



2024 South Dakota Legislature

House Bill 1166

Introduced by: **Representative Jensen (Phil)**

1 **An Act to clarify determinations regarding the wearing of facemasks.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That chapter 60-4 be amended with a NEW SECTION:**

4 Each individual employed in this state, whether in the public or private sector, has
 5 the right to evaluate information regarding the efficacy of wearing a facemask and
 6 determine whether or not to wear a facemask while at the individual's place of
 7 employment.

8 For purposes of this section, the term "evaluate information" means to:

9 (1) Consider the findings of peer reviewed studies regarding the wearing of a facemask
 10 to mitigate against airborne respiratory infections, including coronavirus,
 11 respiratory syncytial virus, and influenza;

12 (2) Seek guidance from credible medical sources regarding the wearing of a facemask
 13 to mitigate against airborne respiratory infections, including coronavirus,
 14 respiratory syncytial virus, and influenza;

15 (3) Seek recommendations from personal medical practitioners regarding the
 16 effectiveness of vaccines and prophylactic medicines or treatments against
 17 airborne respiratory infections, including coronavirus, respiratory syncytial virus,
 18 and influenza;

19 (3) Consider the benefits and risks of wearing or not wearing a facemask, given one's
 20 age and overall health and well-being; and

21 (4) Consider the health needs of, vulnerabilities of, and implications for immediate
 22 family members.

23 If an individual determines that wearing a facemask is not personally justifiable,
 24 the employer may require that the individual work at an alternate location within the
 25 building or work from home. The employer may not terminate, demote, discipline, or take

1 any other adversarial action against the individual based on the individual's determination
2 under this section.

3 An individual aggrieved by an action of the individual's employer under this section
4 may bring a civil suit for damages in circuit court and may sue for all wages and benefits
5 that would have accrued, up to and including the date of the judgment.

6 This section is not applicable in the case of an employer who, in accordance with
7 federal statute or regulation, must enforce the wearing of facemasks by certain
8 individuals.