a local act may override an Executive Order under the Emergency Management Act has not been explicitly addressed by the courts.

*\*Brian Gwyn, Billy R. Godwin, and R. Erika Churchill, Staff Attorneys for the Legislative Analysis Division, contributed substantially to the drafting of this summary.*