

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 237
Committee Substitute Favorable 4/19/23
Committee Substitute #2 Favorable 5/3/23
Senate Judiciary Committee Substitute Adopted 5/14/24
Proposed Conference Committee Substitute H237-PCCS40622-CE-5

Short Title: Various Criminal and Election Law Changes.

(Public)

Sponsors:

Referred to:

March 2, 2023

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PHYSICAL HEALTH AND SAFETY OF OTHERS EXEMPTION TO CERTAIN LAWS PROHIBITING WEARING MASKS; TO ENHANCE PUNISHMENT IF THE DEFENDANT WAS WEARING A MASK OR OTHER CLOTHING OR DEVICE TO CONCEAL OR ATTEMPT TO CONCEAL THE DEFENDANT'S IDENTITY; TO PROHIBIT GUBERNATORIAL EXECUTIVE ORDERS, SECRETARIAL DECLARATIONS, MUNICIPAL OR LOCAL GOVERNMENT PROHIBITIONS AND RESTRICTIONS, OR OTHER RULES OR REGULATIONS BY A POLITICAL SUBDIVISION OF THIS STATE FROM IMPOSING ADDITIONAL LIMITATIONS ON RELIGIOUS INSTITUTIONS THAT ARE NOT APPLICABLE TO BUSINESSES, NONPROFIT ORGANIZATIONS, OR OTHER PRIVATE ENTITIES AFFECTED BY THE SAME OR SIMILAR EMERGENCY; TO INCREASE THE PENALTY FOR IMPEDING A ROAD DURING A DEMONSTRATION OR OBSTRUCTING AN EMERGENCY VEHICLE FROM ACCESSING A ROAD AT ANY TIME; TO CREATE CIVIL LIABILITY FOR A DEMONSTRATION ORGANIZER OF A DEMONSTRATION THAT OBSTRUCTS AN EMERGENCY VEHICLE; AND TO AMEND CAMPAIGN FINANCE LAWS REGARDING FEDERAL POLITICAL COMMITTEES AND POLITICAL ORGANIZATIONS.

The General Assembly of North Carolina enacts:

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

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

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

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



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

10 (6) Any person wearing a medical or surgical grade mask for the purpose of
11 ~~ensuring the physical health or safety of the wearer or others; preventing the~~
12 ~~spread of contagious disease.~~

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

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

24 (c) Notwithstanding subdivision (a)(6) of this section, a person wearing a mask ~~for the~~
25 ~~purpose of ensuring the physical health or safety of the wearer or others shall remove the mask,~~
26 ~~upon request by a law enforcement officer, in any of the following circumstances:~~in accordance
27 with subdivision (a)(6) of this section shall (i) remove the mask upon request by a law
28 enforcement officer or (ii) temporarily remove the mask upon request by the owner or occupant
29 of public or private property where the wearer is present to allow for identification of the wearer.

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

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

34 **SECTION 1.(b)** Nothing in this section shall be interpreted to limit, replace, or
35 conflict with available protections or remedies under the Americans with Disabilities Act of
36 1990, 42 U.S.C. § 12102 et seq., as amended, or any other applicable federal or State laws.

37 **SECTION 1.(c)** This section is effective when it becomes law and applies to offenses
38 committed on or after that date.

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

41 **"§ 15A-1340.16G. Enhanced sentence if defendant is convicted of a misdemeanor or felony**
42 **and the defendant was wearing a mask or other clothing or device to conceal or**
43 **attempt to conceal the defendant's identity.**

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

1 **(b)** An indictment or information for the offense shall allege in that indictment or
2 information or in a separate indictment or information the facts that qualify the offense for an
3 enhancement under this section. One pleading is sufficient for all offenses that are tried at a single
4 trial.

5 **(c)** The State shall prove the issues set out in subsection (a) of this section beyond a
6 reasonable doubt during the same trial in which the defendant is tried for the offense unless the
7 defendant pleads guilty or no contest to the issues. If the defendant pleads guilty or no contest to
8 the offense but pleads not guilty to the issues laid out in subsection (a) of this section, then a jury
9 shall be impaneled to determine the issues.

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

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

15 **SECTION 3.(a)** G.S. 166A-19.2 reads as rewritten:

16 **"§ 166A-19.2. Limitations.**

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

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

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

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

34 **SECTION 3.(b)** This section becomes effective October 1, 2024, and applies to
35 executive orders, declarations, prohibitions, restrictions, rules, or regulations in effect on or after
36 that date.

37 **SECTION 4.(a)** G.S. 20-174.1 reads as rewritten:

38 **"§ 20-174.1. Standing, sitting or lying upon highways or streets ~~prohibited~~prohibited;**
39 **obstruction of emergency vehicles; civil liability.**

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

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

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

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

50 **(e)** Any person who organizes a demonstration that prohibits or impedes the use of a
51 highway or street is civilly liable for injury to or death of any person resulting from delays caused

1 by the obstruction of an emergency vehicle in violation of subsection (d) of this section. An
 2 action may be brought under this subsection regardless of whether a criminal action is brought
 3 or a criminal conviction is obtained for the conduct alleged in the civil action."

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

6 **SECTION 5.(a)** G.S. 163-278.6 reads as rewritten:

7 **"§ 163-278.6. Definitions.**

8 When used in this Article:

9 ...

10 (74) The term "political committee" means a combination of two or more
 11 individuals, such as any person, committee, association, organization, or other
 12 entity that makes, or accepts anything of value to make, contributions or
 13 expenditures and has one or more of the following characteristics:

- 14 a. Is controlled by a ~~candidate~~; candidate.
- 15 b. Is a political party or executive committee of a political party or is
 16 controlled by a political party or executive committee of a political
 17 ~~party~~; party.
- 18 c. Is created by a corporation, business entity, insurance company, labor
 19 union, or professional association pursuant to ~~G.S. 163-278.19(b)~~;
 20 ~~or~~ G.S. 163-278.19(b).
- 21 d. Has the major purpose to support or oppose the nomination or election
 22 of one or more clearly identified ~~candidates~~; ~~{or}~~ candidates.
- 23 e. Is an affiliated party committee.

24 Supporting or opposing the election of clearly identified candidates
 25 includes supporting or opposing the candidates of a clearly identified political
 26 party.

27 If the entity qualifies as a "political committee" under sub-subdivision a.,
 28 b., c., or d. of this subdivision, it continues to be a political committee if it
 29 receives contributions or makes expenditures or maintains assets or liabilities.
 30 A political committee ceases to exist when it winds up its operations, disposes
 31 of its assets, and files its final report.

32 The term "political committee" includes the campaign of a candidate who
 33 serves as his or her own treasurer.

34 The term "political committee" does not include a federal political
 35 committee that is registered with and reports to the Federal Election
 36 Commission or other federal political organization that files Internal Revenue
 37 Service Form 8871 and Form 8872.

38 Special definitions of "political action committee" and "candidate
 39 campaign committee" that apply only in Part 2 of this Article are set forth in
 40 G.S. 163-278.38Z.

41"

42 **SECTION 5.(b)** G.S. 163-278.7A reads as rewritten:

43 **"§ 163-278.7A. Gifts from federal political ~~committees~~ committees and organizations.**

44 (a) ~~It~~ Except as limited or otherwise provided in subsection (b) of this section, it shall be
 45 permissible for a federal political ~~committee~~, as defined by committee organized pursuant to the
 46 Federal Election Campaign Act and its regulations ~~adopted pursuant thereto~~, to make
 47 contributions to a North Carolina candidate or political committee ~~registered under this Article~~
 48 with the State Board of Elections or a county board of elections, provided that the contributing
 49 ~~committee does all the following~~; in accordance with the applicable limits specified in
 50 G.S. 163-278.13(a).

- 1 (1) ~~Is registered with the State Board of Elections consistent with the provisions~~
- 2 ~~of this Article.~~
- 3 (2) ~~Complies with reporting requirements specified by the State Board of~~
- 4 ~~Elections. Those requirements shall not be more stringent than those required~~
- 5 ~~of North Carolina political committees registered under this Article, unless the~~
- 6 ~~federal political committee makes any contribution to a North Carolina~~
- 7 ~~candidate or political committee in any election in excess of four thousand~~
- 8 ~~dollars (\$4,000) for that election. "Election" shall be as defined in~~
- 9 ~~G.S. 163-278.13(d).~~
- 10 (3) ~~Makes its contributions within the limits specified in this Article.~~
- 11 (4) ~~Appoints an assistant or deputy treasurer who is a resident of North Carolina~~
- 12 ~~and stipulates to the State Board of Elections that the designated in-State~~
- 13 ~~resident assistant or deputy treasurer shall be authorized to produce whatever~~
- 14 ~~records reflecting political activity in North Carolina the State Board of~~
- 15 ~~Elections deems necessary.~~

16 (b) No federal political committee or other political organization, as defined in section
 17 527(e)(1) of the Internal Revenue Code of 1986 and subject to the disclosure requirements of
 18 section 527(j) of the Internal Revenue Code of 1986, may contribute to North Carolina candidates
 19 or political committees if it accepts contributions from sources prohibited from contributing
 20 under G.S. 163-278.19; provided, however, that any such committee or organization that also
 21 accepts and maintains in one or more segregated accounts contributions from sources not
 22 prohibited by G.S. 163-278.19, whether or not limited in amount, may contribute to any national,
 23 State, district, or county executive committee of any political party or an affiliated party
 24 committee exclusively from such segregated account(s) containing funds from sources not
 25 prohibited by G.S. 163-278.19.

26 (c) Any federal political committee or other political organization making any
 27 contribution pursuant to this section shall do all of the following:

- 28 (1) Comply with applicable reporting, operating, contribution, and other
- 29 requirements and limits of federal law.
- 30 (2) Within 10 calendar days of making a permitted contribution, file with the State
- 31 Board a copy of its then-effective Statement of Organization filed with the
- 32 Federal Election Commission or Internal Revenue Service Form 8871, as
- 33 applicable, unless previously filed.
- 34 (3) For any federal filing period during which the contributing committee or
- 35 organization makes a permitted contribution, submit to the State Board a copy
- 36 of its regularly required report filed with the Federal Election Commission or
- 37 Internal Revenue Service Form 8872 within 10 calendar days of such filing."

38 **SECTION 5.(c)** This section is effective when it becomes law and applies to
 39 contributions made or received on or after that date.

40 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes
 41 law.