



## **H.B. 106**

124th General Assembly  
(As Introduced)

**Reps. Jones, Metelsky, Redfern, Womer Benjamin, Husted, Sullivan, Wilson, Patton, Trakas, Calvert, D. Miller, Goodman, R. Miller, Hartnett, Jolivet, Clancy, Ogg, Ford, S. Smith, Barrett, Britton, Allen, Perry, Carey, DePiero, Sulzer, Distel, Hollister, Core, Collier, Kilbane, Hoops, Beatty**

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### **BILL SUMMARY**

- Prohibits a person from wearing a mask, hood, or other device that hides or covers a substantial portion of the wearer's face so as to conceal the identity of the wearer when the person knows or reasonably should know that the conduct provokes in another a reasonable apprehension of intimidation or threat of violence when the person is on the private property of another without written permission or is in any public place.

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### **CONTENT AND OPERATION**

#### **Existing law**

Existing law prohibits a person from uniting with two or more others to commit a misdemeanor while wearing white caps, masks, or other disguise. A person who violates this prohibition is guilty of a felony of the fourth degree. (R.C. 3761.12 and 3761.99.)

#### **Operation of the bill**

The bill prohibits a person from doing both of the following (R.C. 2917.51(A)):

- (1) Wearing a mask, hood, or other device that hides or covers a substantial portion of the wearer's face so as to conceal the identity of the wearer when the person knows or reasonably should know that the conduct provokes in another a reasonable apprehension of intimidation or threat of violence;

(2) Being on the private property of another while wearing the mask, hood, or device without first having obtained the written consent to do so from the owner, occupier, or tenant of that property or be in any public place while wearing the mask, hood, or device.

A person who violates this prohibition is guilty of unlawful disguise, a misdemeanor of the fourth degree (R.C. 2917.51(C)).

The prohibition does not apply to any of the following persons (R.C. 2917.51(B)):

(1) A person wearing a mask, hood, or other device in a traditional holiday celebration, whether religious or secular, when the mask, hood, or other device is appropriate for that celebration;

(2) A person lawfully engaged in employment, in a trade, or in a sporting activity who wears the mask, hood, or other device for the purpose of ensuring the physical safety of the wearer, or because of the nature of the employment, trade, or sporting activity;

(3) A person wearing a mask, hood, or other device in a bona fide theatrical production or for bona fide entertainment purposes;

(4) A person wearing a mask, hood, or other device for bona fide medical reasons;

(5) A person wearing a mask, hood, or other device for protection against the elements;

(6) A person wearing a mask, hood, or other device as an expression of grief;

(7) A person wearing a mask, hood, or other device as a religious practice;

(8) A person wearing a gas mask prescribed in emergency management drills and exercises or emergencies.

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## COMMENT

The bill raises constitutional questions regarding freedom of expression through symbolic speech and, as part of that question, raises questions of overbreadth. But courts have found similar laws in other states to be constitutional. (See *State v. Miller* (1990), 260 Ga. 669; *Hernandez v. Superintendent, Fredericksburg-Rappahannock Joint Security Center* (1992), 800 F. Supp. 1344.)

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-15-01	p. 167

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