



HOUSE BILL 237: Various Criminal and Election Law Changes.

2023-2024 General Assembly

Committee:		Date:	June 7, 2024
Introduced by:	Reps. Torbett, Greene, Faircloth, Carson Smith	Prepared by:	Robert Ryan Jessica Sammons Staff Attorneys
Analysis of:	Conference Committee Substitute (H237-CCSCE-5)		

OVERVIEW: *The Conference Committee Substitute for House Bill 237 would do the following:*

- *Modify the health and safety exemption from certain laws prohibiting the wearing of certain face coverings 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.*
- *Restructure the reporting requirements for contributions made to candidate campaign committees and political committees in North Carolina by federal political committees and other political organizations.*

CURRENT LAW AND BILL ANALYSIS:

SECTION 1 – MODIFY THE PHYSICAL HEALTH AND SAFETY OF OTHERS EXEMPTION TO CERTAIN LAWS PROHIBITING WEARING MASKS

G.S. 14-12.7 provides that: "No person or persons at least 16 years of age shall, while wearing any mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, enter, be or appear upon any lane, walkway, alley, street, road, highway or other public way in this State." Pursuant to G.S. 14-12.15, a violation of this law is a Class 1 misdemeanor.

G.S. 14-12.8 provides that: "No person or persons shall in this State, while wearing any mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, enter, or appear upon or within the public property of any municipality or county of the State, or of the State of North Carolina." Pursuant to G.S. 14-12.15, a violation of this law is a Class 1 misdemeanor.

G.S. 14-12.9 provides that: "No person or persons at least 16 years of age shall, while wearing a mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, demand entrance or admission, enter or come upon or into, or be upon or in the premises, enclosure or house of any other person in any municipality or county of this State." Pursuant to G.S. 14-12.15, a violation of this law is a Class 1 misdemeanor.

Jeffrey Hudson
Director



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G.S. 14-12.10 provides that: "No person or persons at least 16 years of age shall while wearing a mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, hold any manner of meeting, or make any demonstration upon the private property of another unless such person or persons shall first obtain from the owner or occupier of the property his or her written permission to do so, which said written permission shall be recorded in the office of the register of deeds of the county in which said property is located before the beginning of such meeting or demonstration." Pursuant to G.S. 14-12.15, a violation of this law is a Class 1 misdemeanor.

G.S. 14-12.14 provides that: "It shall be unlawful for any person or persons, while wearing a mask, hood or device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, to place or cause to be placed at or in any place in the State any exhibit of any kind whatsoever, with the intention of intimidating any person or persons, or of preventing them from doing any act which is lawful, or of causing them to do any act which is unlawful. For the purposes of this section, the term "exhibit" includes items such as a noose." Pursuant to G.S. 14-12.15, a violation of this law is a Class H felony.

G.S. 14-12.11 contains several exemptions from the above laws. G.S. 14-12.11(a)(6), provides that "any person wearing a mask for the purpose of ensuring the physical health or safety of the wearer or others" is exempt from the above laws. However, G.S. 14-12.11(c) states that if a person wears a mask in public for health or safety reasons, a law enforcement officer can require the individual to remove the mask in the following circumstances:

- During a traffic stop, including a checkpoint or roadblock.
- When a law enforcement officer has reasonable suspicion or probable cause during a criminal investigation.

Section 1.(a) would modify G.S. 14-12.11(a)(6) by adding a provision that a person would need to wear a "medical or surgical grade" mask. Section 1.(a) would also delete the provision that a person could wear a mask for the purpose of "ensuring the physical health or safety of the wearer or others" and replace it with a provision that a person could wear the medical or surgical grade mask for the purpose of "preventing the spread of contagious disease." Section 1.(a) would also modify G.S. 14-12.11(c) to change the criteria for when a person wearing a mask pursuant to subdivision (a)(6) would be required to remove the mask from the current criteria outlined above to the following criteria:

- Upon request by a law enforcement officer.
- Temporarily upon request by the owner or occupant of public or private property to allow for identification of the wearer.

Section 1.(b) provides that nothing in section 1 shall be interpreted to conflict with the Americans with Disabilities Act, or any other applicable federal or State laws.

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

SECTION 2 – ENHANCE PUNISHMENT IF THE DEFENDANT WAS WEARING A MASK OR OTHER CLOTHING OR DEVICE TO CONCEAL OR ATTEMPT TO CONCEAL THE DEFENDANT'S IDENTITY

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 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

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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 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 – PROHIBIT CERTAIN ORDERS AND REGULATIONS 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

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 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 – INCREASE THE PENALTY FOR IMPEDING A ROAD DURING A DEMONSTRATION OR OBSTRUCTING AN EMERGENCY VEHICLE FROM ACCESSING A ROAD AT ANY TIME

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 modifies G.S. 20-174.1, and 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.

SECTION 5 – REPORTING REQUIREMENTS FOR FEDERAL POLITICAL COMMITTEES & OTHER POLITICAL ORGANIZATIONS

The State Board of Elections (State Board) and county boards of elections regulate contributions and expenditures in primaries and elections for elected office in North Carolina. The Federal Elections Commission regulates contributions and expenditures in primaries and elections for federal offices.

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With respect to elections for office in North Carolina, G.S. 163-278.7A authorizes federal political committees to make contributions to state level political committees under certain circumstances. Generally, the federal political committee must do all of the following:

- Register with the State Board. According to the Campaign Finance Manual of the State Board, this registration must occur within 10 calendar days of making the first contribution to a North Carolina candidate or political committee, and on forms provided by the State Board.
- Comply with the reporting requirements specified by the State Board. According to the Campaign Finance Manual of the State Board, this means reporting on the same schedule as other political committees under G.S. 163-278.9, including quarterly reports in even-numbered years in which it is supporting or opposing a North Carolina candidate and semi-annual reports in other years.
- Appoint an assistant treasurer who is a resident of North Carolina.
- Stipulate to the State Board that that assistant treasurer is authorized to produce whatever records reflecting political activity in North Carolina that the State Board deems necessary.
- Make contributions within the specified generally applicable contribution limits, as follows:
 - Individuals. – A contributor may not give, and a candidate may not accept, more than \$6,400 per election. Election means primary, second primary and general election. A candidate or a candidate's spouse may contribute unlimited amounts to the candidate and are not subject to these limitations. G.S. 163-278.13.
 - Political committees. – Any national, State, district, or county executive committee of any recognized political party is exempt from the contribution limitations. A registered political committee, other than those exempt political party committees, may contribute \$6,400 per election to candidate committees. G.S. 163-278.13.
 - Business entities. – It is unlawful for any corporation, business entity, labor union, professional association, or insurance company to directly or indirectly contribute to a candidate. G.S. 163-278.15.
 - Lobbyists. – No lobbyist may make a contribution at any time to a member of the General Assembly or Council of State, or to a candidate that has been elected or appointed to the General Assembly or Council of State. G.S. 163-278.13C.
 - Lobbyist principals, lobbyists, and associated PACs. – While the General Assembly is in regular session, no lobbyist principal, lobbyist, or PAC associated with a lobbyist principal may make a contribution to a member of the Council of State or General Assembly. G.S. 163-278.13B.

Federal Election Campaign Act: Political committees & political organizations:

A federal "political committee" as defined by the Federal Election Campaign Act includes the following:

- Any committee, club, association, or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year.
- Any separate segregated fund established under the Internal Revenue Code.
- Any local committee of a political party which receives contributions aggregating in excess of \$5,000 during a calendar year, or makes payments exempted from the definition of contribution or expenditure aggregating in excess of \$5,000 during a calendar year, or makes contributions or expenditures aggregating in excess of \$1,000 during a calendar year.

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A "political organization", as defined in Section 527(e)(1) of Internal Revenue Code, is "a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function." An exempt function, as defined in Section 527(e)(2) of the Internal Revenue Code, is "the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected or appointed."

Section 5 would do all of the following:

- For federal political committees organized pursuant to the Federal Election Campaign Act:
 - Provide that the federal political committee may make contributions to a North Carolina candidate or political committee, provided that it is in not in excess of \$6,400 per election.
 - Replace the current requirements that the federal political committee register with the State Board, comply with the State Board's reporting requirements, and appoint an assistant treasurer who is a resident of North Carolina with the following requirements for making contributions to candidates or political committees:
 - Comply with applicable reporting requirements and limits of federal law.
 - File a copy of the Statement of Organization filed with the Federal Election Commission with the State Board within 10 calendar days of the contribution, unless previously filed.
 - Submit a copy of any regularly required report filed with the Federal Election Commission to the State Board within 10 calendar days of the filing for any federal filing period during which the contributing committee makes a permitted contribution.
- For both federal political committees organized pursuant to the Federal Election Campaign Act and other political organizations, as defined in section 527(e)(1) of the Internal Revenue Code and subject to the disclosure requirements of section 527(j) of the Internal Revenue Code:
 - Provide that the committee or organization may not contribute to North Carolina candidates or political committees if it accepts contributions from a corporation, business entity, labor union, professional association, or insurance company. However, if the committee or organization accepts contributions from one of these prohibited sources and keeps those contributions in a segregated account, then the committee or organization may contribute to any national, State, district, or county executive committee of any political party or an affiliated party committee from the segregated account containing funds from sources not prohibited.
 - Require the committee or organization making a contribution to do the following:
 - Comply with applicable reporting requirements and limits of federal law.
 - Within 10 calendar days of the contribution, file with the State Board (unless previously filed) a copy of either of the following, as applicable:
 - For federal political committees, the Statement of Organization filed with the Federal Election Commission.
 - For other political organizations, Internal Revenue Service Form 8871 (Political Organization Notice of Section 527 Status).

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- Within 10 calendar days of the filing for any federal filing period during which the contributing committee or organization makes a permitted contribution, submit to the State Board a copy of the following:
 - For federal political committees, any regularly required report filed with the Federal Election Commission.
 - For other political organizations, Internal Revenue Service Form 8872 (Political Organization Report of Contributions and Expenditures).
- Provide that the following are explicitly excluded from the definition of "political committee" in North Carolina:
 - A federal political committee registered with and reporting to the Federal Election Commission.
 - A federal political organization that files Internal Revenue Service Form 8871 (Political Organization Notice of Section 527 Status) and Internal Revenue Service Form 8872 (Political Organization Report of Contributions and Expenditures).

Section 5 would become effective when it becomes law and applies to contributions made or received on or after that date.

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