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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 202
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Powell

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SUMMARY

- Voids the July 23, 2020, “Director’s Order for Facial Coverings throughout the State of Ohio.”
- Prohibits the Governor or a state agency from issuing an order – beginning on the bill’s effective date and during the period of the COVID-19 emergency – requiring the wearing of facial coverings in any specific county or counties.
- Prohibits the Governor or a state agency, during that same period, from issuing a statewide, regional, or countywide order requiring the wearing of facial coverings, unless first approved by the General Assembly.

DETAILED ANALYSIS

Director of Health orders related to facial coverings

On July 23, 2020, Interim Director of Health Lance Himes issued a statewide order requiring facial coverings to be worn, with certain exceptions, at all times when in indoor locations.¹ Earlier in July of 2020, the Director had ordered facial coverings to be worn indoors in specified counties under a Level 3 Public Health Advisory.² H.B. 202 voids the July 23rd statewide facial coverings order. It also prohibits the Governor or a state agency from doing

¹ “Director’s Order for Facial Coverings throughout the State of Ohio,” available at <https://coronavirus.ohio.gov/static/publicorders/Directors-Order-Facial-Coverings-throughout-State-Ohio-reader.pdf>.

² See, e.g., “Director’s Order for Facial Coverings in Butler, Cuyahoga, Franklin, Hamilton, Huron, Montgomery, and Trumbull Counties in Level 3 Public Health Advisory,” available at <https://coronavirus.ohio.gov/static/publicorders/Directors-Order-Facial-Coverings.pdf>.

either of the following beginning on the bill's effective date and during the COVID-19 emergency:

- Issuing a statewide, regional, or countywide order, or multiple orders having the effect of creating a statewide or regional order, requiring the wearing of facial coverings, unless first approved by concurrent resolution of the General Assembly;
- Issuing an order requiring the wearing of facial coverings in any specific county or counties.³

Rescission of July 23rd order and issuance of April 8th order

On April 5, 2021, the current Director of Health, Stephanie McCloud, formally rescinded the July 23rd order and issued a new order maintaining the general requirement that facial coverings be worn when in indoor locations.⁴ Three days later, on April 8, 2021, the Director issued an amended order including that requirement.⁵ In practice, the bill's provisions regarding the July 23rd order may be moot. Also, it does not address the April 8th order; instead, the bill prohibits the issuance of future mask orders beginning on the bill's effective date.

Note on S.B. 22

Effective June 23, 2021, S.B. 22 authorizes the General Assembly to rescind, by concurrent resolution, any order issued by the Department of Health (ODH) under its authority granted in statute⁶ and in effect on that date. It further allows the General Assembly to rescind future ODH orders to prevent the spread of contagious or infectious disease at any time after their issuance – again by adopting a concurrent resolution.⁷

³ Section 2.

⁴ "Director's Order Rescinding Various Orders," available at <https://coronavirus.ohio.gov/static/publicorders/directors-order-rescinding-various-orders.pdf> and "Director's Order for Social Distancing, Facial Coverings and Non-Congregating," available at <https://coronavirus.ohio.gov/static/publicorders/do-social-distancing-facial-coverings-and-non-congregating.pdf>.

⁵ "Director's Amended Order for Social Distancing, Facial Coverings and Non-Congregating," available at <https://coronavirus.ohio.gov/static/publicorders/amended-directors-order-for-social-distancing-21.pdf>.

⁶ R.C. 3701.13, not in the bill.

⁷ S.B. 22, available at <https://www.legislature.ohio.gov/legislation/legislation-documents?id=GA134-SB-22>.

HISTORY

Action	Date
Introduced	03-10-21
