By: Gutierrez S.B. No. 475

A BILL TO BE ENTITLED

AN ACT

relating to the use of facial coverings in law enforcement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 2B, Code of Criminal Procedure, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. FACIAL COVERINGS

Art. 2B.0351. DEFINITIONS. In this subchapter:

(1) "Facial covering" means a mask, garment, or other item that, when worn on or about the wearer's face or head, conceals or obscures the identity of the wearer, including a balaclava, tactical mask, gaiter, or ski mask. The term does not include:

(A) a translucent face shield or clear mask that does not conceal the wearer's identity;

(B) a respirator or surgical mask used to protect against the transmission of disease or infection;

(C) a gas mask or other breathing apparatus necessary to protect the wearer from a toxin, a gas, smoke, or another hazardous environmental condition;

(D) a helmet used to protect the wearer's head during transportation on a bicycle, motor vehicle, helicopter, or any other vehicle for which a helmet may be used to protect the wearer's head; or

(E) any headwear or facial covering worn for a religious purpose.

(2) "Peace officer" includes any employee or agent of the federal government:

(A) who has the authority to carry firearms and make warrantless arrests; and

(B) whose duties involve the enforcement of criminal, customs, or immigration laws of the United States.

Art. 2B.0352. USE OF FACIAL COVERING BY A PEACE OFFICER. (a) Except as provided by Subsection (b), a peace officer may not wear a facial covering while interacting with the public in the performance of the officer's duties.

(b) A peace officer may wear a facial covering while interacting with the public in the performance of the officer's duties if the facial covering is worn for purposes of:

(1) participating in an active undercover operation or assignment authorized by the law enforcement agency that employs the officer;

(2) the performance of a duty of the special weapons and tactics team unit, if the officer is assigned to the unit; or

(3) compliance with an applicable occupational health and safety law or regulation.

SECTION 2. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 108A to read as follows:

CHAPTER 108A. PEACE OFFICER LIABILITY ARISING FROM USE OF FACIAL COVERING

Sec. 108A.001. DEFINITION. In this chapter, "peace officer" has the meaning assigned by Section 1.07, Penal Code, and includes any employee or agent of the federal government:

(1) who has the authority to carry firearms and make warrantless arrests; and

(2) whose duties involve the enforcement of criminal, customs, or immigration laws of the United States.

Sec. 108A.002. CAUSE OF ACTION. A person may bring an action against a peace officer if the officer detains the person while wearing a facial covering in violation of Article 2B.0352, Code of Criminal Procedure.

Sec. 108A.003. DEFENSE. (a) It is a defense to an action brought under this chapter that, at the time of detention, the peace officer's identity was reasonably identifiable by the officer's clearly displayed name or by other information on the officer's uniform.

(b) A peace officer may not assert official immunity as a defense to an action brought under this chapter.

Sec. 108A.004. REMEDIES. In an action brought under this chapter, a prevailing claimant may recover:

(1) compensatory damages;

(2) injunctive relief;

(3) punitive damages;

(4) court costs and reasonable attorney's fees incurred in bringing the action; and

(5) any other relief considered appropriate by the court.

SECTION 3. Chapter 108A, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2027.