SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No:	SB 627	**Hearing Date:**	September 11, 2025
Author:	Wiener		
Version:	September 5, 2025		
Urgency:	No	**Fiscal:**	Yes
Consultant:	AB		

Subject: ***Law enforcement: masks***

HISTORY

Source: Prosecutors Alliance California; Mexican American Legal Defense and Education Fund (MALDEF); Inland Coalition for Immigrant Justice

Prior Legislation: SB 480 (Archuleta), Ch. 336, Stats. of 2020
SB 54 (De Leon), Ch. 495, Stats. of 2017

Support: ACLU California Action; All Voting Members of the North Westwood Neighborhood Council; Alliance for Boys and Men of Color; Asian Americans Advancing Justice Southern California; American Association of University Women – California; Bend the Arc: Jewish Action California; California Academy of Child and Adolescent Psychiatry; California Alliance for Youth and Community Justice; California Alliance of Child and Family Services; California Attorneys for Criminal Justice; California Civil Liberties Advocacy; California Community Foundation; California Democratic Party; California Faculty Association; California Public Defenders Association; California Rural Legal Assistance Foundation, INC.; California School Employees Association; Californians for Safety and Justice; City of Alameda; City of Berkeley; City of Culver City; City of Los Angeles; City of Monterey Park; City of Oakland; City of Paramount; City of Pasadena; City of West Hollywood; Coalition for Humane Immigrants Rights; Comite Civico Del Valle, INC; County of Los Angeles Board of Supervisors; Courage California; Culver City Democratic Club; Democratic Party of the San Fernando Valley; Drug Policy Alliance; Electronic Frontier Foundation; Ella Baker Center for Human Right; Felony Murder Elimination Project; Friends Committee on Legislation of California; Ikar; Indivisible CA Statestrong; Indivisible Westside Los Angeles; Initiate Justice; Initiate Justice Action; Jewish Community Relations Council of Sacramento; Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties; Justice2jobs Coalition; LA Defensa; Latino Community Foundation; Los Angeles County Democratic Party; National Police Accountability Project; National Union of Healthcare Workers (NUHW); North Westwood Neighborhood Council; Partnership for Los Angeles Schools; Rubicon Programs; San Francisco Office of the Assessor-recorder; San Francisco Public Defender's Office; Santa Barbara Women's Political Committee; Santa Monica Democratic Club; SEIU California; Sister Warriors Freedom Coalition; Sisters of St. Joseph of Orange; Smart Justice California; Solano County Democratic Central Committee; The W. Haywood Burns Institute; UFCW - Western States Council; United Domestic

Workers/AFSCME Local 3930; Vision Y Compromiso (UNREG); Western Center on Law & Poverty

Opposition: Arcadia Police Officers' Association; Association for Los Angeles Deputy Sheriffs (ALADS); Association of Orange County Deputy Sheriffs; Brea Police Association; Burbank Police Officers' Association; California Association of Highway Patrolmen; California Association of School Police Chiefs; California Coalition of School Safety Professionals; California Fraternal Order of Police; California Narcotic Officers' Association; California Peace Officers Association; California Police Chiefs Association; California Reserve Peace Officers Association; California State Sheriffs' Association; California Statewide Law Enforcement Association; Carlsbad Citizens for Community Oversight (C2O); City of Torrance; Claremont Police Officers Association; Corona Police Officers Association; Culver City Police Officers' Association; Fullerton Police Officers' Association; Long Beach Police Officers Association; Los Angeles School Police Management Association; Los Angeles School Police Officers Association; Murrieta Police Officers' Association; Newport Beach Police Association; Palos Verdes Police Officers Association; Peace Officers Research Association of California (PORAC); Placer County Deputy Sheriffs' Association; Pomona Police Officers' Association;; Riverside Police Officers Association; Riverside Sheriffs' Association; Sacramento County Deputy Sheriffs Association; San Bernardino County Sheriff's Department; San Diego County Sheriff's Office; Sheriff's Employee Benefits Association

Assembly Floor Vote: 45-23

PURPOSE

The purpose of this bill is to make it a crime for a law enforcement officer, as defined, to wear a facial covering in the performance of their duties, except as specified, and require any law enforcement agency operating in California to maintain and publicly post a written policy limiting the use of facial coverings, as specified.

Existing federal law provides that the U.S. Constitution, and the laws of the United States, are the supreme law of the land. (U.S. Const., art. VI, cl. 2.)

Existing federal law provides that the federal government has the exclusive authority to regulate immigration and naturalization. (U.S. Const., Art. 1, Sec. 8.)

Existing federal law provides that the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people, and prohibits the federal government from "conscripting" the states to enforce federal regulatory programs. (U.S. Const. Amend 10.)

Existing federal law prohibits a federal, state, or local government entity or official from prohibiting, or in any way restricting, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual. (8 U.S.C. §§ 1373, 1644.)

Existing federal law requires designated immigration officers, at the time of arrest, and as soon as it is practical and safe to do so, to identify themselves as an immigration officer who is authorized to execute an arrest and state that the person is under arrest and the reason for the arrest. (8 C.F.R. § 287.8 (c)(2)(iii).)

Existing California law establishes the California Values Act, which prohibits specified state and local LEAs from using agency or department money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, subject to specified exemptions. (Gov. Code, §§ 7282.5, 7284.6.)

Existing law defines "immigration enforcement" for purposes of the California Values Act, to mean any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the U.S. (Gov. Code, § 7284.4, subd. (f).)

Existing law requires uniformed police officers to wear a badge, nameplate, or other device which bears clearly on its face the identification number or name of the officer. (Pen. Code, § 830.10.)

Existing law makes willfully wearing, exhibiting, or using the authorized uniform, insignia, emblem, device, label, certificate card, or writing, of a peace officer, a member of the fire department, deputy fire marshal or search and rescue personnel, with the intent of fraudulently impersonating them or of fraudulently inducing the belief that the defendant is one of them, or who willfully and credibly impersonates that person on an internet website or by other electronic means for the purpose of defrauding another, a misdemeanor punishable by imprisonment in county jail for up to six months, by a fine of $1,000, or both. (Pen. Code, §§ 538d, subd. (a); 538e, subd. (a); 538h, subd. (a); Pen. Code, § 19.)

Existing law makes wearing any mask, false whiskers, or any personal disguise for the purpose of evading or escaping discovery, recognition, or identification in the commission of a public offense, or for concealment, flight, or escape, when charged with, or arrested for, a public offense a misdemeanor, punishable by imprisonment in county jail for up to six months, by a fine of $1,000, or both. (Pen. Code, §§ 19, 185.)

This bill provides that by July 1, 2026, a law enforcement agency, as defined, operating in California shall maintain and publicly post a written policy regarding the use of facial coverings, which shall include, but not be limited to, each of the following:

- A purpose statement affirming the agency's commitment to all of the following:
    - Transparency, accountability, and public trust.
    - Restricting the use of facial coverings to specific, clearly defined, and limited circumstances.
    - The principle that generalized and undifferentiated fear and apprehension about officer safety shall not be sufficient to justify the use of facial coverings.

- A requirement that all sworn personnel not use a facial covering when performing their duties.

- A list of narrowly tailored exemptions for the following:

    - Active undercover operations or assignments authorized by supervising personnel or court order.

    - Tactical operations where protective gear is required for physical safety.

    - Applicable law governing occupational health and safety.

    - Protection of identity during prosecution.

    - Applicable law governing reasonable accommodations.

- Opaque facial coverings shall only be used when no other reasonable alternative exists and the necessity is documented.

- Pursuant to the policy, a supervisor shall not knowingly allow a peace officer under their supervision to violate state law or agency policy limiting the use of a facial covering.

This bill provides that an agency policy regarding facial coverings shall be deemed consistent with the other provisions of this bill unless a verified written challenge to its legality is submitted to the head of the agency by a member of the public, an oversight body, or a local governing authority, at which time the agency shall be afforded 90 days to correct any deficiencies in the policy.

This bill provides that if, after 90 days, the agency has failed to adequately address the complaint, the complaining party may proceed to a court of competent jurisdiction for a judicial determination of the agency's exemption to the facial covering prohibition below.

This bill provides that the agency's policy and its employees' exemptions shall remain in effect unless a court rules the agency's policy is not in compliance with this bill's policy requirement and all appeals to higher courts have been exhausted by the agency.

This bill defines the following terms for the purposes of the policy requirement:

- "Facial covering" has the same meaning as specified on page 5, below.

- "Law enforcement agency" means any of the following:

    - Any entity of a city, county, or other local agency, that employs a peace officer, as defined in existing law.

    - Any law enforcement agency of another state.

    - Any federal law enforcement agency.

This bill prohibits any law enforcement officer from wearing a facial covering that conceals or obscures their facial identity in the performance of their duties.

This bill defines "face covering" as any opaque mask garment, helmet, headgear or other item that conceals or obscures the facial identity of an individual, including, but not limited to, a balaclava, tactical mask, gator, ski mask, and any similar type of facial covering or face-shielding item.

This bill specifies that a "face covering" does not include any of the following:

- A translucent face shield or clear mask that does not conceal the wearer's facial identity and is used in compliance with the employing agency's policy adopted pursuant to this bill.

- An N95 medical mask or surgical mask to protect against transmission of disease or infection, or any other mask, helmet, or device necessary to protect against exposure to any toxin, gas, smoke, inclement weather or any other hazardous or harmful environmental condition, as specified.

- A mask, helmet, or device, including, but not limited to, a self-contained breathing apparatus, necessary for underwater use.

- A motorcycle helmet when worn by an officer utilizing a motorcycle or other vehicle that requires a helmet for safe operations while in the performance of their duties.

- Eyewear necessary to protect from the use of retinal weapons, including, but not limited to, lasers.

This bill specifies that this prohibition does not apply to the following:

- An officer subject to one or more of the exemptions to the masking policy listed on page 4, above.

- An officer assigned to Special Weapons and Tactics (SWAT) team units while actively performing their SWAT responsibilities.

This bill provides that a willful and knowing violation of this prohibition is punishable as an infraction or a misdemeanor.

This bill defines "law enforcement officer," for the purposes of this prohibition, as a peace officer, as defined under existing law, employed by a city, county or other local agency as well as any officer or agent of a federal law enforcement agency or any law enforcement agency of another state or any person acting on behalf of a federal law enforcement agency or law enforcement agency of another state.

This bill provides that the criminal penalty for a violation of the prohibition against the use of face coverings by law enforcement shall not apply to any law enforcement officer if they were acting in their capacity as an employee of the agency and the agency maintains and publicly posts, no later than July 1, 2026 a written policy pursuant to this bill.

This bill provides that notwithstanding any other law, any person who is found to have committed an assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution, while wearing a facial covering in a knowing and willful violation of this section shall not be entitled to assert any privilege or immunity for their tortious conduct against a claim of civil liability, and shall be liable to that individual for the greater of actual damages or statutory damages of not less than ten thousand dollars ($10,000), whichever is greater.

This bill includes a severability clause.

This bill contains several legislative findings and declarations.

COMMENTS

1. Need for This Bill

According to the Author:

> SB 627 prohibits law enforcement at all levels from covering their faces while conducting operations in the state of California unless they are wearing clear, medical or surgical coverings, or coverings necessary to protect against exposure hazardous environmental conditions. The recent federal operations in California have created an environment of profound terror, with officers — or people who claim to be officers — wearing what are essentially ski masks, not identifying themselves, grabbing people, putting them in unmarked cars, and disappearing them. If we want the public to trust law enforcement, we cannot allow them to behave like secret police in an authoritarian state. We would not trust a masked stranger to teach our kids, treat our wounds, or enter our homes. Law enforcement officers do critically important work to keep our communities safe, and when real officers are indistinguishable from imposters, everyone is at risk – including the officers themselves. Prohibiting law enforcement officers from wearing masks or personal disguises to hide their face boosts trust in law enforcement, which makes it easier for law enforcement to do their jobs and makes California safer for all of us.

2. Background on Recent Immigration Enforcement Operations

During his second campaign for president in 2023-2024, Donald Trump vowed that if re-elected, he would carry out the largest deportation program in American history. Reporting by the New York Times called Trump's second term plans "an extreme expansion of his first-term crackdown on immigration […] including preparing to round up undocumented people already in the United States on a vast scale and detain them in sprawling camps while they wait to be expelled."[1] Throughout the campaign, Trump regularly asserted that he would deport between 15

[1] "Sweeping Raids, Giant Camps and Mass Deportations: Inside Trump's 2025 Immigration Plans." *New York Times*. 11 November 2023. Sweeping Raids and Mass Deportations: Inside Trump's 2025 Immigration Plans - The New York Times

and 20 million people, far beyond the estimated number of undocumented immigrants, and constituting an action that would cost taxpayers roughly $1 trillion over 10 years.[2]

On the day of his second inauguration, President Trump issued more than a dozen executive actions aimed at realizing his ambitious mass detention and deportation agenda. Among them was a proclamation titled "Guaranteeing the States Protection Against Invasion," in which he cited the flow of migrants across the southern border of the United States as a justification for invoking constitutional authority to protect each of the states against invasion, and thereby expanded the authority and discretion of the Department of Defense and the Department of Homeland Security to carry out immigration-related functions.[3] He also signed Executive Order 14159 with the familiar sounding title "Protecting the American People Against Invasion," which provides that "[i]t is the policy of the United States to faithfully execute the immigration laws against all inadmissible and removable aliens, particularly those aliens who threaten the safety or security of the American people. Further, it is the policy of the United States to achieve the total and efficient enforcement of those laws, including through lawful incentives and detention capabilities."[4] Notable provisions of this EO 14159 include: 1) directing the Department of Homeland Security (DHS) to set enforcement priorities, emphasizing criminal histories; 2) establishing Homeland Security Task Forces in each state; 3) requiring all noncitizens to register with DHS, with civil and criminal penalties for failure to register; 4) directing DHS to collect all civil fines and penalties from undocumented individuals, such as for unlawful entry or attempted unlawful entry; 5) expanding the use of expedited removal; 6) building more detention facilities; 7) encouraging federal/state cooperation, as specified; 8) encouraging voluntary departure, as specified; 9) limiting access to humanitarian parole and Temporary Protected Status; 10) directing the U.S. AG and DHS to ensure that "sanctuary" jurisdictions do not receive access to federal funds; 11) reviewing federal grants to non-profits assisting undocumented persons and denying public benefits to undocumented persons; and 12) hiring more U.S. Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP) officers.[5]

On January 25, 2025, ICE field offices were told that each office must detain at least 75 noncitizens every day, or more than 1,800 per day nationwide.[6] To hold more detainees, the Trump Administration opened Guantanamo Bay and sent detained individuals there in February, and has also started sending detained individuals to a mega-prison in El Salvador, in many cases before their due process rights can be vindicated.[7] In addition to the disappearing of individuals it alleges to be undocumented criminals, the Trump Administration has pursued a number of other immigration efforts, many of them building off Trump's first term policies: the reinstatement of

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[2] "A Donald Trump mass deportation of immigrants would cost hundreds of billions, report says." *Sacramento Bee*. 2 October 2024. Trump mass deportation would cost hundreds of billions, study | Sacramento Bee

[3] Proclamation 10888. 20 January 2025. 90 Fed. Register 8333-8336; U.S. Const. Art. IV, Section 4.

[4] Executive Order 14159. 20 January 2025. 90 Fed. Register 8443. Protecting The American People Against Invasion – The White House

[5] *Ibid.*

[6] Washington Post, *Trump Officials Issue Quotas to ICE Officers to Ramp up Arrests*, January 26, 2025, https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota

[7] M. Lee, AP News, *Immigration Officials Defend Authority to Hold Migrants at Guantanamo Bay*, March 10, 2025, https://apnews.com/article/us-immigration-detention-guantanamo-bay-d4fe8f0d051e0cd7e3f04ce02c8e7564 ; M. Aleman, AP News, *Venezuelan Migrants Deported by the US Ended up in a Salvadoran Prison. This is Their Legal Status*, March 25, 2025, https://apnews.com/article/el-salvador-trump-tren-de-aragua-venezuela-dde4259e5dcd502101b7b8fbd3c03659

a travel ban on Muslim-majority countries, a legal challenge against birthright citizenship, the admission of white South African refugees, and the issuance of a Trump Gold Card, which can be purchased for $5 million and gives the purchaser permanent residency status and a path to citizenship. The Administration has also dedicated significant resources toward expanding detention capacity, recently opening a large facility in the Florida Everglades, grimly dubbed "Alligator Alcatraz," and signaling that it would hold detainees at Fort Bliss, a United States Army base which held interned Japanese Americans during World War 2.[8]

On July 4, 2025, President Trump signed the One Big Beautiful (OBB) Act, a gargantuan domestic policy bill that, among other provisions, allocates more than $170 billion for immigration enforcement through 2029. The OBB Act increases the annual budget of Immigration and Customs Enforcement (ICE) from $8.7 billion to approximately $27.7 billion, with $75 billion appropriated to the agency over the next four years. With this unprecedented budget increase, ICE is slated to have a higher annual budget than the militaries of Italy, Brazil, Israel, and nearly 20 other countries in the top 40 of military spenders.[9] This funding will go almost exclusively toward immigration enforcement, detention and deportation operations.[10]

A week after the OBB was signed, on July 11, a judge of the United States District Court for the Central District of California blocked the Trump Administration's "roving" immigration arrests amid immigration crackdowns in the Los Angeles, ruling that federal agents were coordinating arrests without "reasonable suspicion" and were relying on improper factors like race, accent and line of work.[11] However, on September 8, the United States Supreme Court, in a 6-3 ruling along ideological lines, overturned the lower court judge's order, allowing the Trump Administration to continue using those factors to stop and detain people for questioning in immigration enforcement actions. The Court did not issue an opinion explaining its ruling.[12]

Masked Federal Agents and Impersonation Issues

The increasing immigration raids under the Trump Administration have been associated with numerous incidents of individuals, including both citizens and non-citizens, being arrested by masked, non-uniformed, plain-clothed federal agents. Often, these agents will wear no visible identification except for the word "police" or the acronym of a federal agency affixed to a tactical vest. According to one former ICE official, this practice of masking and wearing little in the way of identifying markings is harmful and dangerous to the communities being policed: "'If somebody comes up to you with a mask and a T-shirt and no badge, why would you think that they are exercising a legitimate authority, as opposed to being a violent criminal trying to do you harm?' Shuchart said. 'How do you know that you need to not resist to avoid arrest, as opposed to resist arrest to possibly survive the encounter?'"[13] A person subject to such an arrest by an unidentified federal agent may reasonably seek to defend themselves, which may increase the

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[8] "Japanese American groups blast use of Fort Bliss, former internment camp site, as ICE detention center." *NBC News*. 20 August 2025. Japanese American groups blast use of Fort Bliss, former internment camp site, as ICE detention center

[9] "ICE Budget Now Bigger Than Most of the World's Militaries." *Newsweek*. 2 July 2025. US immigration budget now bigger than most of the world's militaries - Newsweek

[10] "Explainer: One Big Beautiful Bill Act: Immigration Provisions." *Immigration Forum*. 7 July 2025. One Big Beautiful Bill Act: Immigration Provisions - National Immigration Forum

[11] *Perdomo et. al. v. Noem et. al.*, Case No. 2:25-cv-05605 (C.D. Cal., 2025), LA25CV5605MEMF-O.pdf

[12] *Noem et. al. v. Perdomo et. al.*, 606 U.S. ___ (2025), 25A169 Noem v. Vasquez Perdomo (09/08/2025)

[13] Jarvie, Jenny. "ICE agents wearing masks add new levels of intimidation, confusion during L.A. raids." *LA Times.* https://www.latimes.com/california/story/2025-07-07/masking-of-federal-agents-very-dangerous-and-perfectly-legal

likelihood of violent encounters or potential legal consequences for resisting arrest. For example, on June 21, when several masked agents approached an undocumented man in Orange County, the man panicked and ran, resulting in him being tackled and punched by the federal agents pursuing him.[14]

Masking practices also create confusion for local law enforcement who may have difficulty discerning between lawful immigration enforcement actions and criminal conduct by non-law enforcement persons. This is particularly true where local law enforcement is not aware of when and where immigration enforcement actions are taking place. As noted by the *Los Angeles Times*:

> Increasingly aggressive immigration raids carried out by masked federal agents, sometimes using unmarked vehicles, are creating problems for local law enforcement agencies. Police have little or no insight into where the federal enforcement actions are taking place but often have to deal with the aftermath, including protests and questions from residents about what exactly happened. In some cases, local cops have been mistaken for federal agents, eroding years of work to have immigrant communities trust the police.[15]

The prevalence of masked or otherwise unidentifiable federal agents also enables non-law enforcement personnel to impersonate ICE officers for the purposes of harassing, intimidating, or otherwise committing violence against members of the immigrant community. Earlier this year, the Los Angeles Unified School District (LAUSD) reported three incidents of individuals impersonating ICE agents.[16] Recently in Burbank, two masked men impersonating federal agents, stopped a woman and asked her for her papers.[17] In June, Huntington Park police arrested a man suspected of posing as a federal immigration officer.[18] In February of this year at least three states reported arresting individuals for allegedly impersonating ICE agents. [19] In a particularly shocking example - a South Carolina man was charged with kidnapping and impersonating a police officer after allegedly detaining a group of Latino men.[20] In another, a man allegedly impersonating an ICE officer sexually assaulted a women and threatened to deport her if he did not have sex with him.[21]

Proponents of officer masking claim that the shielding of the officers' identities is necessary to protect their safety and prevent their identities and personal information from being documented and shared online, a practice known as "doxxing." Despite criticism of the practice, the head of

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[14], "DHS Says OC Gardener Detained by Ice Swung Weed Whacker at Agent." *FOX 11 Los Angeles.* June 23, 2025. https://www.foxla.com/news/narciso-barranco-oc-gardener-arrested-ice

[15] "'Who are these people?' Masked immigration agents challenge local police, sow fear in L.A." *LA Times*. 24 June 2025. https://www.latimes.com/california/story/2025-06-24/masked-immigration-agents-local-law-enforcement-tension

[16] "Ice Impersonators Target Lausd Community, Sparking Fear and Protests." *NBC Los Angeles, NBC Southern California*. Feb. 7, 2025. https://www.nbclosangeles.com/news/local/ice-impersonators-target-lausd-community/3626973/

[17] Jarvie, see fn. 11 for link.

[18] "US sees spate of arrests of civilians impersonating ICE officers." *The Guardian*. 28 June 2025. https://www.theguardian.com/us-news/2025/jun/28/civilians-impersonating-ice-officers

[19] "Multiple ICE impersonation arrests made during nationwide immigration crackdown." *CNN*. 5 February 2025. https://www.cnn.com/2025/02/04/us/ice-impersonators-on-the-rise-arrests-made-as-authorities-issue-national-warning

[20] *Ibid.*

[21] *Ibid.*

ICE, Todd Lyons, said in July that he would continue to allow his officers to be masked during their arrest raids, stating that although he's "not a proponent of the masks […] if that's a tool that the men and women of ICE use to keep themselves and their families safe, I will allow it."[22]

3. Effect of This Bill

Existing California law sets forth minimal requirements regarding the identification of peace officers to the public. Penal Code Section 830.10 states that any uniformed peace officer shall wear a badge, nameplate, or other device which bears clearly on its face the identification number or name of the officer. The requirement does not, however, apply to plainclothes or undercover peace officers whose duties require a greater degree of anonymity, and does not apply to law enforcement agencies outside the state of California, including federal agencies. Many California law enforcement agencies have departmental policies that require uniformed, on-duty officers to provide their name, badge, and/or identification number verbally.[23]

This bill contains two major components – a requirement that specified law enforcement agencies operating in California maintain and publicly post a written policy regarding the use of facial coverings by July 1, 2026, and a general prohibition against the wearing of a facial covering by a law enforcement officer in the performance of their duties that conceals or obscures their facial identity. As to the written policy, this bill requires that such a policy include a purpose statement affirming the agency's commitment to various principles and masking-related restrictions as well as a general requirement that all sworn personnel refrain from using facial coverings when performing their duties. Pursuant to the bill, the policy must exempt from this requirement undercover operations, specified tactical operations, the protection of an undercover officer's identity during prosecution, and applicable law governing occupational health and safety and reasonable work accommodations. The policy must also state that opaque facial coverings shall only be used when no other reasonable alternative exists, and must prohibit supervisors from knowingly allowing their supervisees to violate state law or agency policy regarding face coverings. For the purposes of the bill's written policy requirement, "law enforcement agency" is defined as a city, county or other local agency that employs peace officers, any law enforcement agency of another state, or any federal law enforcement agency. Notably, state law enforcement agencies, such as CHP, are not included in this definition.

The other major component of this bill is a general prohibition against the wearing of a facial covering by a law enforcement officer in the performance of their duties that conceals or obscures the officer's identity. The bill defines "facial covering" as opaque mask or other item that conceals or obscures the facial identity of an individual, but exempts from this definition various masks and face-based accessories, such as translucent face shields that do not conceal the wearer's identity, medical or surgical masks used to protect against disease or environmental hazard, as specified, underwater breathing apparatuses, motorcycle helmets, and specified protective eyewear. The prohibition does not apply to officers that qualify for an exemption under the agency's written policy or Special Weapons and Tactics (SWAT) officers. For the purposes of this prohibition, the bill defines "law enforcement officer" as a peace officer employed by a city, county or other local agency as well as any officer or agent of a federal law

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[22] "Ice chief says he will continue to allow agents to wear masks during arrest raids." 20 July 2025. *The Guardian*. https://www.theguardian.com/us-news/2025/jul/20/ice-agents-masks

[23] For example, see Sacramento Police Department General Orders. Order 210.04 – General and Professional Conduct, p. 2. GO 210.04 - General and Professional Conduct.pdf

enforcement agency or any law enforcement agency of another state. Again, state law enforcement officers are omitted from this definition.

A violation of the bill's prohibition against face coverings is punishable as an infraction or a misdemeanor, but these criminal penalties do not apply to a law enforcement officer acting in their capacity as an employee of an agency that maintains and publicly posts a written policy pursuant to this bill. However, the bill provides that any person found to have committed specified misconduct while wearing a facial covering in violation of the bill's prohibition against facial coverings cannot assert any privilege or immunity for that misconduct against a claim of civil liability, and shall be civilly liable to that individual for specified damages. Given the applicability of the bill to only local and federal law enforcement (and possibly only the former, see comment 4 below), these criminal and civil penalties will not apply to law enforcement officers employed by a state agency, and such officers will still be able to assert immunity protection for misconduct in the civil context.

Another provision of the bill effectively requires a written policy regarding the use of facial coverings to be consistent with the bill's prohibition against facial coverings, and allows a member of the public, an oversight body, or local governing authority to challenge the legality of a written policy by submitting a verified written challenge to the head of the agency. The agency has 90 days to correct any deficiency in the policy, but if, after those 90 days, the complaint is not adequately addressed, the complainant may seek a judicial determination as to the policy's legality. If the policy is found deficient, a court may rule that the agency is no longer entitled to an exemption from criminal liability under the bill.

4. Constitutional Considerations

Both of these bill's major provisions – the facial covering prohibition and the written policy requirement – explicitly apply to federal law enforcement agencies, federal law enforcement officers and agents, and any person working on behalf of a federal law enforcement agency. These provisions also apply to law enforcement agencies of other states "operating in California" and agents or officers of those out-of-state agencies. As discussed below, these provisions are constitutionally questionable: the regulation of federal agencies and officers potentially runs afoul the Supremacy Clause United States Constitution, and the regulation of out-of-state law enforcement agencies raises concerns surrounding the "dormant commerce clause."

State laws that conflict with federal laws or attempt to regulate the federal government may be invalided for several reasons. The Supremacy Clause of the United States Constitution provides that federal law "shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."[24] The doctrine of intergovernmental immunity is derived from the Supremacy Clause of the Constitution, and demands that "the activities of the Federal Government are free from regulation by any state."[25] This makes a state regulation invalid if it "regulates the United States directly or discriminates against the Federal Government or those with whom it deals."[26] However, it is well settled that generally applicable state laws can apply to federal agents.[27] A

[24] U.S. Const., Art. VI, Cl 2.
[25] *United States v. California* (9th Cir. 2019) 921 F.3d 865, 879.
[26] *N.D. v. United States* (1990) 495 U.S. 423, 435
[27] See *United States ex rel. Drury v. Lewis*, 200 U.S. 1, 7-8 (1906); Johnson v. Maryland, 254 U.S. 51, 56 (1920).

threshold question will likely be whether this bill's provisions are indeed "generally applicable," though the key question in this analysis is whether the state law seeks to improperly "control" the employee's federal duties, or whether the law only "might affect incidentally the mode of carrying out the employment – as for instance, a statute or ordinance regulating the mode of turning at the corners of streets."[28] Erwin Chemerinsky, a renowned constitutional law scholar and current Dean of the UC Berkeley School of Law, argues in a recent op-ed that wearing masks is not necessary for ICE to perform its functions:

> Law enforcement, including ICE, has long operated without their agents wearing masks. Acting ICE Director Todd Lyons said that he will allow the practice of wearing masks to continue because of concerns about his officers' safety, claiming that officers will be targeted if their identity is known. But no evidence whatsoever has been provided to support this fear. ICE agents have never before worn masks when apprehending people, and that never has posed a problem. Nor have other officers of local, state and federal law enforcement faced dangers from the public because they don't wear masks in the streets. Safety of officers is a pretext to justify a practice that exists to intimidate […] It serves no law enforcement purpose.[29]

A related doctrine is conflict preemption, whereby state laws that conflict with federal law are preempted, which "includes cases where compliance with both federal and state regulations is a physical impossibility, and those instances where the challenged state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress."[30] For example, in *United States v. California* (2019) 921 F.3d 865, the Ninth Circuit Court of Appeals upheld the provisions of the California Values Act relating to law enforcement cooperation with ICE. The court of appeals had "no doubt that SB 54 makes the jobs of federal immigration authorities more difficult."[31] But the court concluded that "this frustration does not constitute obstacle preemption," because federal law "does not require any particular action on the part of California or its political subdivisions." The court reasoned that "even if SB 54 obstructs federal immigration enforcement, the United States' position that such obstruction is unlawful runs directly afoul of the Tenth Amendment and the anticommandeering rule," and that "California has the right, pursuant to the anticommandeering rule, to refrain from assisting with federal efforts."[32] The court concluded that SB 54 does not violate the United States' intergovernmental immunity for similar reasons.

The provisions of this bill seeking to regulate federal agencies and their agents will undoubtedly be subject legal challenge under the doctrines of intergovernmental immunity and conflict preemption, and are distinguishable from the provisions of SB 54 which withstood similar legal scrutiny. Unlike the Values Act, which limited state and local cooperation with federal immigration authorities in certain circumstances, this bill directly prohibits federal law enforcement officers or any person acting on their behalf from wearing masks or disguises while interacting with the public. This intergovernmental immunity argument against the bill's provisions is likely stronger than conflict preemption argument, under which a court would look

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[28] *Johnson, supra*, at 56-57; *State v. United States Dept. of Homeland Security,* 123 F.4th 186 (5th Cir. 2024). The 'general applicability' question will undoubtedly examine the omission of state-level sworn law enforcement from the bill's requirements.
[29] Chemerinksy, Erwin. "California law targets ICE agents' use of masks. Is the practice constitutional?" *Sacramento Bee.* 23 July 2025.
[30] *U.S. v. California*, *supra*, F.3d at pp. 878-879; *Arizona v. United States*, 567 U.S. 387, 399 (2012).
[31] *Id.* at 886.
[32] *Id.* at 888-891.

to the text, structure and legislative history of federal statutes; as mentioned above, ICE's mask-wearing practice appears to be merely agency policy.[33]

The provisions of this bill attempting to regulate the law enforcement agencies of another state also raise constitutional questions, mainly with respect to the "dormant commerce clause." The dormant commerce clause doctrine is an interpretation of the Commerce Clause that limits a state's authority from burdening interstate commerce.[34] Generally, the dormant commerce clause prevents states from erecting barriers on interstate trade. A state law may violate the doctrine if the statute has the practical effect of extraterritorial control of interstate commerce.[35] That is, when a state law "directly affects" commercial transactions that occur entirely outside of the state's borders, it plainly contravenes the dormant commerce clause.[36] To determine whether a law has extraterritorial effect, a court examines the direct consequences of the statute, and how the statute may interact with other States' regulations.[37] This bill requires any law enforcement agency of another state that "operates in California" to maintain a facial covering policy requiring officers to refrain from using a facial covering when performing their duties. The bill also directly prohibits officers of these agencies from wearing a specified facial covering in the performance of their duties, a violation of which results in criminal and civil liability. Although it is highly likely that the bill's written policy provision would directly commercial transactions entirely outside California's borders, it is unclear whether the latter provision – the general mask prohibition – runs afoul the dormant commerce clause. This is because it is unclear what authority an out-of-state law enforcement officer would have to enforce laws within California. That is, once these officers cross state lines, they would functionally become civilians within the eyes of the law and would be subject to the laws of California akin to anyone else within the state's borders.

5. Related Legislation

Senate Bill 805 (Perez), a companion measure to this bill, requires federal, state and local law enforcement officers in California to visibly display identification to the public when performing their duties, and makes a violation of this requirement a misdemeanor unless the employing agency has a written policy regarding the visible identification of sworn officers. As both this bill and SB 805 require the adopt of separate written policies by California law enforcement agencies, it may be more efficient to ultimately merge these into one policy requirement that incorporates facial coverings and the visible identification of officers.

Two related measures have also been introduced in Congress: the No Secret Police Act of 2025 (H.R. 4176), which requires law enforcement officers and agents of the Department of Homeland Security engaged in border security or immigration enforcement to display or wear certain insignia and provide identification, and the VISIBLE Act (S. 2212), introduced by California Senator Alex Padilla, and which requires all immigration enforcement officers to display visible

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[33] See *Crosby v. Nat'l Foreign Trade Council*, 530 U.S. 363, 380 (2000); See also 8 C.F.R. § 287.8 (c)(2)(iii), which requires designated immigration officers involved in immigration enforcement to identify themselves as an immigration officer authorized to executive an arrest "at the time of the arrest," and as soon as it is practical arrest to do so."
[34] U.S. Const., art. I, Section 8.
[35] *Healy v. Beer Institute* (1989) 491 U.S. 324, 336.
[36] *Sam Francis Found v. Christies, Inc.* (9th Cir. 2015) 784 F.3d 1320.
[37] *Rocky Mountain Farmers Union v. Corey* (9th Cir. 2013) 730 F.3d 1070, 1101.

identification during public-facing immigration enforcement actions and prohibits non-essential face coverings, as specified.[38]

6. Argument in Support

According to the Mexican American Legal Defense and Educational Fund (MALDEF), one of the bill's co-sponsors:

> MALDEF has long advocated for equal treatment of immigrants in the public and private sectors and worked to preserve their due process and civil rights. More specifically, MALDEF has championed and defended policies like Special Order 40 and the TRUST Act that keep a wall of separation between local police and federal immigration authorities to ensure that the immigrant community can contact police, when they are victims of or witnesses to crimes, without fear that they risk deportation for themselves or their loved ones. This security is shattered when federal immigration agents pretend to be local police officers.
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> In recent months, federal law enforcement officials, mostly from Immigration and Customs Enforcement, have conducted raids announcing themselves as "police" and wearing jackets stating "police," in effect impersonating local law enforcement. Such raids have occurred in Los Angeles, San Francisco, Concord, Downey, Montebello, and many other places, since the new federal administration began ramping up its immigration enforcement efforts. This is concerning enough, but federal law enforcement agents—in California and across the country—have also engaged in routine immigration arrests while covering their faces and, at times, badges, names, and other identifying information. In some cases, federal agents wearing masks and plainclothes have snatched people off the street—without presenting identification or a warrant—bundled them into unmarked vehicles, and whisked them away to detention centers across state lines without contacting their families or loved ones.
>
> Harrowing videos of incidents reveal a tactic that runs counter to a free and open democracy and, indeed, represents a staple of police states. While there are instances in which it would be reasonable for law enforcement to hide their identities, this cannot become the norm in routine arrests.

7. Argument in Opposition

According to the California State Sheriffs' Association:

> CSSA is concerned with this bill because it ignores many typical actions and situations that occur regularly in the course and scope of a peace officer's duties, including protecting an officer's identity, not from identification, but from a doxxing or threats perspective. SB 627 makes very limited and specific exceptions to the general prohibition on wearing a mask but ignores other types of masks or face coverings that may be standard issue (e.g., gas masks) or used in a pinch (e.g., a

[38] Text - H.R.4176 - 119th Congress (2025-2026): No Secret Police Act of 2025 | Congress.gov | Library of Congress; Text - S.2212 - 119th Congress (2025-2026): VISIBLE Act | Congress.gov | Library of Congress

bandana or other cloth). Further, the bill fails to account for situations involving hazardous materials or noxious gases where an officer might need to cover their mouth and/or nose. SB 627's smoke exemption is limited to exposure during wildfires and does not cover structure fires or other situations that do not qualify as wildfires, and only wildfires that result in a declaration of a state of emergency. On this particular point, expecting a peace officer to make a determination about whether they can don a mask while responding to a fire or adjacent emergency because of the nature of the fire and whether the situation has or will rise to the level of a local or state emergency declaration is absurd. SB 627 seems clearly aimed at federal officers and practices but state law almost assuredly cannot regulate the tactics or practices of federal law enforcement officers and state and local law enforcement are being unnecessarily drawn into this dispute. If this bill were to pass and be signed, it would almost certainly be challenged in court, its application to federal entities would almost certainly be rejected, and state and local law enforcement would be left to deal with the new and unwieldy requirements.

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