

Senate Bill 235

By: Senators Watson of the 1st, Cowser of the 46th, Harbison of the 15th, Kennedy of the 18th and Goodman of the 8th

**AS PASSED SENATE**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to offenses against public order, so as to revise the offense of wearing a mask, hood,  
3 or device which conceals the identity of the wearer; to clarify application; to provide for  
4 related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 2 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to  
8 offenses against public order, is amended by revising Code Section 16-11-38, relating to  
9 wearing mask, hood, or device which conceals identity of wearer, as follows:

10 "16-11-38.

11 (a) A person is guilty of a misdemeanor when he or she:

12 (1) Wears ~~wears~~ a mask, hood, or device by which any portion of ~~the~~ his or her face is  
13 so hidden, concealed, or covered as to conceal ~~the~~ his or her identity ~~of the wearer and~~  
14 ~~is;~~

15 (2) Is upon:

16 (A) Any ~~any~~ public way or public property ~~or upon; or~~

17 ~~(B) The~~ the private property of another without the written permission of the owner or  
 18 occupier of ~~the~~ such private property to do so;

19 (3) Intends to conceal his or her identity; and

20 (4) With reasonable foresight that injury would probably result:

21 (A) Intends to threaten, intimidate, or provoke the apprehension of violence;

22 (B) Acts with reckless disregard for the consequences of his or her conduct; or

23 (C) Acts with a heedless indifference to the rights and safety of others.

24 (b) ~~This Code section shall not apply to~~ Without limiting the generality of subsection (a)  
 25 of this Code section, no person shall be guilty of violating this Code section by:

26 (1) ~~A person wearing~~ Wearing a traditional holiday costume on the occasion of the  
 27 holiday;

28 (2) ~~A person lawfully engaged~~ Lawfully engaging in trade and employment or in a  
 29 sporting activity where a mask is worn for the purpose of ensuring the physical safety of  
 30 the wearer; or because of the nature of the occupation, trade, ~~or~~ profession, or sporting  
 31 activity;

32 (3) ~~A person using~~ Using a mask in a theatrical production including use in Mardi gras  
 33 celebrations and masquerade balls; ~~or~~

34 (4) ~~A person wearing~~ Wearing a gas mask prescribed in emergency management drills  
 35 and exercises or emergencies; or

36 (5) Wearing a mask for the purpose of complying with the guidance of any health care  
 37 agency or health care provider to prevent the spread of COVID-19 or other coronaviruses  
 38 or influenza or other infectious diseases."

39 **SECTION 2.**

40 All laws and parts of laws in conflict with this Act are repealed.