

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

Introduced

### House Bill 4393

FISCAL  
NOTE

BY DELEGATES WARD, HOWELL, HOLLEN, PAYNTER,  
FRICH, PHILLIPS, MARTIN, KELLY, BUTLER, FAST AND  
DEAN

[Introduced February 1, 2018; Referred  
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §61-6-22 of the Code of West Virginia, 1931, as amended, relating  
2 to increasing penalty for wearing a mask while committing a crime; providing for a  
3 minimum sentence of two years.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 6. CRIMES AGAINST THE PEACE.**

**§61-6-22. Wearing masks, hoods or face coverings.**

1 (a) Except as ~~otherwise provided in this section~~ provided in subsection (b) of this section,  
2 no person, whether in a motor vehicle or otherwise, while wearing any mask, hood or device  
3 whereby any portion of the face is so covered as to conceal the identity of the wearer, may:

4 (1) Come into or appear upon any walk, alley, street, road, highway or other thoroughfare  
5 dedicated to public use;

6 (2) Come into or appear in any trading area, concourse, waiting room, lobby or foyer open  
7 to, used by or frequented by the general public;

8 (3) Come into or appear upon or within any of the grounds or buildings owned, leased,  
9 maintained or operated by the state or any political subdivision thereof;

10 (4) Ask, request, or demand entrance or admission to the premises, enclosure, dwelling  
11 or place of business of any other person within this state; or

12 (5) Attend or participate in any meeting upon private property of another unless written  
13 permission for such meeting has first been obtained from the owner or occupant thereof.

14 (b) The provisions of this section do not apply to any person:

15 (1) Under sixteen years of age;

16 (2) Wearing a traditional holiday costume;

17 (3) Engaged in a trade or employment where a mask, hood or device is worn for the  
18 purpose of ensuring the physical safety of the wearer;

19 (4) Using a mask, hood or device in theatrical productions, including use in mardi gras  
20 celebrations or similar masquerade balls;

21 (5) Wearing a mask, hood or device prescribed for civil defense drills, exercises or  
22 emergencies; or

23 (6) Wearing a mask, hood or device for the sole purpose of protection from the elements  
24 or while participating in a winter sport.

25 (c) Except as provided in subsection (d) of this section, any person who violates any  
26 provision of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof,  
27 shall be fined not more than \$500 or imprisoned in the county jail not more than one year, or both  
28 fined and imprisoned.

1 (d) Any person who commits any other crime under the laws of West Virginia while  
2 committing the crime of wearing any mask, hood or device whereby any portion of the face is so  
3 covered as to conceal the identity of the wearer, as provided in subsection (a) of this section, in  
4 addition to the punishment provided for the other crime committed, shall, upon conviction for  
5 violation of provisions of subsection (a) of this section, be imprisoned not less than two years.

NOTE: The purpose of this bill is to increase penalties for committing any crime while also committing the crime of wearing a mask, hood or other device to conceal identity.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.