



# HOUSE BILL 237: Unmasking Mobs and Criminals.

2023-2024 General Assembly

<b>Committee:</b>	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	<b>Date:</b>	May 7, 2024
<b>Introduced by:</b>	Reps. Torbett, Greene, Faircloth, Carson Smith	<b>Prepared by:</b>	Robert Ryan Michael Johnston
<b>Analysis of:</b>	PCS to Third Edition H237-CSCE-38		Committee Co-Counsel

**OVERVIEW:** *The Proposed Committee Substitute (PCS) for House Bill 237 would do the following:*

- *Repeal the health and safety exemption from certain laws prohibiting the wearing of masks in public.*
- *Enhance the criminal punishment if the defendant wears a mask to conceal the defendant's identity during the commission of another crime.*
- *Prevent the executive branch or local governments from distinguishing between religious institutions and other entities during an emergency.*
- *Impose criminal and civil liability on individuals who obstruct emergency vehicles during demonstrations.*

## SECTION 1

Under Article 4A of Chapter 14 of the General Statutes, it is generally a crime for an individual to wear a mask in public. However, under G.S. 14-12.11(a)(6), an individual can wear a mask in public for the physical health or safety of the wearer or others. If an individual wears a mask in public for health or safety reasons, a law enforcement officer can require the individual to remove the mask during traffic stops and criminal investigations when the officer has reasonable suspicion or probable cause.

Section 1 of the PCS would repeal G.S. 14-12.11(a)(6), and individuals would no longer be able to wear masks in public for health or safety reasons.

Section 1 would become effective when it becomes law, and applies to offenses committed on or after that date.

## SECTION 2

Article 81B of Chapter 15A of the General Statutes provides for structured sentencing of criminal defendants, including sentencing enhancements based on various aggravating factors.

Section 2 of the PCS would establish a new sentencing enhancement for defendants who wear masks or other clothing to conceal or attempt to conceal the defendant's identity during the commission of a crime. If the defendant admits, or if a jury finds beyond a reasonable doubt, that the defendant wore a mask or other clothing to conceal or attempt to conceal the defendant's identity, the defendant would be guilty of a misdemeanor or felony that is one class higher than the underlying offense for which the person was convicted. If the defendant would be eligible for active punishment based on the defendant's offense class

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# House 237 PCS

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and prior record level, the court would be required to order a term of imprisonment. The State would be required to identify the facts triggering this enhancement in the indictment or information. The sentencing enhancement would not apply if wearing a mask to conceal one's identity is an element of the underlying offense.

Section 2 would become effective when it becomes law, and applies to offenses committed on or after that date.

## **SECTION 3**

Under Article 1A of Chapter 166A of the General Statutes, the executive branch and local governments have broad legal authority during a declared state of emergency.

Section 3 of the PCS would limit the discretionary authority of the executive branch and local governments during a state of emergency. Specifically, any emergency orders or regulations could not distinguish between religious institutions and other entities in a way that imposes additional limitations on religious institutions.

Section 3 would become effective October 1, 2024, and apply to any emergency orders or regulations in effect on or after that date.

## **SECTION 4**

Under G.S. 20-174.1, it is a Class 2 misdemeanor to willfully stand, sit, or lie on a highway or street in a manner that impedes traffic.

Section 4 of the PCS modifies G.S. 20-174.1, a provides that a person who willfully impedes traffic while participating in a demonstration intended to impede traffic would be guilty of a Class A1 misdemeanor for a first offense and a Class H felony for a second or subsequent offense. Similarly, a person who willfully impedes traffic and obstructs an emergency vehicle from accessing the road would be guilty of a Class A1 misdemeanor. Lastly, a person who organizes a demonstration that impedes traffic would be civilly liable for any injury or death that results from obstructing an emergency vehicle's use of the road. The organizer would be liable regardless of any related criminal proceedings.

Section 4 would become effective December 1, 2024, and apply to offenses committed and causes of action arising on or after that date.

**EFFECTIVE DATE:** Except as otherwise provided, the PCS would be effective when it becomes law.