

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 802 Session of
1999

INTRODUCED BY RAMOS, PRESTON, MELIO, STURLA, YOUNGBLOOD,
M. COHEN, LAUGHLIN, PESCI, MAHER, HARHAI, THOMAS, WASHINGTON
AND ROBINSON, MARCH 9, 1999

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 9, 1999

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further defining the offense of ethnic
3 intimidation to include sexual orientation and changing the
4 designation and grading of the offense; and providing for the
5 offense of wearing certain masks, hoods and other devices.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 2710 of Title 18 of the Pennsylvania
9 Consolidated Statutes is amended to read:

10 § 2710. Ethnic intimidation and other bias-related offenses.

11 (a) Offense defined.--A person commits [the offense of
12 ethnic intimidation] an offense under this section if, with
13 malicious intention toward the actual or perceived race, color,
14 religion [or], national origin or sexual orientation of another
15 individual or group of individuals, he commits an offense under
16 any other provision of this article or under Chapter 33
17 (relating to arson, criminal mischief and other property
18 destruction) exclusive of section 3307 (relating to
19 institutional vandalism) or under section 3503 (relating to

1 criminal trespass) or under section 5504 (relating to harassment
2 by communication or address) with respect to such individual or
3 his or her property or with respect to one or more members of
4 such group or to their property.

5 (b) Grading.--

6 (1) An offense under this section shall be classified as
7 a misdemeanor of the third degree if the other offense is
8 classified as a summary offense.

9 (2) An offense under this section shall be classified as
10 a misdemeanor of the second degree if a person disguises
11 himself by mask, hood or other device by which a portion of
12 the face is so hidden, concealed or covered as to conceal the
13 identity of the wearer during the commission of the offense.

14 [Otherwise,]

15 (3) If paragraphs (1) and (2) do not apply, an offense
16 under this section shall be classified one degree higher in
17 the classification specified in section 106 (relating to
18 classes of offenses) than the classification of the other
19 offense.

20 (c) Definition.--As used in this section, ["malicious
21 intention" means the] the following words and phrases shall have
22 the meanings given to them in this subsection:

23 "Malicious intention." The intention to commit any act, the
24 commission of which is a necessary element of any offense
25 referred to in subsection (a) motivated by hatred toward the
26 race, color, religion [or], national origin or sexual
27 orientation of another individual or group of individuals.

28 "Sexual orientation." Heterosexuality, homosexuality or
29 bisexuality.

30 Section 2. Title 18 is amended by adding a section to read:

1 § 7512. Wearing mask, hood or device which conceals identity of
2 wearer.

3 (a) Offense defined.--A person commits a misdemeanor of the
4 second degree if, with the intent to intimidate or harass
5 another individual or group of individuals based upon their
6 race, color, religion or national origin, he wears a mask, hood
7 or device by which any portion of the face is so hidden,
8 concealed or covered as to conceal the identity of the wearer
9 and is upon any public way or public property or upon the
10 private property of another without the written permission of
11 the occupier of the property to do so.

12 (b) Nonapplicability.--This section shall not apply to:

13 (1) a person wearing a traditional holiday costume on
14 the occasion of the holiday;

15 (2) a person lawfully engaged in trade and employment or
16 in a sporting activity where a mask is worn for the purpose
17 of ensuring the physical safety of the wearer or because of
18 the nature of the occupation, trade, profession or sporting
19 activity;

20 (3) a person using a mask in a theatrical production,
21 including, but not limited to, use in Mardi Gras celebrations
22 and masquerade balls; or

23 (4) a person wearing a gas mask prescribed in emergency
24 management drills and exercises or emergencies.

25 Section 2. This act shall take effect in 60 days.