

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

D

HOUSE BILL 237
Committee Substitute Favorable 4/19/23
Committee Substitute #2 Favorable 5/3/23
PROPOSED SENATE COMMITTEE SUBSTITUTE H237-CSCE-38 [v.3]
05/06/2024 01:28:15 PM

Short Title: Unmasking Mobs and Criminals.

(Public)

Sponsors:

Referred to:

March 2, 2023

A BILL TO BE ENTITLED

1 AN ACT TO REPEAL THE PHYSICAL HEALTH AND SAFETY OF OTHERS EXEMPTION
2 TO CERTAIN LAWS PROHIBITING WEARING MASKS, TO ENHANCE
3 PUNISHMENT IF THE DEFENDANT WAS WEARING A MASK OR OTHER
4 CLOTHING OR DEVICE TO CONCEAL OR ATTEMPT TO CONCEAL THE
5 DEFENDANT'S IDENTITY, TO PROHIBIT GUBERNATORIAL EXECUTIVE
6 ORDERS, SECRETARIAL DECLARATIONS, MUNICIPAL OR LOCAL
7 GOVERNMENT PROHIBITIONS AND RESTRICTIONS, OR OTHER RULES OR
8 REGULATIONS BY A POLITICAL SUBDIVISION OF THIS STATE FROM IMPOSING
9 ADDITIONAL LIMITATIONS ON RELIGIOUS INSTITUTIONS THAT ARE NOT
10 APPLICABLE TO BUSINESSES, NON-PROFIT ORGANIZATIONS, OR OTHER
11 PRIVATE ENTITIES AFFECTED BY THE SAME OR SIMILAR EMERGENCY AND
12 TO INCREASE THE PENALTY FOR IMPEDING A ROAD DURING A
13 DEMONSTRATION OR OBSTRUCTING AN EMERGENCY VEHICLE FROM
14 ACCESSING A ROAD AT ANY TIME, AND TO CREATE CIVIL LIABILITY FOR A
15 DEMONSTRATION ORGANIZER OF A DEMONSTRATION THAT OBSTRUCTS AN
16 EMERGENCY VEHICLE.
17

18 The General Assembly of North Carolina enacts:

19
20 **SECTION 1.(a)** G.S. 14-12.11 reads as rewritten:

21 **"§ 14-12.11. Exemptions from provisions of Article.**

22 (a) Any of the following are exempted from the provisions of G.S. 14-12.7, 14-12.8,
23 14-12.9, 14-12.10 and 14-12.14:

- 24 (1) Any person or persons wearing traditional holiday costumes in season.
25 (2) Any person or persons engaged in trades and employment where a mask is
26 worn for the purpose of ensuring the physical safety of the wearer, or because
27 of the nature of the occupation, trade or profession.
28 (3) Any person or persons using masks in theatrical productions including use in
29 Mardi Gras celebrations and masquerade balls.
30 (4) Persons wearing gas masks prescribed in civil defense drills and exercises or
31 emergencies.
32 (5) Any person or persons, as members or members elect of a society, order or
33 organization, engaged in any parade, ritual, initiation, ceremony, celebration
34 or requirement of such society, order or organization, and wearing or using



* H 2 3 7 - C S C E - 3 8 *

1 any manner of costume, paraphernalia, disguise, facial makeup, hood,
2 implement or device, whether the identity of such person or persons is
3 concealed or not, on any public or private street, road, way or property, or in
4 any public or private building, provided permission shall have been first
5 obtained therefor by a representative of such society, order or organization
6 from the governing body of the municipality in which the same takes place,
7 or, if not in a municipality, from the board of county commissioners of the
8 county in which the same takes place.

9 ~~(6) Any person wearing a mask for the purpose of ensuring the physical health or~~
10 ~~safety of the wearer or others.~~

11 (a1) This Article shall not apply to any preliminary meetings held in good faith for the
12 purpose of organizing, promoting or forming a labor union or a local organization or subdivision
13 of any labor union nor shall the provisions of this Article apply to any meetings held by a labor
14 union or organization already organized, operating and functioning and holding meetings for the
15 purpose of transacting and carrying out functions, pursuits and affairs expressly pertaining to
16 such labor union.

17 (b) Notwithstanding G.S. 14-12.7 and G.S. 14-12.8, a person may wear a mask for the
18 purpose of protecting the person's head, face, or head and face, when operating a motorcycle, as
19 defined in G.S. 20-4.01. A person wearing a mask when operating a motorcycle shall remove the
20 mask during a traffic stop, including at a checkpoint or roadblock under G.S. 20-16.3A, or when
21 approached by a law enforcement officer.

22 ~~(e) Notwithstanding subdivision (a)(6) of this section, a person wearing a mask for the~~
23 ~~purpose of ensuring the physical health or safety of the wearer or others shall remove the mask,~~
24 ~~upon request by a law enforcement officer, in any of the following circumstances:~~

25 ~~(1) During a traffic stop, including a checkpoint or roadblock pursuant to~~
26 ~~G.S. 20-16.3A.~~

27 ~~(2) When a law enforcement officer has reasonable suspicion or probable cause~~
28 ~~during a criminal investigation."~~

29 **SECTION 1.(b)** This section becomes effective when it becomes law, and applies
30 to offenses committed on or after that date.

31
32 **SECTION 2.(a)** Article 81B of Chapter 15A of the General Statutes is amended by
33 adding a new section to read:

34 **"§ 15A-1340.16F. Enhanced sentence if defendant is convicted of a misdemeanor or felony**
35 **and the defendant was wearing a mask or other clothing or device to conceal or**
36 **attempt to conceal the defendant's identity.**

37 (a) If a person is convicted of a misdemeanor or felony and it is found as provided in this
38 section that the person wore a mask or other clothing or device that concealed or attempted to
39 conceal the person's identity at the time of the offense, then the person is guilty of a misdemeanor
40 or felony that is one class higher than the underlying misdemeanor or felony for which the person
41 was convicted. Notwithstanding any provision of this Article to the contrary, the court shall
42 impose a sentence of imprisonment for a person convicted of an offense enhanced under this
43 section if, after enhancement, the class of offense and prior record level permit active punishment
44 as a sentence disposition.

45 (b) An indictment or information for the offense shall allege in that indictment or
46 information or in a separate indictment or information the facts that qualify the offense for an
47 enhancement under this section. One pleading is sufficient for all offenses that are tried at a single
48 trial.

49 (c) The State shall prove the issues set out in subsection (a) of this section beyond a
50 reasonable doubt during the same trial in which the defendant is tried for the offense unless the
51 defendant pleads guilty or no contest to the issues. If the defendant pleads guilty or no contest to

1 the offense but pleads not guilty to the issues laid out in subsection (a) of this section, then a jury
2 shall be impaneled to determine the issues.

3 (d) Subsection (a) of this section does not apply if the evidence of wearing a mask or
4 other clothing or device to conceal or attempt to conceal the person's identity is needed to prove
5 an element of the underlying misdemeanor or felony."

6 **SECTION 2.(b)** This section becomes effective when it becomes law, and applies
7 to offenses committed on or after that date.

8
9 **SECTION 3.(a)** G.S. 166A-19.2 reads as rewritten:
10 **"§ 166A-19.2. Limitations.**

11 (a) Nothing in this Article shall be construed to do any of the following:

12 (1) Interfere with dissemination of news or comment on public affairs; but any
13 communications facility or organization, including, but not limited to, radio
14 and television stations, wire services, and newspapers may be requested to
15 transmit or print public service messages furnishing information or
16 instructions in connection with an emergency, disaster, or war.

17 (2) Limit, modify, or abridge the authority of the Governor to declare martial law
18 or exercise any other powers vested in the Governor under the North Carolina
19 Constitution, statutes, or common law of this State independent of, or in
20 conjunction with, any provisions of this Article.

21 (b) No religious institution shall be subject to an executive order, secretarial declaration,
22 municipal or local government prohibition or restriction, or a rule or regulation by a political
23 subdivision of this State, that distinguishes between religious institutions and other public or
24 private for-profit or non-profit entities that are subject to or affected by the same or similar
25 emergency in a way that imposes additional limitations on the religious institution. For the
26 purposes of this subsection, the term "religious institution" has the same meaning as in
27 G.S. 131F-2."

28 **SECTION 3.(b)** This act becomes effective October 1, 2024, and applies to
29 executive orders, declarations, prohibitions, restrictions, rules, or regulations in effect on or after
30 that date.

31
32 **SECTION 4.(a)** G.S. 20-174.1 reads as rewritten:
33 **"§ 20-174.1. Standing, sitting or lying upon highways or streets ~~prohibited~~prohibited;**
34 **obstruction of emergency vehicles; civil liability.**

35 (a) No person shall willfully stand, sit, or lie~~A person who willfully stands, sits, or lies~~
36 upon the highway or street in such a manner as to impede the regular flow of traffic.~~traffic is~~
37 guilty of a Class 2 misdemeanor.

38 (b) Violation of this section is a Class 2 misdemeanor.

39 (c) A person who violates subsection (a) of this section while participating in a
40 demonstration intended to prohibit or impede the use of the highway or street is guilty of a Class
41 A1 misdemeanor for a first offense and a Class H felony for a second or subsequent offense.

42 (d) A person who violates subsection (a) of this section and obstructs an emergency
43 vehicle, as defined in G.S. 14-34.1A, from accessing the highway or street is guilty of a Class
44 A1 misdemeanor.

45 (e) Any person who organizes a demonstration that prohibits or impedes the use of a
46 highway or street is civilly liable for injury to or death of any person resulting from delays caused
47 by the obstruction of an emergency vehicle in violation of subsection (d) of this section. An
48 action may be brought under this subsection regardless of whether a criminal action is brought
49 or a criminal conviction is obtained for the conduct alleged in the civil action."

50 **SECTION 4.(b)** This act becomes effective December 1, 2024, and applies to
51 offenses committed and causes of action arising on or after that date.

1
2
3

SECTION 5. Except as otherwise provided this act is effective when it becomes law.