

Unfavorable Testimony - SB0709 (“Unmask Hate Act”)

Delivered by Sam Halpert (Maryland Resident) to the Maryland Senate Judiciary Committee, ~26 Feb 2025

In brief, this bill is an affront to civil liberties and specifically an attack on the rights of medically vulnerable people and others concerned with protecting their health. The “Unmask Hate Act” over-regulates conduct that is already prohibited (harassment). This bill imposes criminal penalties for masked individuals *without* this requirement that they first must ignore a “reasonable warning”. In other words, the effect of this bill, should it become law, would be that masked individuals could be charged with the same penalties already available to law enforcement for the same conduct **but more easily and with less warning. This bill uses “harassment” as a pretext; it ultimately reduces to a clear animus against people who mask in public.**

By creating additional sanctions for people who mask, the law forces individuals into an impossible choice between their right to safeguard their health and their right to assemble in public. The bill’s authors have *acknowledged* that this bill will negatively affect individuals who wear masks for health reasons by including an “affirmative defense in a proceeding under this section” for people “wearing a mask to limit the spread of airborne illnesses”.

But “affirmative defenses” cannot salvage this law; people can only use these defenses to ask a court to remedy the legal consequences of an improper arrest. No court can remedy the *medical* consequences of an improper arrest, during which a person is stripped of their right to protect their health (they are unmasked) and potentially must face irreversible medical harm. As the CDC has noted, [“\[b\]ecause of the congregate living arrangements in...detention facilities, the risk of COVID-19 transmission is higher in these settings compared with the general population\[.\]”](#)

Significant numbers of Marylanders need to be able to choose masks and will see their rights burdened by this law. According to the CDC, [the risk of severe outcomes for COVID-19 is increased in people of all ages with certain underlying medical conditions and in people who are 50 years and older](#). According to the Census, [17.3% of Marylanders are over 65](#). According to the CDC, [9.4% of Marylanders have asthma](#)—only one of a large number of “underlying medical conditions” that lead the CDC to recommend masking as an additional protective measure to prevent severe medical harm.

The possibility of such harm, which affirmative defenses cannot help people avoid, leads them instead to sacrifice other protected rights. No just law can promise to avoid irreversible harm at the moment of enforcement by providing a remedy individuals may only rely on in court. No just

law can force Marylanders to trade one fundamental interest (their right to protect their health) against another (their right to assembly).

Thank you,
Sam Halpert