



Testimony in Opposition to HB 4126
Courtney Helstein on behalf of the ACLU of Oregon
House Committee on Rules
February 20, 2020

Chair Holvey and Members of the Committee:

The American Civil Liberties Union of Oregon¹ is a long-time advocate of free expression and free association rights under the First Amendment and Oregon Constitution. **Laws criminalizing face masks have concerning implications for our right to privacy and result in a chilling effect on our First Amendment rights.** The ACLU supports the -2 amendment to remove the felony enhancement provision; however, we still remain opposed to bill. HB 4126 would still retain partially or fully covering one's face as an aggravating factor in all crimes.

Growth in widespread surveillance raises serious concerns for many Oregonians. The ACLU of Oregon's legal observers have attended many protests over the last several years. We have observed police and immigration authorities photograph and record people at these events. We also know that police can arbitrarily and without notice to the crowd classify a protest as a "riot" based on isolated actions of a few protesters. Under this proposed law, peaceful protesters at such an event risk being charged with a serious felony based on the fact that they are wearing a mask—even a bandanna designed to protect against tear gas or a mask that parodies a public figure.

There are many legitimate and constitutionally protected reasons a person might want to wear a mask to a protest or in public spaces, including religious and cultural garb or tradition, for health reasons, fear of retaliation from employers or landlords, fear of being spotted and tracked by a domestic abuser, to protect from the cold, or simply our right to privacy.

This law is unnecessary. Oregon already has laws in our state to prosecute individuals who threaten public safety. If individuals behave in a manner that constitutes a crime at a protest, or anywhere else, then our existing laws related to that type of behavior should kick in. HB 4126 will contribute to lengthier prison terms, an outcome that is counter to the meaningful reforms the Legislature has accomplished since 2013 to address over-incarceration and reduce recidivism in our state.

¹ The American Civil Liberties Union of Oregon (ACLU of Oregon) is a nonpartisan organization dedicated to the preservation and enhancement of civil liberties and civil rights. We have more than 28,000 members in the State of Oregon, and that number is growing as we speak.

We appreciate the bill sponsor bringing forward the -2 amendment and for reaching out to our organization to discuss this bill. **However, at this time, the ACLU of Oregon continues to remain in opposition to the bill. Thank you for your time and consideration.**