

176-24
Corrected

**AMENDMENT IN THE NATURE OF A
SUBSTITUTION**

CLERK ITEM # 176-24

CLERK OF THE COURT
MASSACHUSETTS

2024 AUG -5 A 11:58

Amendment in the Nature of a Substitution Clerk Item # 176-24

Introduced by: Minority Leader Delia DeRiggi-Whitton, Legislator Arnold W. Drucker, Legislator Siela A. Bynoe, Legislator Carrié Solages, Legislator Debra Mulé, Legislator Scott M. Davis and Legislator Seth I. Koslow

PROPOSED LOCAL LAW NO. ____ 2024

A LOCAL LAW TO PROHIBIT THE USE OF A MASK OR FACIAL COVERING FOR THE PURPOSES OF CONCEALING AN INDIVIDUAL'S IDENTITY DURING THE COMMISSION OF A CRIMINAL ACT

APPROVED AS TO FORM

MINORITY COUNSEL

2024 AUG - 5 A 11:58
CLERK OF THE COUNTY OF NASSAU

BE IT ENACTED by the County Legislature of the County of Nassau, as follows:

§1. Short Title. This law shall be known as the “Masked Crime Accountability Act” and shall appear in the Miscellaneous Laws of Nassau County as Title 91.

§2. Legislative Intent. This Legislature finds that masks and facial coverings that are not worn for health and safety concerns or for religious, cultural or celebratory purposes are often used as a predicate to harassing, menacing or criminal behavior.

Therefore, the primary purpose of this law is to enhance the punishment in connection with criminal activity that is perpetrated in association with the wearing of a mask.

§3. Definitions. For the purposes of this section, a “mask” is defined as an object normally worn on the face, typically for protection, disguise, performance, or entertainment, and often employed for rituals and rites.

§4. Exemptions from provisions of Article. Any of the following are exempted from the provisions of this local law:

- (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 or requirement of such society, order or organization, and wearing or using any manner of costume, paraphernalia, disguise, facial makeup, hood, implement or device, whether the identity of such person or persons is concealed or not, on any public or private street, road, way or property, or in any public or private building, provided permission shall have been first obtained therefor by a representative of such society, order or organization from the governing body of the municipality in which the same takes place.
- (6) Any person wearing a medical or surgical grade mask for the purpose of preventing the spread of contagious disease.

§5. Prohibition on wearing of masks or facial coverings for the purposes of concealing one's identity in the commission of a crime; Enhanced sentence if defendant is convicted of a misdemeanor or felony and the defendant was wearing a mask or other clothing or device to conceal or attempt to conceal the defendant's identity.

(a) If a person is convicted of a misdemeanor or felony and it is found as provided in this section that the person wore a mask or other clothing, material or device that concealed or attempted to conceal the person's identity at the time of the offense, other than the exemptions cited in subsection 4, then the person is guilty of a misdemeanor or felony that is one class higher than the underlying misdemeanor or felony for which the person was convicted. Notwithstanding any provision of this Article to the contrary, the court may impose a sentence of imprisonment for a person convicted of an offense enhanced under this section if, after enhancement, the class of offense and prior record level permit active punishment as a sentence disposition.

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

(c) The issues set out in subsection (a) of this section shall be presented and adjudicated beyond a reasonable doubt during the same trial in which the defendant is tried for the underlying offense unless the defendant pleads guilty or no contest to the underlying crime.

§6. Severability: If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership entity or circumstance directly involved in the controversy in which order or judgment shall be rendered.

§7. SEQRA Determination

It is hereby determined by the Nassau County Legislature, the lead agency, and pursuant to the provisions of the State Environmental Quality Review Act ("SEQRA"), 8 NYECL section 0101 et seq. and its implementing regulations, Part 617 of 6 NYCRR, and Section 1611 of the County Government Law of Nassau County, that this Local Law will not have a significant impact on the environment and that no further environmental review or action is required.

§8. Effective Date: This law shall take effect immediately after becoming a law.

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