

Oppose SB1

Senator Smith, Chair
and the members of Judicial Proceedings Committee

PUBLIC SAFETY – LAW ENFORCEMENT OFFICERS – PROHIBITION ON FACE COVERINGS

Position: UNFAVORABLE

I respectfully submit this testimony in opposition to *SB0001 / HB155*, which seeks to prohibit law enforcement officers from wearing certain “*face coverings*” while performing their duties in Maryland. While public safety is a legitimate concern, the language of this bill is overbroad, ambiguous, and invites arbitrary application, raising constitutional and practical problems.

1. The Bill’s Definition of “Face Covering” Is Overbroad and Vague

Under Section 3–535 of the bill, the term “*face covering*” is defined as:

“any opaque mask, garment, helmet, headgear, or other item that conceals or obscures the face... including a balaclava, ski mask, neck gaiter, or tactical mask.”

This definition pulls together a wide range of things that people wear for very different purposes. Visually, conceptually, and in real-world use these items can look remarkably similar and are often used interchangeably. For example:





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In everyday life, people might wear:

- a **neck gaiter** when cold,
- a **balaclava** while motorcycling or skiing,
- a **tactical mask** for occupational safety,
- a **ski mask** as part of cold weather gear.

All can conceal the face, but context matters. Grouping these together without clear limits invites discretionary enforcement.

2. The Bill Treats Functionally Similar Items Differently

The bill's exceptions carve out certain items (e.g., *medical-grade or surgical masks, clear face shields, religious garments, protective gear*), but this distinction is not inherently obvious to a neutral observer. For example:

HINGED DESIGN

VERSATILE WEAR OPTIONS FROM
NECK GAITER TO SKI MASK



Types of Islamic Veils



Face coverings worn for safety purposes can look very much like *tactical masks* but are used to protect workers:



- **Balaclava-style safety masks** — used in cold-weather work, chimney or roofing jobs, and industrial settings.
- **Flame-resistant balaclava/ppe** — protects skin and face from heat, sparks, or chemicals.

The line between a medical mask and simple cloth covering, or between an opaque buffalo-plaid winter face covering and a tactical balaclava, can be subtle. Ambiguous language like “*opaque*” or “*conceals*” invites subjective judgments by officers or reviewers, increasing the risk of unequal enforcement.

3. The Bill Dictates Personal Appearance and Policing Tactics

Prohibiting officers from wearing items that obscure their face raises separate concerns:

- **Operational Safety:** Officers may need face coverings for legitimate safety reasons (e.g., chemical exposure scenarios, riot control, unknown threat environments).
- **Constitutional Rights:** Limiting attire tied to identity or expression could implicate free speech and equal protection, especially if the rule is applied differently in different jurisdictions or contexts.

Law enforcement agencies already draft operational policies under careful review, training, and community oversight. Mandating uniform dress restrictions from Annapolis removes local discretion without evidence that current practices are broken.

4. The Bill's Justification Is Poorly Linked to Actual Public Safety Needs

The bill's stated intent is to promote transparency and public trust by discouraging officers from concealing their faces. However:

1. Transparency can be achieved through **identification badges, body cameras, and training**, not by banning legitimate protective gear.
2. Maryland already has laws regarding **criminal impersonation, harassment, and intimidation** that address improper concealment of identity in the commission of a crime.

The legislature should be cautious about crafting new criminal or regulatory provisions around *how someone's gear looks* when the same goals can be pursued through less intrusive means.

5. The Bill Could Be Misapplied and Infringe on Rights

By specifying what *cannot* be worn — while leaving broad room for interpretation — this bill invites:

- **Arbitrary enforcement** depending on local attitudes and individual officers' judgments.
- **Chilling effects** on lawful behavior, including officers' own safety judgments.
- **Underinclusive protection** for similarly situated individuals whose coverings aren't enumerated but perform the same function.

Courts have long held that laws which regulate appearance or expressive conduct must be clear, narrowly tailored, and justified by compelling state interests. This bill does not meet those standards.

Conclusion

For these reasons — its vague and overbroad definitions, its potential for arbitrary enforcement, and its questionable necessity — I urge the committee to **vote against SB0001 / HB155**. If the legislature wishes to address legitimate concerns about anonymity or accountability in policing, it should pursue narrowly tailored reforms that respect constitutional rights and operational realities.

Thank you for consideration,
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